

Inquiry into Water Resource Management Charges
Economic Regulation Authority
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PREFACE

Our 'Manjimup and Pemberton Landowners' group is an informal association of representatives of agribusiness sectors in the Manjimup and Pemberton area using water captured in private dams. Our group convened in March 2007 to respond to water reforms proposed by the former Labor State Government; including response to harsh water licence fees that were subsequently twice disallowed by the Legislative Council. Manjimup and Pemberton Landowners made a detailed submission to the Legislative Assembly Economics and Industry Standing Committee 'Inquiry into Water Licensing and Services' (January 2008), the major outcome of which was to recommend the Economic Regulation Authority inquire into essentially the same matters. Our submission to the Economics and Industry Standing Committee is included here as an Appendix for re-submission of relevant information to this Inquiry rather than reiterate detail that continues to be relevant to our submission below on 'FEES AND CHARGES'.

We are located in the Warren and Donnelly River catchments where 40 gegalitres (5%) of the 742 gegalitres mean annual outflow is allocated to surface water licences and the balance is water for the environment flowing into the Southern Ocean. This water balance is the reverse of that applying in the public water supply and irrigation catchments of the Darling Ranges where large dams regulating streams for public water supply and irrigation cooperatives have left negligible water for the environment. Allocations of water from/by the Crown to private surface water licences provide a basis for primary production and are also an important aspect of 'environmental water' supporting water birds and native fishes; however, the latter attribute is not recognised by Government in environmental water accounting. Our dams and similar dams in the Warren and Donnelly catchments have been privately funded; there have been no public subsidies as for water for agriculture at the Ord River, Harvey irrigation district and Carnarvon.

PREEMPTION OF LEGISLATION

It is irrational and improper that this Inquiry is being conducted before the *Water Resources Management Bill* - redefining Crown water resources and the extent of regulation, and determining the scope of potential fees and charges - is public, debated or enacted by State Parliament. Highly relevant matters for us include: will the *Water Resources Management Act* extend licensing from in-stream dams to include dams capturing springs and overland flow or runoff; will the *Act* include a requirement for a water licence for water accessed by tree plantations; will the requirement for a water licence for tree plantations apply to both existing and new tree plantations if the same approach is to apply to both existing and new dams on springs and capturing runoff; will the *Act* require mandatory metering and collection of water metering charges; will the *Act* provide the opportunity for development and administration of Statutory Water Management Plans by self-supply water users in the water resource region; will the *Act* extend water licensing statewide beyond the proclaimed Warren and Donnelly catchments (Manjimup and Pemberton areas) to include Bridgetown, Nannup, Frankland, Boyup Brook, Denmark, Mount Barker, Albany, Williams, Kojonup and many other farming areas that are not proclaimed areas? Outcomes on these matters raise vital equity considerations related to anti-competitive costs imposed by Government. Why should we in Manjimup and Pemberton pay water licence fees and charges related to orchards, vegetables, grapevines, aquaculture and other production, when similar operations in areas mentioned above are not subject to such fees because those catchments are not proclaimed? There is no rationale for this, especially as water

is more abundant here and perhaps a greater need for 'management' of scarcer water in those other catchments. Any fees and charges for water use must apply to all users (and suppliers), otherwise anti-competitive anomalies will be created. If water licence fees and charges are higher than as proposed below, anti-competitive anomalies will be brought into sharp focus. Similarly, self-supply water users irrigating orchards, vegetables, grapevines and other produce will consider it unfair if they are required to pay high fees and charges whereas tree plantations in the same catchments intercepting more water are not subject to the same fees and charges. There is also potential for gross anomaly where 150,000 garden bores in Perth unsustainably using 120 gigalitres of water may not be included in any water licence fees and charges system applied to food producers in regional WA. The Government has given a higher priority to imposing new fees and charges on self-supply water users than replacing the antiquated *Rights in Water and Irrigation Act 1914*. The Inquiry should be halted until these matters are resolved by State Parliament and the *Water Resources Management Act* is enacted.

FEES AND CHARGES

Submission on potential fees and charges raised in the *Issues Paper* for the Inquiry:

1. Water is vital to all communities and most economic activity in regional WA. In general, water is owned by the Crown and the Government should fund resource management and planning from the General Fund derived from State and Commonwealth taxes we pay. Specific charges imposed on water licence holders for 'water resource management' (including planning) are opposed. Apart from the fact that water is vital to life and that management of water resources should be a core function of Government, there is demonstrable diversity between water resource regions and uses in WA such that the extent and process of management remains to be determined by Statutory Water Management Plans for each water resource region. There is no simplistic revenue raising 'formula' for water resource management charges that can be applied rationally and equitably across all water resource and use regions.
2. Where an allocation of water is sought, an 'Application Assessment Fee' could be required which reflects the complexity of Department of Water assessment for the particular dam or bore and water resource; with the applicant to receive a quote for assessment related to hours of service and fee per hour, and be able to appeal to a senior officer of the Department if the quote is unacceptable. The cost incurred by the Department of Water for assessment of an application for an allocation (new licence) must not be spread across existing water licence holders by inflating the 'Water Licence Fee' for administration of a licensing database. This cross-subsidy was the fundamental flaw in the previous water licence fees twice disallowed by the Legislative Council (see Appendix).
3. Upon allocation of water, a 'Water Licence Fee' could be required which reflects cost recovery of administration of a licensing database. The licence holder could opt to pay either annually or 10 years in advance (analogous to a drivers licence). The Drivers licence fee is an established benchmark for administration of a licensing database and is either \$36.60 annually or \$116 for five years in advance. A 'Water Licence Fee' at a higher cost than a Drivers licence fee is opposed. If a higher cost fee is recommended by the ERA, it must only apply to the component of a water allocation that is 'used' or dispersed by irrigation, not to the 'storage' component of surface water in a dam which is a buffer against a dry winter fill season and is effectively re-available to stream flows at commencement of winter. The situation with a surface water licence for water captured in a dam contrasts with underground water drawn by a bore, where all of the water abstracted by pumping to the surface is 'used'.
4. A 'Licence Renewal Fee' at end of licence duration (usually 10 years) could be required; this would re-present the 'Water Licence Fee' (analogous to the renewal of a Drivers licence). If a relevant Statutory Water Management Plan identified a particular water resource was over-allocated because of diminished resource, a re-assessment could be required and be subject to the same transparent fee process as an initial application.

SERVICES OF THE DEPARTMENT OF WATER

New water licence fees and water resource management charges proposed by the State Government will not improve services provided by the Department of Water to self-supply water users and will not improve security of water entitlements.

It is difficult to understand how the Department of Water can justify a budget of \$93.57 million and 601 FTE in 2009-10 when they don't supply a drop of water to users, and consequentially we do not accept that self-supply water users should fund the agency beyond that submitted above in relation to licensing, which for most users could be \$232 for a 10 year duration licence.

For most surface water licence holders in our area, their only interaction with the Department of Water is when making an application for a surface water licence. There is no obvious water management service provided; the licence holder manages the water on their property and accepts all risks associated with dam construction and maintenance.

Several members of our group are also appointed members of the Warren Donnelly Water Advisory Committee which provides advice to the Department of Water. Our experience since the commencement of 'water reforms' in 2006 is that the Department of Water fails to accept advice from stakeholders and has no effective processes to enable advice from stakeholders to have significant influence on either management of local water resources or decisions taken by the Minister for Water on applicable legislation. We await the *Water Resources Management Bill* to identify opportunities for improvement in consultative and advisory processes and contribution to development and management of Statutory Water Management Plans.

'ABILITY TO PAY' CONSIDERATIONS FOR REGIONAL WA

We are opposed to paying for any alleged services by the Department of Water that are not of demonstrable benefit to our businesses. There is no evidence that even the licensing services are necessary in this water abundant region; however, we will pay equivalent to a Drivers licence for that. Many government services to agricultural properties in regional WA are inferior to those provided to residents of Perth. Mobile phone services are unreliable, high speed Internet service coverage is inadequate, and a supplementary generator is often necessary during the frequent failure of Western Powers local electricity distribution network. The State Government shouldn't plan to impose more fees and charges on regional WA for either substandard or unnecessary services; it is counter to State Government policy promoting 'regional development'.

We are concerned that the cost impost on self-supply water users of State Government plans to apply water licence fees and water resource management charges, if not restrained, could exceed the \$1.5 million funding the Shire of Manjimup received through the Royalties for Regions grants program in 2008-2009. The 2007-2008 push on water licence fees by the Labor State Government would have cost surface water licence holders in the Shire of Manjimup \$257,000 a year if the regulations hadn't been disallowed by Parliament. Proposed 'Water Resource Management and Planning Charges' could be an additional three times that amount if the State Government sought to recover 50% of the Department of Water \$47 million cost for the 'Water Use Allocation and Optimisation' Program in the 2009-2010 budget. Combining water licence fees (\$250,000) and water resource management charges (\$750,000), present water licence holders in the Manjimup and Pemberton area could be invoiced by the Department of Water for \$1 million a year in new fees and charges. This estimate is based on the present 380 surface water licences for in-stream dams, whereas the pending *Water Resources Management Bill* proposes to extend licensing to dams capturing springs and runoff, which could double the number of dams requiring licences in the Warren and Donnelly River catchments to 800 and push new fees and charges to \$2 million a year. This estimate of a \$2 million impost for new water licence fees and management charges in the Shire of Manjimup is conservative because it doesn't include possible mandatory water metering charges, and fees and charges for water use by tree plantations which are included in the pending *Water Resources Management Bill*.

This classic funding handout and recovery duplicity, where government gives with one hand under Royalties for Regions and takes with the other threatens to be repeated throughout regional WA wherever self-supply water users depend on their dams and bores for water for agriculture.

HEARINGS BY THE ERA IN REGIONAL WA

Given the diversity of water resource regions, infrastructure and uses in WA, it is vital the Economic Regulation Authority conduct hearings in major water resource regions during the course of the Inquiry, including in Manjimup in the 'food bowl of the South West'.

Yours sincerely

Convenor
Manjimup and Pemberton Landowners
www.waterreform.net

**Submission to Legislative Assembly Economics and Industry Committee
Inquiry into Water Licensing and Services**

by

Manjimup and Pemberton Landowners

RECOMMENDATIONS

Introduction, Background and Context

RECOMMENDATION 1: The *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007* are irrational and unfair and we request the Economics and Industry Committee move disallowance of the *Regulations*.

Comment on Inquiry Terms of Reference

1. the benefits to, cost to and imposts on irrigators, industry, community and environment of a licensing system for the taking of water from groundwater or stream flow;

RECOMMENDATION 2: A cost benefit analysis of water licensing and associated services be conducted and published by the State Government. The cost benefit analysis should address the costs and benefits for both water users and the Government, across the range of water resource regions, users and uses in WA. The cost benefit analysis should be published before the introduction of annual water licence administration fees and other changes related to the licensing system.

2. the full cost incurred by the Department of Water for administration of the current water licence; AND 3. the extent to which the water licence administration fees meet cost recovery requirements the National Water Initiative (NWI) places on the State with respect to services delivered to water users;

RECOMMENDATION 3: The Auditor General be requested to conduct an audit of the cost incurred by the Department of Water for administration of the current water licensing system under the *Rights in Water and Irrigation Act 1914*.

4. the penalty or cost that might be applied to Western Australia by the Commonwealth under the NWI, if there was minimal or no cost recovery for services provided to water users by the Department of Water;

RECOMMENDATION 4: The WA Government withdraw from the National Water Initiative and redeploy public resources towards development of Statutory Water Management Plans relevant to water resource regions in WA and water users and uses in the regions.

(continued)

(Comment on Inquiry Terms of Reference....continued)

5. whether water licences and/or licence administration fees should be required for taking water under arrangements that are currently exempt; for example, residential bores drawing from an unconfined aquifer;

RECOMMENDATION 5: There should be no extension of water licensing without prior enactment of the proposed Water Resources Management Bill and conduct of a cost benefit analysis of water licensing and associated services, per Recommendation 2 of this submission.

6. what recognition needs to be given to the cost incurred by landholders in harvesting water, including dam construction costs; and

RECOMMENDATION 6: Government should recognise the major contribution water 'self supply' farmers and others private investors in water infrastructure make to the economy in WA and apply rational and equitable water licence fees.

7. the extent to which the NWI provides for a range of different licensing systems.

RECOMMENDATION 7: The WA Government withdraw from the National Water Initiative and through Statutory Water Management Plans develop licensing systems relevant to water resource regions in WA and water users and uses in the regions.

Please see additional background at www.waterreform.net

For queries email contact@waterreform.net

7 January 2008

Hon R C Kucera MLA
Chair, Economics and Industry Standing Committee
Parliament House, Harvest Terrace, Perth WA 6000

Economics and Industry Standing Committee: Inquiry into Water Licensing and Services

Dear Mr Kucera

Introduction, Background and Context

This submission is made on behalf of the Manjimup and Pemberton Landowners group who represent a range of private land users and uses recently subjected to new annual water licence administration fees. The controversy surrounding these new fees was the stimulus for the Committee's Inquiry. The new fees introduced by the *Rights in Water and Irrigation Amendment Regulations 2007*, gazetted on 22 June 2007 and effective from 1 July 2007, were disallowed in the Legislative Council on 22 November 2007. The Department of Water estimated that, pursuant to the *Regulations*, they would raise \$256,550 annually from the 384 water licence holders allocated 40 gigalitres of water held in private dams in the Manjimup and Pemberton region, which is 25% of the sustainable yield of the Warren and Donnelly River catchments. This water, captured in private dams during winter would otherwise flow into the Southern Ocean and not be available to agriculture. There is approximately \$100 million privately invested in 'farm dam' infrastructure vital to over \$150 million in annual agricultural production which is the major employment base in the Manjimup and Pemberton area.

The Minister for Water Resources, John Kobelke MLA in the Legislative Assembly on 25 October 2007 moved the Terms of Reference and 28 February 2008 date for a report from the Committee, enabling sufficient time for new regulations for water licence administration fees arising from the Committee's Inquiry to apply from 1 July 2008. It is reasonable to assume the short timeframe for the Inquiry was towards this purpose; any further regulations prematurely introduced by the Minister would contradict this rationale. On 28 November 2007 we wrote to you expressing concern the Minister for Water Resources planned to replace the disallowed *Rights in Water and Irrigation Amendment Regulations 2007* with a revised eight classes fee schedule perpetuating the flaws subject to controversy since July 2006 and embodied in the *Rights in Water and Irrigation Amendment Regulations 2007*. We expressed a view that such action by the Minister would preempt your Committee's Inquiry, have the effect of deterring submissions, make the Inquiry outcomes redundant and waste Parliamentary and public resources.

In our letter to the Committee of 28 November 2007 and in another of 7 December 2007, we urged you to dissuade the Minister for Water Resources from introducing further water licence administration fees until the Economics and Industry Standing Committee Inquiry into Water Licensing and Services reported to the Parliament.

In our letter to the Committee of 7 December 2007 we put that any new regulations introduced by the Minister would necessarily be subject of detailed comment to the Inquiry, but we and others hadn't seen the regulations to be able to comment. We requested the Committee accept a submission from Manjimup and Pemberton Landowners when this crucial matter was resolved.

Unfortunately, our concerns have been realised with gazettal on 28 December of the *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007*. We comment on the new *Regulations* below and urge the Committee to move disallowance of the *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007*.

We are now in a position to make an informed submission to the Committee's Inquiry, and request you accept this submission, necessarily beyond the 7 December 2007 date for submissions to the Inquiry. We are disappointed the Committee will not conduct a hearing in Manjimup as requested in our letter of 31 December 2007, which would have provided the opportunity for the Committee to hear from many water licensees and the opportunity to visit orchards, farms, vineyards and other locations where 'self supply' water users can demonstrate the value their management of water resources adds to the economy of Western Australia. We believe it is vital some Committee hearings be conducted in water resource and use regions, rather than in an office in Perth. Parliamentarians travel world wide on often obscure 'study missions', on public funds; surely, on a reference from the Legislative Assembly of direct relevance to the WA economy and industry, travel to relevant regions in WA is not too much to ask? As requested in our letter of 31 December 2007, the Committee should request the Legislative Assembly set a new time frame for the Inquiry now the 28 February 2008 report date requested by the Minister for Water Resources has been made redundant by the Minister. This may then enable the Committee to conduct hearings and study visits in water resource and use regions.

Manjimup and Pemberton Landowners have made extensive public comment on water licensing and related administration fees, and other 'water reforms'; this is presented at the web site www.waterreform.net and is relevant background to our comment on the Inquiry's terms of reference. Further, on 17 September 2007 we made a detailed submission to the Auditor General on *Water Licence Administration Fees: Cost Recovery*, which is attached here and will be referred to as an **Appendix** to this submission to the Committee's Inquiry.

Disallowance of the *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007*

We request the Committee move a motion for disallowance of the *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007*. These *Regulations* cannot be altruistically divorced from the Committee's Inquiry and Terms of Reference; their predecessor regulations were the reason the Inquiry was established and *Regulations (No. 3)* now become the substance of comment within the Terms of Reference.

The *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007* gazetted on 28 December and effective from 29 December 2007 suffer from the same fatal flaws as the previously disallowed *Rights in Water and Irrigation Amendment Regulations 2007* gazetted on 22 June and effective 1 July 2007, being:

- Failure to separate the cost of assessment of new applications for licences from the subsequent 'annual' cost of administering licences. The cost of assessment of new licences is claimed to be 71% of the cost of licensing services, the *Regulations* inappropriately transfer the bulk of this cost to preexisting licence holders, inflating the 'annual' licence fee (see Appendix at 1. Revenue exceeding cost recovery for assessment of applications for new licences, and 2. Inadequate disclosure of fee pricing policy)
- Subsidisation of large water allocation licence fees by 'self supply' farmers. Please see Table 1 below 'Revised Annual Water Licence Administration Fee Table post *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007*' which demonstrates the continuance of the grossly unfair cross subsidies, and Table 2 fees for the Manjimup and Pemberton region.

**Table 1: Revised Annual Water Licence Administration Fee
post *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007***

Class	Water entitlement Kilolitres per	Fee Regs No.3	Fee 2007	Number of licences	Water Entitlement Gigalitres per year	Expected Revenue (No.3 in brackets)	Fee \$/ML Regs No.3	Fee \$/ML 2007
1	0 - 5000		\$200	4,610	9	\$922,000		\$102.44
Oct 07	1501 - 5000	\$100		1,684	5.552	(\$164,000)	\$30.62	
2	5001 - 50 000	\$150	\$325	5,741	102	\$1,865,825 (\$861,110)	\$8.44	\$18.29
3	50001 - 100,000	\$250	\$600	1,119	79	\$671,400 (\$279,750)	\$3.54	\$8.49
4	100,001 - 500,000	\$700	\$1,200	906	206	\$1,087,200 (\$634,200)	\$3.07	\$5.27
5	500,001 - 1,000,00	\$1,600	\$1,800	172	129	\$309,600 (\$275,200)	\$2.13	\$2.40
6	1,000,001 - 5,000,000	\$2,500	\$2,400	253	594	\$607,200 (\$632,500)	\$1.06	\$1.02
7	5,000,001 – 10,000	\$4,000	\$3,000	67	1,366	\$201,000 (\$.....?)	\$0.53	\$0.14
8	> 10,000	\$6,000					\$0.05	

Notes for Table 1: (a) 2007 data is at May 2007, (b) by October 2007 the number of licences in Class 1 had reduced to 1,684, (c) Water Entitlement in each of new Classes 7 and 8 is not known, (d) estimate of Fee \$/ML Regs No.3 for Class 7 is based on a theoretical 7.5GL allocation, (e) estimate of Fee \$/ML Regs No.3 for Class 8 is based on aggregating two known licenses of 153 and 335GL.


Table 2: Revised Water Licence Fee Tables for Manjimup and Pemberton Region

Class	Water entitlement KL per year	Number Licences	Fee Regs No.3	Revenue Regs No.3	Fee 2007	Revenue 2007
1	1500 - 5000	9	\$100	\$900	\$200	\$1800
2	5001 - 50000	158	\$150	\$23,700	\$325	\$51,350
3	50001 - 100,000	103	\$250	\$25,750	\$600	\$61,800
4	100,001 - 500,000	107	\$700	\$74,900	\$1,200	\$128,400
5	500,001 - 1,000,00	6	\$1,600	\$9,600	\$1,800	\$10,800
6	1,000,001 - 5,000,000	1	\$2,500	\$2,500	\$2,400	\$2,400
Total		384		\$137,350		\$256,550

(Note: the Number of Licences for Table 2 was provided by Department of Water in August 2007)

Without repeating the extensive case we have made re cross subsidies in the Appendix, we wish to present two examples to illustrate the continuing cross subsidies in *Regulations (No. 3) 2007*.

Cross subsidy Example 1, regarding the value of a water licence: whenever we and other critics of the initial *Rights in Water and Irrigation Amendment Regulations 2007* demonstrated the flaws in the fee structure based on administration effort related to size of entitlement (see Appendix at 3 and ‘Cross subsidisation based on administration effort related to size of entitlement’) the Minister for Water Resources and the Department of Water retorted that despite this criticism the privilege of a water licence adds value to water ‘self supply’ agribusiness and associated property value. An example of this retort is a misleading advertisement placed by the Department of Water in the 19 September 2007 edition of the *Manjimup-Bridgetown Times* (see below) which stated “Access to water is so valuable, that it is estimated a water licence in the South West may add up to \$16,000 per hectare to property values.”.



Department of Water
Government of Western Australia


The benefit of a water licence

In Australia's drying climate a water licence ensures secure access to a very valuable asset. Access to water is so valuable, that it is estimated a water licence in the South West may add up to \$16,000 per hectare to property values.

If you access up to 1500 kilolitres your water licence is free. Between 1501 and 5000 kilolitres you pay \$200 and that entitles you up to 5 million litres of water. The most you will pay for a water licence is \$3,000 and the majority will pay less than \$325. With a water licence you can trade your valuable asset with others and water reform will make this easier in the future.

**For further information, contact 1800 464 956
or visit www.water.wa.gov.au.**

ACT NOW
FOR THE FUTURE



The unpublished basis for the claimed benefit was “Analysis of case studies and advice from experienced local real estate agents and valuers...” see Parliamentary Question 933 reproduced below:

Legislative Council

Thursday, 18 October 2007

DEPARTMENT OF WATER ADVERTISING - WATER LICENCES

933. Hon BARRY HOUSE to the Leader of the House representing the Minister for Water Resources:

I draw the attention of the Minister for Water Resources to a Department of Water advertisement on page 16 of the *Manjimup-Bridgetown Times* on 19 September 2007 titled "The benefit of a water licence", which says "the most you will pay for a water licences is \$3 000, and the majority will pay less than \$325".

- (1) Will the minister explain why 1 910 licences, subject to \$200-fees, which is the category less than \$325, out of a total 10 168 water licences, is described as a majority in the advertisement when in fact it is 18.7 per cent?
- (2) Does the minister acknowledge that this advertisement is grossly misleading? The same advertisement on the benefit of water licences says "access to water is so valuable that it is estimated that a water licence in the south west may add up to \$16 000 per hectare to property values".
- (3) Will the minister either provide a public reference to the methodology of the estimate or table the estimate?

Hon KIM CHANCE replied:

I thank the honourable member for some notice of this question.

- (1)-(2) Regrettably, I have to advise there was a misprint in this advertisement. The wording should have read "The majority will pay \$325 or less". This is the statement the minister has made on numerous occasions and included in his correspondence.
- (3) Analysis of case studies and advice from experienced local real estate agents and valuers suggested that a water licence could add up to \$16 000 per hectare to property value.

The unpublished (and untabled) basis for the claim a water licence could add up to \$16,000 per hectare to property values is certainly not authoritative, and such a statement should not be made by a Government agency. The claim certainly wouldn't apply to the water associated with the unlicensed stock dam shown in the advertisement, which would appear to be in the 'wheat belt' where surface water is not proclaimed for licensing. However, the \$16,000 per hectare benefit claim by the Department of Water can't be selectively applied to protesting farmers in Manjimup and Pemberton but be ignored in application to irrigation co-operatives at Harvey and the Ord, and in regard to the value of water to water utilities, mining companies and other large users. Farmers in the Manjimup and Pemberton area using water from their own dams will pay \$137,350 in licence fees for 40 gegalitres of water, while irrigation corporations at Harvey will pay \$18,000 in licence fees for 153 gegalitres and at the Ord River \$6,000 for 335 gegalitres of water from public dams.

The irrigation cooperatives argue they should be virtually immune from water licence fees based on the 'administration effort' rationale, claiming they self-regulate. We disagree with them, as stated in the Appendix. However, there is no defence for the huge cross subsidisation of the irrigation cooperatives on the 'value of water licensed' rationale. The licensed water supplied from public dams at Harvey and the Ord may not fully add \$16,000 per hectare in those regions as claimed by the Department of Water, but the 'value of water licensed' rationale can't be selectively applied to farmers in the Manjimup and Pemberton region but not applied at Harvey and the Ord. Indeed, without the three water licences it holds, there would be no Harvey Water cooperative and the land held by the 703 farmers in the cooperative would be of lower value without access to the 153GL of water. At least in the higher rainfall Manjimup and Pemberton area, unlicensed spring fed and 'run off' dams alone

could sustain considerable agriculture without the licensing benevolence of the Department of Water. To add further detail to Example 1, a beef cattle farmer in Harvey with a 217ML notional allocation (703 farmers share 153GL) would pay a notional \$26 in annual water licence fees (12 cents per ML), whereas a fruit grower in Manjimup with a 217ML allocation will pay \$700 in annual water licence fees (\$3.22 per ML). The concept being advanced by the Department of Water is that because the landowner and licence holder derives a benefit from increased land value, then the landowner should pay for the licence. The internal and external costs related to water in either location are irrelevant. Then, if these fees are equitable, how can there possibly be such a massive 27 fold differential in licence fee between Harvey and Manjimup? The *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007* are irrational and unfair and must be disallowed.

Cross subsidy Example 2, regarding the cost of administering a water licence: A story headed 'Alcoa escapes fine on illegal use of water' in *The West Australian* of 5 January 2008 reports "Industrial giant Alcoa illegally drew 91 million litres of groundwater but was not fined by the State Government...". From the information provided in the story, the water allocation or licence subject of the story was for 2.5GL. The Department of Water was reported to have said "...the company was not fined because the breach occurred while the company was applying for drought relief when its storage levels were low, and the company passed a detailed hydro-geological assessment and was allowed to draw more water.". Returning to the Example 1 fruit grower in Manjimup with a 217ML allocation paying \$700 in annual water licence fees (\$3.22 per ML), in contrast, a multinational mining company with a 2.5GL allocation will pay \$2,500 in annual water licence fees (\$1 per ML). Why should a fruit grower in Manjimup pay three times the licence fee per ML than a mining company in Pinjarra? The fruit grower in Manjimup may not have seen a Department of Water officer for 15 years, while the mining company in Pinjarra is receiving extensive administrative services from the Department of Water. The fruit grower is cross subsidising the multinational mining company. The *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007* are irrational and unfair and must be disallowed.

The same 'Alcoa escapes fine on illegal use of water' story reported "The revelation came as the Department of Water said Alcoa had flagged it may need an extra two to three billion litres of water a year because of the planned expansion of the Wagerup refinery.". Here again the fruit grower in Manjimup, and others, will most likely be subsidising the applicant for a 2 to 3GL water licence, or addition to a water licence. This is because the example fruit grower in Manjimup who was granted a 10 year duration licence in 1993 (renewed in 2003 until 2013) will be paying 71% of their annual \$700 licence fee towards the assessment of applications for licences by other water users, in most instances in other regions of WA. The assessment conducted by the Department of Water for the possible applicant at Wagerup will be complex because the surface water resources are virtually fully allocated in that aspect of the Darling Range, with the Water Corporation, Harvey Water, the environment, and others all notionally competing for the same diminishing resource. The fee to assess an application for either a new or varied water licence is \$200; the real cost of assessment of these complex applications is cross subsidised by thousands of water 'self supply' farmers using less than 500ML annually. The *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007* are irrational and unfair and must be disallowed.

Please see Appendix , 5. Suggested alternative fee structure

RECOMMENDATION 1: *The Rights in Water and Irrigation Amendment Regulations (No. 3) 2007 are irrational and unfair and we request the Economics and Industry Committee move disallowance of the Regulations.*

Comment on Inquiry Terms of Reference

1. the benefits to, cost to and imposts on irrigators, industry, community and environment of a licensing system for the taking of water from groundwater or stream flow;

There has been no cost benefit analysis of water licensing in WA conducted and published by the State Government. Further, specific letters sent to the Minister for the South West in 2007 established that no cost benefit analysis of water licensing had been conducted for the Manjimup and Pemberton region.

There is no objective, published basis for claims such as that made by the Department of Water above "...a water licence in the South West may add up to \$16,000 per hectare to property values." Surface water in the Manjimup and Pemberton adds little to the value of land without major private investment in dams to capture the winter water flow for use during dry summers. The parasitic tax in excess of cost of licensing services (see Appendix at 1 and 2) is only possible because of the private investment in dams.

Notwithstanding the absence of cost benefit analysis, to date, Manjimup and Pemberton Landowners support the water licensing provisions of the *Rights in Waters and Irrigation Act 1914* and have been subject to those provisions for over 40 years since proclamation of the Warren and Donnelly River catchments. While only 25% of the sustainable yield of these catchments is allocated to licences to take surface water, the licensing system provides a framework for management of the resources that has been accepted by landowners. The licensing system has been administered in consultation with the Warren Water Management Area Advisory Committee formed under the *Waters and Rivers Commission Act 1995*; however, during 2006 and 2007 advice from the Committee in regard to the State Government's water reform agenda has been ignored.

The hypothetical questions can be posed as to whether water related agribusiness could have been conducted in the Warren and Donnelly River catchments without licensing? It is reasonable to conclude that it could, because: there have been no significant land releases for agriculture in five decades, the high cost of building private dams limits unnecessary capture of water, low cost flood irrigation of pasture and crops is not possible and pumping costs limit marginal use of water, only 25% of the sustainable yield of these catchments is allocated, only one or two tributaries of the key streams have elicited competitive use conflict (mainly turning upon illegal use of summer stream flow), only a few applications for licences have been denied, and there has been negligible prosecution action.

It should be noted to the north of the Manjimup and Pemberton area, in Bridgetown, to the east in Frankland and Mount Barker, and until recently to the west in the Margaret River area, the surface water resources were unproclaimed and thus not subject to licensing. Clearly, water related agribusiness has been conducted in those areas without Government regulatory intervention through licensing.

A case could be made that licensing and associated Government regulatory action introduces undesirable distortions to water allocation in regions where water is neither over allocated or nearing over allocation, and unnecessarily consumes non-government and Government resources. A licensing mind set by the relevant Government agency has led to spring and run off fed dams being licensed in the Manjimup and Pemberton region ultra vires the *Rights in Waters and Irrigation Act 1914*. The Department of Water is now de-licensing these dams because to serve invoices for annual water licence administration fees would be fraudulent.

It is clear to Manjimup and Pemberton Landowners that the 'services' approach of the Department of Water is becoming increasingly bureaucratic, time consuming and costly for water licensee farmers. This exacerbates the costs associated with the new water licence fees

and must be evaluated against the alleged benefits of licensing. There is no available cost benefit analysis framework within which the impacts of changes can be modeled. The extra unnecessary regulatory intervention also increases the cost to Government to administer the burgeoning Department of Water. An example of this additional 'red tape' is a new requirement by the Department of Water that surface water licence holders return a form indicating the area of crops to which the water from private dams will be applied. The Department has indicated it intends to link this impost to a schedule in regulations and require a fee of \$200 each time the farmer seeks to vary the cropping area and water use.

Returning to the Example 1 fruit grower in Manjimup with a 217ML allocation paying \$700 in annual water licence fees, under proposed State Government 'water reforms' potential fees payable to the Department of Water related to licensing are:

1. Annual Water Licence Administration Fee \$700
2. Annual Metering Charges \$1670 (estimated at 2 meters per licence)
3. Annual Water Resource Management Charges \$2100 (estimated at 3x times Licence Fee)
4. Fee to change cropping area and water use \$200

These are significant new costs, increasing fixed costs of production and reducing competitiveness and profitability, and weigh heavily against alleged benefits of licensing.

Four major factors have driven the current controversy regarding water licensing which has led to the current Inquiry: (i) service cost recovery for a burgeoning Department of Water (\$67M and 628 FTE), (ii) irrational, inequitable and unfair water licence administration fees, (iii) 'national uniformity' under the National Water Initiative, particularly on cost recovery, and to a lesser extent, (iv) management of water resources in recognition of a drying climate. The fourth factor should be the key consideration in regard to licensing of water and is the subject of the pending Water Resources Management Bill which will consolidate and reform the law of water resource management in Western Australia and replace the water resource management provisions of the *Rights in Water and Irrigation Act 1914* which is the head of power for the controversial *Rights in Water and Irrigation Amendment Regulations 2007* (and No3).

The Government should not have initiated changes on water licensing until the framework Water Resources Management Bill was enacted and Government should not have introduced annual water licence administration fees without publishing a cost benefit analysis to justify the fees and projected additional fees and charges related to licensing.

RECOMMENDATION 2: A cost benefit analysis of water licensing and associated services be conducted and published by the State Government. The cost benefit analysis should address the costs and benefits for both water users and the Government, across the range of water resource regions, users and uses in WA.. The cost benefit analysis should be published before the introduction of annual water licence administration fees and other changes related to the licensing system.

2. the full cost incurred by the Department of Water for administration of the current water licence; AND 3. the extent to which the water licence administration fees meet cost recovery requirements the National Water Initiative (NWI) places on the State with respect to services delivered to water users;

The full cost incurred by the Department of Water for administration of the current water licensing system is addressed in detail in Appendix at 1. Revenue exceeding cost recovery for assessment of applications for new licences, and 4. Lack of Performance Indicators for services to be cost recovered. The 2007-2008 Budget papers for *Appropriations and Forward Estimates* state the 2007-2008 cost for 'Service 3 Water licensing and regulation' is \$24.847 million. However the actual cost of the of the core licensing services (previously estimated by

Government at \$5.8 million) is masked by \$19 million in relatively discretionary and non-core expenditure, including metering trials, water plans, hydrological modeling and a major initiative on water trading to benefit two licence holders. In our view, the full cost incurred by the Department of Water for administration of the current water licence system is unknown, and the Department has not demonstrated the competencies to establish it for themselves; an independent audit is required to do that, as requested in our letter to the Auditor General (see Appendix).

The shift with the *Rights in Water and Irrigation Amendment Regulations (No. 3) 2007* to partial recovery of the initially estimated \$5.8 million to cost recover water licence administration is supported because the economic and social costs and benefits of full cost recovery are yet to be described and justified.

It is not possible to establish to what extent water licence fees in WA may meet the cost recovery requirements of the National Water Initiative as the amount expended on water licensing services in WA has not been adequately and transparently established by the Department of Water.

As stated in Appendix at 6, *Western Australia's Implementation Plan for the National Water Initiative* (April 2007, page 59) indicates 'Full Cost Recovery' will be implemented starting 1 July 2008. We understand this 'Full Cost Recovery' relates to the cost of Department of Water planning and management activities which will be embodied in new Water Resource Management Charges, and could be several times the cost of Water Licence Administration Fees. We are seriously concerned the problems for us (and other water 'self supply' farmers) with Water Licence Administration Fees will be repeated with Water Resource Management Charges as early as the 2008-2009 budget year, and then compounded by mismanaged cost recovery with Annual Metering Charges.

RECOMMENDATION 3: The Auditor General be requested to conduct an audit of the cost incurred by the Department of Water for administration of the current water licensing system under the *Rights in Water and Irrigation Act 1914*.

4. the penalty or cost that might be applied to Western Australia by the Commonwealth under the NWI, if there was minimal or no cost recovery for services provided to water users by the Department of Water;

Manjimup and Pemberton Landowners do not support the National Water Initiative (NWI), and thus wouldn't support any penalties arising from it. The proposed reforms in the NWI, and obligations upon parties to the NWI, arise from problems associated with over allocated and over used water resources in the Murray Darling Basin, much of which was used inefficiently for flood irrigation of rice and cotton, compounded by drought. These problems evoked disputes between the Governments of New South Wales, Victoria, Queensland and South Australia which, with Commonwealth conciliation, led to the NWI which is the core blueprint for the proposed water reforms in Western Australia. There are material differences between the Manjimup and Pemberton region and the Murray Darling Basin in how water is both obtained and used. In most regards, the proposed NWI water reforms are as unsuitable for Manjimup and Pemberton as would be growing rice and cotton!

The NWI and consequential *Draft Blueprint for Water Reform in Western Australia* (July 2006) are driven by an economic rationalist water trading theory - dependent on metering and the separation of water entitlement from landholding - which would be totally impractical in the privately constructed surface water dam systems in Manjimup and Pemberton, which are not interconnected in a manner which would enable water trading on the scale proposed.

The NWI framework may be applicable to irrigation cooperatives at Harvey and the Ord River; however, in Manjimup and Pemberton, water ‘self supply’ farmers neither need nor want the unnecessary ‘red tape’, inflexibility and costs associated with the NWI. Former Premier Geoff Gallop was correct resisting WA joining the NWI. The Opposition parties that criticised Premier Gallop for not joining the NWI failed to consider the detail of potential adverse impacts on water ‘self supply’ agribusiness in WA. Joining the NWI is a crude attempt by the WA Government to access Commonwealth funds, which has demonstrably failed. In a pre-Federal election atmosphere on 9 October 2007 the Minister for Water Resources issued a media statement headed “When will WA receive it’s fair share of Federal water funding?”, with WA having received only 2.7% of Federal Water Smart funds allocated Australia wide. While the NWI was conceived to address chronic rural water issues in the Murray Darling Basin, in WA, water ‘self supply’ farmers are intended to carry the burden of costs of compliance with the NWI to enable the State Government to access Commonwealth funds to benefit cities and already subsidised irrigation cooperatives.

Manjimup and Pemberton Landowners don’t in principle object to national uniformity; which has its place; for example, with food safety standards in national markets, recognition of portable professional and trade qualifications in labour markets and in many other areas where markets cross state borders. However, WA is not trading water with SA, Vic, NSW and Qld.

The inherent contradiction within the NWI is that for delivery of any real value in statutory management of water to rural water users the mechanism is through ‘Statutory Water Management Plans’, which are to enable the flexibility required to manage often unique water resources, users and uses on a regional basis. It was nonsense for the WA Government to put itself in the straight jacket of the NWI in order to then develop flexible regional water management plans in WA! While embroiled in controversy over irrational and unfair water licence fees in 2006, 2007, and now into 2008, linked to the NWI, the Minister for Water Resources and the Department of Water have failed to meet timelines for tabling of the *Water Resources Management Bill*, containing provisions for Statutory Water Management Plans, which was intended to be tabled before the last day of State Parliament in 2007 so the public could comment on the Bill before Parliament resumed in 2008.

RECOMMENDATION 4: The WA Government withdraw from the National Water Initiative and redeploy public resources towards development of Statutory Water Management Plans relevant to water resource regions in WA and water users and uses in the regions.

5. whether water licences and/or licence administration fees should be required for taking water under arrangements that are currently exempt; for example, residential bores drawing from an unconfined aquifer;

While Manjimup and Pemberton Landowners have made comparisons with exempted and favoured parties to highlight the present unfair treatment of us, there should be no extension of water licensing without prior enactment of the proposed *Water Resources Management Bill* and conduct of a cost benefit analysis of water licensing and associated services, as recommended in Recommendation 2 of this submission. The costs and benefits of water licensing in WA, both to water users and the Government, are unknown; or if known by some, unpublished. The *Water Resources Management Bill* will, importantly, redefine the scope of Crown water resources potentially subject to licensing (eg spring and ‘run off’ water may be included as Crown resource).

During our response to the new ‘red tape’, fees and charges associated with water licensing, Manjimup and Pemberton Landowners have noted farmers and growers in Mount Barker, Denmark, Bridgetown, Boyup Brook and other regions are not subject to water licensing and associated costs; because the water resources in those regions are not proclaimed under the

Rights in Water and Irrigation Act 1914. There doesn't appear to us to be any good reason as to why these water resources shouldn't be proclaimed, and they are competitors in our markets but without the on costs of licensing, which is arguably anti-competitive. However, they should be spared additional perhaps unnecessary 'red tape', fees and charges until Recommendation 5 below is implemented.

In drawing attention to the unfairness of annual water licence administration fees applying to Manjimup and Pemberton Landowners, we have made the contrast with 120 gigalitres of water drawn by 150,000 domestic bores in Perth to water roses and lawns; yet the Government has decided neither licences, nor fees, nor metering are required for domestic bores. The 120 gigalitres of water is being drawn unsustainably from the Perth basin, as evidenced by the collapse of urban wetlands. Remarkably, the same exempted parties in Perth can receive a 50% subsidy (up to \$650) from the Government to put down a bore to water their roses! Over 16,000 rebates have been issued since 2003 for new bores in Perth, yet people in Manjimup and Pemberton haven't received Government assistance to pay for their private dams, and are now subjected to irrational and unfair water licence fees and charges. It is reasonable to make this contrast, especially as the water resources beneath Perth are obviously under stress.

It wouldn't be difficult for the Government to licence the garden bores of Perth using a process of:

1. providing owners 6 months to advise the Department of Water either via web site, letter or Hotline they have a bore to be registered and giving basic location and ownership details;
2. Department of Water issue section 5C licence for 500 Kilolitres annual allocation and account for \$222 for 10 year duration water licence (raising \$3.33 million annually, based on 150,000 licences), to be paid within 3 months. There are an estimated 150,000 unlicensed garden bores drawing 120 million kilolitres a year; thus average draw per garden bore is 800 kilolitres, to facilitate sustainability a 500 Kilolitres annual allocation would be reasonable. Metering wouldn't be necessary; if the Department of Water wanted a return on use, then by knowing capacity of pump and hours used it is practical to 'self report', which would be sufficient, and could be done via the Internet annually (Licence No + Estimated Use in KL); and
3. at the end of 12 months from 1 above, Department of Water could conduct both random and targeted inspections for compliance.

RECOMMENDATION 5: There should be no extension of water licensing without prior enactment of the proposed *Water Resources Management Bill* and conduct of a cost benefit analysis of water licensing and associated services, as recommended in Recommendation 2 of this submission.

6. what recognition needs to be given to the cost incurred by landholders in harvesting water, including dam construction costs; and

The Government has given no recognition to the cost incurred by water 'self supply' landholders in harvesting water through private dams and bores, and this has aggravated the relative favouritism of irrigation cooperatives in the class structure of annual water licence administration fees. Without the private landholder investment in dams and self-management in the Manjimup and Pemberton region, the abundant water would flow into the Southern Ocean and there would be virtually no potato, apple, cauliflower, avocado, cherry, truffle, wine, Marron and other production in the Manjimup and Pemberton area. Manjimup and Pemberton would be smaller towns.

State Governments over decades encouraged landowners in the Manjimup and Pemberton area to build dams, but never made any contribution toward costs. After acquisition of land, the next expense for a farming family was on a dam to enable horticultural production; this

was often a greater priority than expenditure on a home and put considerable stress on families. In Manjimup and Pemberton, as an example, water from a private dam built in 2005 costs \$200 per megalitre (amortisation over 10 years), plus either \$30 per megalitre for electric or \$80 per megalitre for diesel pumping. These vital considerations have been ignored by the Minister for Water Resources and the Department of Water, despite our many submissions in 2006 and 2007. The Minister has said we are 'million dollar horticulturalists' (ABC SW radio interview, 2007) and can afford the fees; we are disappointed he refused our repeated invitations to visit Manjimup and Pemberton to meet with farming families and gain an appreciation of the high costs of water 'self supply'.

If the Committee adopted and recommended the 'Suggested alternative fee structure' at 5 in the Appendix it would be appropriate recognition of the capital outlay by water 'self supply' farmers. We recommend the suggested alternative fee structure for all water licence holders, acknowledging licence holders supplied with water from public dams pay 'bulk water charges' (albeit small costs compared to the cost of water from private dams). It could also apply to them and other licensees.

RECOMMENDATION 6: Government should recognise the major contribution water 'self supply' farmers and others private investors in water infrastructure make to the economy in WA and apply rational and equitable water licence fees.

7. the extent to which the NWI provides for a range of different licensing systems.

There are diverse licensing systems Australia wide, the highest annual fees are in WA (WA \$6000-\$100, Vic \$250, Tas \$214, NSW \$117, Qld \$56, SA \$0; licensing fees should not be confused with 'bulk water charges'). As submitted at 4 above, WA should withdraw from the NWI. What chance have we got of Canberra based committees, who typically have little regard for WA's interests, understanding the nature of distant water resource regions in WA and associated users and uses? Given the demonstrable challenges for water resource management in the Murray Darling Basin, they will be occupied for many years ahead without inviting them to pontificate on our future in Manjimup and Pemberton, and elsewhere in WA. We look forward to enactment of the Water Resource Management Bill and meaningful involvement in development of a Statutory Water Management Plan for the Warren and Donnelly Rivers in the Manjimup and Pemberton region.

RECOMMENDATION 7: The WA Government withdraw from the National Water Initiative and through Statutory Water Management Plans develop licensing systems relevant to water resource regions in WA and water users and uses in the regions.

We trust our submission is of interest to the Committee and assists its Inquiry.

Yours sincerely

Neil Bartholomaeus
on behalf of Manjimup and Pemberton Landowners

(continued: **Appendix**)

Appendix

**17 September 2007 submission by Manjimup and Pemberton Landowners
to
the Auditor General on *Water Licence Administration Fees: Cost Recovery***

Neil Bartholomaeus
Manjimup and Pemberton Landowners
PO Box 534, Manjimup WA 6258
www.waterreform.net
17 September 2007

Mr Colin Murphy
Auditor General
Office of the Auditor General
4th Floor, 2 Havelock Street
West Perth WA 6005

Dear Mr Murphy

WATER LICENCE ADMINISTRATION FEES: COST RECOVERY

We wish to refer a matter of public interest to your Office for audit attention. I write on behalf of the Manjimup and Pemberton Landowners group who represent a range of private land users and uses subject to new annual Water Licence Administration Fees. The new fees were introduced by the *Rights in Water and Irrigation Amendment Regulations 2007*, Gazetted on 22 June 2007 and effective from 1 July 2007. The Department of Water estimate they will raise \$256,550 annually from the 384 water licence holders allocated 40 gigalitres of water held in private dams in the Manjimup and Pemberton area, which is 25% of the sustainable yield of the Warren and Donnelly River catchments. This water, captured in private dams during winter would otherwise flow into the Southern Ocean and not be available to agriculture; there is approximately \$100 million privately invested in 'farm dam' infrastructure vital to over \$150 million in annual agricultural production which is the major employment base in the Manjimup and Pemberton area.

The interests of the Manjimup and Pemberton Landowners group are in common with thousands of water 'self supply' farmers throughout Western Australia subject to the new fees applying to water from their own dams and bores. We are aware the Auditor General in 2004 conducted an examination on 'Setting Fees – The Extent of Cost Recovery' and reported to Parliament on that examination. The principles for setting fees identified in the report, the distinction made between cost recovery and tax, and avoidance of cross subsidies, are matters which, in our view, have been inadequately addressed with the new Water Licence Administration Fees. We wish to bring to your attention for examination:

- 1. Revenue exceeding cost recovery for assessment of applications for new licences**
- 2. Inadequate disclosure of fee pricing policy**
- 3. Cross subsidisation of large water allocation licence fees by 'self supply' farmers**
- 4. Lack of Performance Indicators for services to be cost recovered**
- 5. Suggested alternative fee structure**
- 6. Other consequential matters relevant to fee setting for water licences**

In referring this matter to your Office, our main sources of information are (a) the attached document 'Licence admin fees - how was fee determined' (document file name, Subject: WATER LICENCE ADMINISTRATION FEES), provided by the Department of Water to farmers in Donnybrook on 17 August 2007 on instruction from the Acting Director General, Department of Water, (b) *Draft blueprint for water reform in Western Australia Discussion Paper* (July 2006) published by the Government of Western Australia, and (c) answers to Parliamentary Questions.

1. Revenue exceeding cost recovery for assessment of applications for new licences

Table 1 ('DoW costs...') of the attached 'Licence admin fees - how was fee determined' indicates \$4,145,918 of the \$5,827,397 associated with five licensing deliverables for 2005/2006 relate to 'Licensing'; the previous July 2006 *Draft blueprint for water reform in Western Australia Discussion Paper* at page 34 referred to this as 'assessment of applications and licence renewals'.

Parliamentary Question 4780 of 8 May 2007 asked "(1) For the \$200 Application fee what is the estimated - (a) number of new licence applications for 2006-07; and (b) revenue for 2006-07?" In reply the Minister for Water Resources responded "*It is estimated that 650 applications will be received for the period 2006-07 that at \$200 per application would result in \$130,000 in revenue.*" Parliamentary Question 4957 of 19 June 2007 stated the \$130,000 related to assessing applications for new licences, and in reply the Minister for Water Resources responded "*The \$130,000 related specifically to an estimated 650 applications in 2006-07 for short tenure and temporary licences that do not pay an annual fee. For all other licences to take water the \$200 application fee is to initiate the assessment process only. The remaining costs for the administration of licences with different annual water entitlements is recovered through the licensee paying the difference between the application fee and the annual fee in the first instance on grant of the water licence, and then annually (in accordance with the fee schedule).*"

Parliamentary Question 4958 of 19 June 2007 asked "(3) How many new licence applications were assessed in 2005-06, and what was the total cost of conducting the assessments?" In reply the Minister for Water Resources responded "(3) *In 2005-2006 the Department of Water assessed 1780 applications for new water licences (this does not include renewal applications). Of the 1780 applications received, 640 applications were for short term and temporary bore construction licences or bed and bank permits. The total cost of only assessing the new applications plus renewals was 71% of \$5.8 million.*" In a further section of Parliamentary Question 4958 of 19 June 2007 it was asked "(9) What was the average time in hours required of Department of Water officers to assess an application for - (a) surface water licence; and (b) a ground water licence in 2005-06?" In reply the Minister for Water Resources responded "(9) *The average time in hours required to assess an application for groundwater or surface water in 2005-06 was 14 hours.*" Table 4 of the attached 'Licence admin fees - how was fee determined' indicates the hourly rate for cost recovery of \$5,827,397 is \$29.73 per hour across the 13451 'Licences in force'. Applying the \$29.73 per hour to an average of 14 hours to assess the 1140 new licence applications in 2005-06 would require \$474,490 in fee revenue to cost recover.

From this information a profile of cost of assessment of applications and renewals for 2005-2006 can be created to evaluate if the \$4,145,918 for 'Licensing' or 'assessment of applications and licence renewals' is justified:

- assessment of 1140 new applications for 10 year duration licences - \$474,490
- processing of 640 applications for short term and temporary bore construction licences or bed and bank permits estimated at the \$200 fee rate - \$128,000
- renewal of 10% of 13,541 ten year duration 'Licences in force', making a conservative assumption renewal costs the same as application - \$563,603
- total of above estimated for cost recovery of assessment of applications and licence renewals - \$1,166,093
- application and renewal fee revenue 255% in excess of cost recovery - \$2,979,825

The estimated \$2,979,825 revenue in excess of cost recovery is conservative; it could be 300,000 to 400,000 greater, because renewal of water licences should not take as long as the average 14 hours for assessment of an application for a new licence; in many instances

renewal would simply be two automated postal transactions and related database activity. Further, the excess on cost recovery for application and renewal of licences could be greater when the contradiction between ‘assessment of an application’ and ‘Hours per instrument’ described at 2 below is taken into account.

In the absence of a satisfactory explanation on the available information, the estimated \$2,979,825 revenue in excess of cost recovery for this aspect of water licence administration is a tax without legislative basis.

2. Inadequate disclosure of fee pricing policy

The absence of distinct fees to cost recover applications for new licences for dams and bores, usually of 10 year duration when granted, and cost recover renewal of the same licences after 10 years, confuses the water licence administration fee structure making it incomprehensible. Amongst this confusion there appear to be serious contradictions between information provided by the Minister for Water Resources in answer to Questions in Parliament and information published by the Department of Water. Parliamentary Question 4958 of 19 June 2007 asked “(8) *What is the average time in hours applied by Department of Water officers to assess an application for - (a) a surface water licence for a less than 50 megalitre allocation; (b) a ground water licence for less than 50 megalitre allocation; (c) surface water licence for a greater than one gigalitre allocation; and (d) ground water licence for a greater than one gigalitre allocation?*” In reply the Minister for Water Resources responded “(8) *Assessment activities are the same for groundwater and surface water. (a) 11 hours for 5 - 50 megalitres surface water applications (b) 11 hours for 5 - 50 megalitres groundwater applications (c) 80 hours for greater than 1 gigalitre surface water applications (d) 80 hours for greater than 1 gigalitre ground water applications.*” The 11 and 80 hours provided by the Minister are the same hours for the ‘Hours per instrument’ for those licence categories presented in Table 4 of the attached ‘Licence admin fees - how was fee determined’ which presents a total of \$5,827,397 for all categories. Table 1 of the same document states that ‘Licensing’ costs \$4,145,918 of the \$5,827,397 total cost. The 11 and 80 hours are either the hours required to assess an application or the hours required to administer that category each year, they can’t be both. Table 1 (‘DoW costs...’) shows in addition to costs (and thus associated hours) required for assessment of applications and renewal (Licensing, constituting 71% of \$5,827,397) there are Compliance (14%), State Administrative Tribunal (4%), Community Input (4%) and Licensing Support/database administration (7%) costs and thus associated hours.

Parliamentary Question 4958 of 19 June 2007 also asked “(9) *What was the average time in hours required of Department of Water officers to assess an application for - (a) surface water licence; and (b) a ground water licence in 2005-06?*” In reply the Minister for Water Resources responded “(9) *The average time in hours required to assess an application for groundwater or surface water in 2005-06 was 14 hours.*” Reference to Table 4 of the attached ‘Licence admin fees - how was fee determined’ enables calculation of the average ‘Hours per instrument’, which is 14 hours. Again, the average of 14 hours is either the hours required to assess the 1140 applications for new licences or the average hours required to administer the 13,541 licences each year, it can’t be both.

Given the lack of transparency in the structure of the water licence administration fee, and the confused and confusing explanation by Government, 90% of 10 year duration water licence holders subject to the new fees from 1 July 2007 may find it difficult to accept that 71% of their annual water licence administration fees due in 2007-2008 aren’t related to either a new application by them nor renewal services they will receive in that year, yet they are being charged for those services as if they are provided. The Minister for Water Resources response to Parliamentary Question 4957 that “*The remaining costs for the administration of licences with different annual water entitlements is recovered through the licensee paying the difference between the application fee and the annual fee in the first instance on grant of the*

water licence, and then annually (in accordance with the fee schedule).” provides no clarity when the hours advised by the Minister for new applications are the same as total hours required for all five services to the licence annually. The methodology for setting the annual fees is fundamentally flawed. If the confused and confusing annual water licence administration fee structure subsidises the cost of assessing new applications for licences at the expense of existing licence holders, that should be declared by Government so that it can be addressed by affected licence holders, and by independent authorities.

3. Cross subsidisation of large water allocation licence fees by ‘self supply’ farmers

The Department of Water seeks cost recovery for services across seven classes of licences associated with annual water entitlements as shown in Tables 3, 4 and 5 of the attached ‘Licence admin fees - how was fee determined’. It isn’t possible to calculate from these tables the licence fee per volume of water licensed in each of the seven classes, which is relevant in regard to Government statements on the value of the water licensed to the licence holder, and to identify the extent of cross subsidies between classes. Parliamentary Question 4780 of 8 May 2007 asked “(2) As of April 2007, for each of the seven licence classes what is the - (a) number of existing licences; (b) number of existing licensees; (c) volume of water licensed; and (d) estimated annual revenue? (3) As of April 2007, for the aggregate of the seven licence classes what is the - (a) total number of existing licences; (b) total number of existing licensees; (c) total volume of water licensed; (d) estimated total revenue from annual fees; and (e) estimated averaged revenue per kilolitre of licensed water?”. In response the Minister for Water Resources provided the information in the table below, based on the number of licences in May 2007. A further column ‘Fee \$/ML’ has been added by us to the table to display the annual licence fee per megalitre of water licensed in each of the seven classes, based on ‘Water Entitlement Giga litres per year’ and ‘Expected Revenue’.

Answer to Question 4780 plus additional column Fee \$/ML

Class	Water entitlement Kilolitres per	Fee	Number of licences	Number of licensee	Water Entitlement Giga litres per year	Expected Revenue	Fee \$/ML
1	0 - 5000	\$200	4,610	4,887	9	\$922,000	\$102.44
2	5 001 - 50 000	\$325	5,741	6,010	102	\$1,865,825	\$18.29
3	50 001 - 100,000	\$600	1,119	1,204	79	\$671,400	\$8.49
4	100,001 - 500,000	\$1,200	906	967	206	\$1,087,200	\$5.27
5	500,001 - 1,000,00	\$1,800	172	177	129	\$309,600	\$2.40
6	1,000,001 - 5,000,000	\$2,400	253	257	594	\$607,200	\$1.02
7	> 5,000,000	\$3,000	67	68	1,366	\$201,000	\$0.14
Total			12,868	13,570	2,486	\$5,664,225	\$2.27
	Applications	\$200	640	640		\$130,000	
Grand Total			13,508	14,210		\$5,794,225	

This table shows that licences in Classes 1 to 5 (mainly 'self supply' farmers) allocated 21% of the water will pay 86% of the annual licence fees, whereas corporations (irrigation cooperatives, water utilities, mining companies) in Classes 6 and 7 with large water allocations of more than a gigalitre and allocated 79% of the licensed water will only pay 14% of the revenue to be raised by water licence fees. The average fee per megalitre is \$2.27, 'self supply' farmers pay significantly more than the average while corporations pay significantly less.

To consider whether the huge disparity in water licence administration fee per megalitre of water constitutes a cross subsidy of large users, consideration should be given to the two main justifications given by Government for the licence fee and fee structure: (a) water licence as a valuable right to a tradable asset, and (b) administration effort related to size of entitlement.

Cross subsidisation based on water licence as a valuable right to a tradable asset: The Department of Water document 'Licence admin fees - how was fee determined' (attached, in 'CURRENT STATUS' section) states "A water licence is a tangible and valuable right to a tradable asset for licence holders predominantly engaged in commercial activities. Licences enable allocation decisions that reflect the efficient long term management of the water resource for the community's benefit (including environmental concerns) and provide the certainty of supply that businesses desire. It is no longer commonplace for governments to completely fund resource management and administration without some level of cost recovery from users." Under this rationale, the more water allocated to a licence and the more tradable the water is then the more valuable a licence is. However, because the fee does not apply directly to the volume of licensed water, and most licences are not associated with tradable water, these 'commercial' values are not reflected in the fees; indeed the opposite is the case. For example, the irrigation cooperative at Harvey supporting 703 farmers has a 153 gigalitres annual allocation of water based on three licences for a total of \$9000 in annual water licence administration fees; the fee is 6 cents a megalitre of licensed water. Because of the pipe and channel interconnected system at Harvey there is extensive trading of water within the cooperative, and also trading outside of the cooperative back to the Water Corporation who manage the public dams from which the water is supplied. In contrast, in the Manjimup and Pemberton area 384 farmers as water licence holders with a total of 40 gigalitres allocation of water from their private dams will pay \$256,550 in annual water licence administration fees; the fee is \$6.40 cents megalitre of licensed water, one hundred fold that at Harvey. Because the private dams in the Manjimup and Pemberton area are mainly connected by winter streams, which are dry in summer, there is no practical infrastructure to enable trading. Further, in the Manjimup and Pemberton area only 25% of the sustainable yield of the water catchments is allocated to licences thus there is little demand for trading even if it was practical. This is in contrast to fully allocated water in the Darling Range catchments where water trading is a valuable opportunity to the water licence holders (including Harvey irrigation cooperative, Water Corporation, mining companies).

Similarly, the Ord River cooperative annual water allocation is 335 gigalitres, supporting in excess of \$50 million in agricultural production, yet the annual Water Licence Administration Fee is \$3,000, or 0.89cents a megalitre. The Water Corporation has 231 licences associated with an output from dams and bores in 2005-2006 of 274 gigalitres, enabling revenue from water supply of \$712 million; the annual Water Licence Administration Fees estimated by the Department of Water are \$317,600 (Table 8 of attached), or \$1.15 per megalitre in licence fees. These examples of licence fees for a valuable right to a commercial input and tradeable asset contrast to the range of \$102.44 to \$2.40 a megalitre in annual licence fees for 'self supply' farmers who generally can't trade water.

Cross subsidisation based on administration effort related to size of entitlement: Table 1 of the cover of the Department of Water document 'Licence admin fees - how was fee determined' (attached) shows 'Water licensing Staff and Salaries by Region 2007/2008' for a total in salaries of \$3,958,000. The Department of Water has two water licensing staff in

Kununurra at an annual salary cost of \$157,000, yet they will only raise \$3,000 annually in one licence fee from the Ord River cooperative towards alleged cost recovery for a 335 giganlitre water licence for the cooperative. There are some other water licences in the Kimberly region, but that revenue in fees wouldn't make up for what appears to be a massive subsidy associated with the major licensed water allocation. Department of Water also has two water licensing staff in Manjimup yet, in contrast, Department of Water estimate they will raise \$256,550 annually from the 384 water licence holders allocated 40 giganlitres of water from their private dams in the Manjimup and Pemberton area. Making the reasonable assumption the two staff Manjimup office of the Department of Water costs no more to run than the two licensing staff Kununurra office, it appears as though the fees overcharging in the Manjimup and Pemberton area alone subsidises the cost of the Kununurra office of the Department of Water. It is possible the same overcharging of private 'self supply' farmers is occurring throughout the State, subsidising fees for the Ord and Harvey cooperatives, mining companies and water utilities. Further evidence of cross subsidy of service delivery presents in Budget papers 'Major Initiatives' and 'Major Achievements' referred to below.

Parliamentary Question 2090 of 22 March 2007 asked "*The 2006-2007 Budget papers for Appropriations and Forward Estimates state the 2005-2006 budget appropriation for 'Water licensing and regulation' was \$18.645 million and for 2006-2007 is \$21.544 million. The 2006-2007 Budget papers state, as a Key Efficiency Indicator, the average cost per giganlitre of water licensed was \$6,164 for 2005-2006 and the target is \$6,340 for 2006-2007, and I ask - (1) Can the Minister explain why the proposed charges for water licence fees, to be introduced on 1 July 2007 are, in many instances, more than the \$6.34 per megalitre total cost of water licensing and regulation? (2) Can the Minister explain why the water licence fees to be introduced on 1 July 2007 are not based on the approximately \$6 per megalitre cost of water licence administration?*" In reply the Minister for Water Resources responded "*(1) The use of this averaged cost of water per giganlitre is not appropriate to the water licence administration fee because if applied it would raise more money than the actual costs of administering water licences. Using the suggested cost of \$6 per megalitre may reduce the annual fee to some but would see the larger water users, such as irrigation cooperatives, paying far greater than that proposed and this would be disproportionate to the cost of administering the licences. (2) The water licence administration fee is based on recovering the \$5.8M cost of administering water licences and is based on a seven tier structure that reflects the amount of effort required in administering licences. A water licence with a large entitlement requires more effort and time than one with a lesser water entitlement.*" Several issues arise from this response:

- While *Appropriations and Forward Estimates* for the Water and Rivers Commission identify 'Service 3 Water Licensing and Regulation', the \$5.8 million for licensing and compliance/regulation statutory services to which cost recovery is applied doesn't have a performance indicator which can be directly related to the services cost recovered, and the specific cost recovered services are masked by an additional \$15.74 million appropriation that is less directly related to core statutory services for licensing and compliance/regulation
- The reference in the response to Question 2090 (1) that "*Using the suggested cost of \$6 per megalitre may reduce the annual fee to some but would see the larger water users, such as irrigation cooperatives, paying far greater than that proposed and this would be disproportionate to the cost of administering the licences.*" implies the Harvey cooperative shouldn't pay more than \$9,000 for 153 giganlitres of licensed water yet one of the three 'Major Initiatives For 2006-2007' for 'Service 3 Water Licensing and Regulation' was 'Assess the application from Harvey Water and the Water Corporation to transfer (trade) water'. The subsequent Budget papers for 2007-2008 state a 'Major Achievement For 2006-2007' as 'Initial phase of trade agreement for Harvey Water and Water Corporation water trading successfully negotiated and respective licences amended'. It is unlikely the services of the Department of Water

for this 'Major Initiative' and 'Major Achievement' could be provided within the \$9,000 water licence fee for Harvey Water, and under the *Rights in Water and Irrigation Amendment Regulations 2007* effective from July 1 fees for such water trade applications are only \$200 rather than transparently cost recovered. Another 'Major Achievement For 2006-2007' for 'Service 3 Water Licensing and Regulation' in the Budget papers for 2007-2008 is 'Completed Ord River Management Plan', again it is unclear how the Department of Water would distinguish such a service from licensing of the 335 gigalitre allocation to the Ord River cooperative for which the annual fee is \$3,000.

- The reference in the response to Question 2090 (2) that "*The water licence administration fee is based on recovering the \$5.8M cost of administering water licences and is based on a seven tier structure that reflects the amount of effort required in administering licences. A water licence with a large entitlement requires more effort and time than one with a lesser water entitlement.*" contradicts the fact that large water entitlements such as irrigation cooperatives, water utilities and mining companies will pay an average 14 cents per megalitre for their annual water licence while 'self supply' farmers will pay from \$102 to \$2.40 a megalitre. With inadequate disclosure of the fee pricing as discussed at 2. above, it appears the 12,548 water licence holders in Classes 1 to 5 paying greater than the average fee of \$2.27 a megalitre are cross subsidising the 320 licence holders in Classes 6 and 7 paying substantially less than \$2.27 a megalitre in licence fees.

4. Lack of Performance Indicators for services to be cost recovered

The Government is shifting the cost of water licence administration from the Consolidated Fund to water licence holders as customers of the Department of Water. It is reasonable that water licence holder customers have the opportunity to evaluate the efficacy of services they are required to pay for, and in this regard appropriate performance indicators for the services are essential. Such performance indicators are lacking for both the \$5.8 million bundle of services and the five service components (per Table 1 ('DoW costs...') of the attached 'Licence admin fees - how was fee determined'):

\$5.8 million of cost recovered statutory licensing and regulation services: There are no performance indicators for the efficacy of licensing and regulation services for which \$5.8 million is being cost recovered through Water Licence Administration Fees. The 2007-2008 Budget papers for *Appropriations and Forward Estimates* state the 2007-2008 cost for 'Service 3 Water licensing and regulation' is \$24.847 million. The Budget papers state, as a Key Efficiency Indicator, the average cost per gigalitre of water licensed was \$8,933 for 2006-2007 and the target for 2007-2008 is \$12,731 per gigalitre. The answer to Parliamentary Question 4780 tabulated above puts an average cost of \$2,270 per gigalitre for the 2,486 gigalitres of water licensed in May 2007 and subject to Water Licence Administration Fees from 1 July 2007, for expected revenue of \$5,664,225. Given the controversy surrounding the proposed annual Water Licence Administration Fees expressed in 2006 and into 2007, the Government should have set specific performance indicators for the core statutory licensing and regulation/compliance services for which \$5.8 million will be cost recovered. Instead, the performance of delivery of these core services is masked by \$19 million in relatively discretionary and non-core expenditure, including metering trials, water plans, hydrological modeling and a major initiative on water trading to benefit two of the 14,210 licensees.

Licensing (\$4,145,918): The most recent Water and Rivers Commission Annual Report available, for 2005-2006, provides no micro performance indicators of effectiveness or efficiency below Budget papers level to evaluate the efficiency of processing and assessment of applications for water licences for dams and bores, or other licensing services. It is common experience in the Manjimup and Pemberton area for simple applications to the Department of Water for a new licence for a new dam to take over 6 months for an outcome.

These services are now subject to fees and benchmarks for services should be set and publicised by the Government.

Compliance (\$812,875): Again, the most recent Water and Rivers Commission Annual Report available, for 2005-2006, provides no micro performance indicators of effectiveness or efficiency below Budget papers level to evaluate the efficiency of compliance services, being enforcement of the *Rights in Waters and Irrigation Act 1914*. Parliamentary Question 823 of 5 April 2006 established there were three prosecutions under the *Rights in Waters and Irrigation Act 1914* over the period 2001 to April 2006. As licence holders are now required to pay for these regulatory services, performance indicators should be set for inspections, extent of compliance with the *Rights in Waters and Irrigation Act 1914*, and compliance actions, including prosecutions. Further, there doesn't appear to be any published enforcement policy for the *Rights in Waters and Irrigation Act 1914*; such public policies are essential to enable all stakeholders to understand the enforcement agency's inspection processes and approach to breaches of the legislation. In the absence of both performance indicators and a published enforcement policy, licence holders should not be expected to fund \$812,875 in compliance services.

State Administrative Tribunal (\$237,965): There has only been one decision of the State Administrative Tribunal since 2001 regarding the *Rights in Water and Irrigation Act 1914*, and this level of cost recovery from licence holders is clearly excessive. A basic principle of cost recovery based on 'user pays' is that the party using the service pays, not others not using the service. This basic principle is addressed outside of licence fees as appeals against decisions of the Department of Water are required to be dealt with by the State Administrative Tribunal in accordance with their schedule of fees for appellants. Further, the Department of Water should not expect all water licence holders to meet the cost of the Department's response to appeals against the Department's decisions. If the Government persists with this irrational inclusion in Water Licence Administration Fees, then appropriate performance indicators upon Department of Water appealable decisions must be set, and on the cost per appeal to and decision of the State Administrative Tribunal.

Community Input (\$243,653): Table 1 ('DoW costs...') of the attached document 'Licence admin fees - how was fee determined' and notes state that this cost relates to costs associated with managing and supporting Water Resource Management Committees and Advisory Committees. Our understanding, on written advice from the Department of Water in June 2007, is that there are no current Water Resource Management Committees appointed under section 26GK of the *Rights in Water and Irrigation Act 1914*, notwithstanding members of the Warren Water Management Area Advisory Committee (for the Manjimup and Pemberton area) being advised in writing in February 2007 they were appointed under section 26GK. Again, there is confusion on fundamental matters. The *Draft blueprint for water reform in Western Australia Discussion Paper* (July 2006) at page 34 referred to this fee cost recovery component as 'community awareness' as have all other previous publications and answers to Parliamentary Questions 2090, 2092 and 4957. There is a major functional difference between Government services for 'community awareness' requiring information output from Government, and 'community input' requiring information input to Government. This aspect of cost recovery is poorly defined and there can be little confidence that services are being delivered for fees collected. Parliamentary Question 4779 of 8 May 2007 asked "(10) In regard to answer that community awareness is 4 percent of \$5.8 million or \$231,476, will the Minister itemise costs for 2005-06 for the management and support of each of the ten Water Resources Advisory Committees?". In reply the Minister for Water Resources responded "(10) The management and support of the Water Resource Advisory Committees are not costed to individual committees at this time." If the Government can sum \$231,476 and then pass the cost onto licence holders, it is reasonable to expect that the ten committees should be identified and the associated expenditure for the committee also be identified. If the Government persists with this poorly defined and inadequately costed 'community input'

inclusion in Water Licence Administration Fees, then appropriate performance indicators must be set for the claimed services.

Licensing Support (database administration) (\$386,986): A valid and efficient database is essential to an effective licensing system and cost recovery of this expenditure in fees is supported. However, experience of licence holders in the Manjimup and Pemberton area during 2007 suggests the licensing databases are not highly reliable and that there are substantial differences between information held in regional and central databases causing reduction in quality of service. During 2007, the Department of Water has published three different figures for water licences in the Manjimup and Pemberton area: 511 (February), 428 (April) and 384 (August). Similarly, the number of water licences state wide have reduced from 18,674 in July 2006 to 10,841 in May 2007; while a component of this 42% reduction reflects Government policy change some may be due to database deficiency. As the cost of licensing support is now to be met by licence holders through fees, appropriate performance indicators should be set for this service.

5. Suggested alternative fee structure

Manjimup and Pemberton Landowners support the water licensing provisions of the *Rights in Waters and Irrigation Act 1914* and have been subject to those provisions for over 40 years since proclamation of the Warren and Donnelly River catchments. During public comment on the *Draft blueprint for water reform in Western Australia Discussion Paper* (July 2006) most submissions from our area advocated an application fee directly related to the time required to assess the application for a dam or bore in the context of the water resource, followed by a fee to maintain a 10 year duration licence in a database (analogous to a five year drivers licence fee). Now, with the benefit of further consideration, our proposed alternative fee structure is:

- Application Assessment Fee which reflects the complexity of Department of Water assessment required for the particular dam or bore and water resource; applicant to receive a quote in hours and fee per hour, and be able to appeal to a senior officer of the Department if the quote is unacceptable. The basis of the Application Assessment Fee that would be gazetted annually and adjusted for consumer price index would be the hourly rate, noting the Department of Water hourly rate for cost recovery is \$29.73 per Table 4 in the attached document 'Licence admin fees - how was fee determined'. (the same hourly rate approach could apply to transfer, trades and agreements to Take Water (5C) services).
- Licence Fee, duration (10 years) of licence fee which reflects annual administration costs only, for either dam or bore. This should be a 'flat' fee because there is no rationale in the present classes distinction on Compliance, appeals to State Administrative Tribunal, Community Input and Licensing Support (database administration). The licence holder could opt to pay either annually or 10 years in advance (analogous to a drivers licence). In our view, unless and until there are performance indicators and greater justification for Compliance, State Administrative Tribunal and Community Input as components of the Licence Fee, the fee should only cost recover Licensing Support (database administration).
- Renewal Fee at end of licence, this would re-present the Licence Fee (analogous to the renewal of a drivers licence). If a relevant Statutory Water Management Plan identified a particular water resource was nearing full allocation, or was fully allocated, a re-assessment could be invoked and be subject to the same transparent fee process as an initial application.

While our view on alternative fee structure is not directly relevant to any attention your Office may give to Water Licence Administration Fees, it may be of interest to you.

6. Other consequential matters relevant to fee setting for water licences

The Water Licence Administration Fees introduced by the Government from 1 July 2007 are the first of three cost recovery activities the Department of Water claims are driven by commitments under the National Water Initiative; the additional cost recovery will be for Water Resource Management Charges and Annual Metering Charges. As submitted here, in our view the Water Licence Administration Fees appear to have a tax component, have a confused and confusing basis, facilitate cross subsidies and are not accompanied by performance indicators for the services; these combine to make the \$5.8 million in fees unacceptable. *Western Australia's Implementation Plan for the National Water Initiative* (April 2007, page 59) indicates 'Full Cost Recovery' will be implemented starting 1 July 2008. We understand this 'Full Cost Recovery' relates to the cost of Department of Water planning and management activities which will be embodied in new Water Resource Management Charges, and could be several times the cost of Water Licence Administration Fees. We are seriously concerned the problems for us (and other water 'self supply' farmers) with Water Licence Administration Fees will be repeated with Water Resource Management Charges as early as the 2008-2009 budget year, and then compounded by mismanaged cost recovery with Annual Metering Charges.

An independent review of Water Licence Administration Fees by your Office is vital given further fees and charges are imminent in regard to use of water resources. We trust the information we have provided is sufficient to draw your attention to this matter, and at your request we can provide further information and substantiation of that already provided.

Yours sincerely



Neil Bartholomaeus
on behalf of Manjimup and Pemberton Landowners

(additional contacts: contact@waterreform.net , 97724098)

Attachment: Department of Water document Subject: WATER LICENCE
ADMINISTRATION FEES

Attachment to Appendix letter to Auditor General

Department of Water document: WATER LICENCE ADMINISTRATION FEES

Provided by the Department of Water to farmers in Donnybrook on 17 August 2007 on instruction from the Acting Director General, Department of Water,

SUBJECT: WATER LICENCE ADMINISTRATION FEES (Department of Water)

- Supporting information and calculations on how the original water licence administration fee was determined and is detailed in Attachment 1.
Previous calculations using the same methodology were provided to Department of Premier and Cabinet and subsequently included in the July 2006 *Draft blueprint for water reform in Western Australia Discussion*
- A comparison of water licence administration fees was undertaken and can be found in the July 2006 *Draft blueprint for water reform in Western Australia Discussion Paper Water* and is available from the DoW website at www.water.wa.gov.au.
- The DoW Capital Fund budget for 2007-2008 has been reduced by the \$5.8M expected to be recovered from water licence administration fees.
- Details of activities undertaken in the five categories involved in administration of water licences are detailed in Attachment 1.
- Number of staff involved in the administration of water licences is shown in Table 1.

Table 1

Water licensing Staff and Salaries by Region 2007/2008		
DoW Region	Staff FTE's	Salary Costs \$
Swan Avon	16.4	1,118,000
South West	15.8	905,000
Kwinana Peel	4	365,000
Pilbara	3	206,000
Kimberley	2	157,000
Mid West	9	509,000
South Coast	2	128,000
Goldfields	Contracted	61,000
Perth Head Office	9	509,000
	61.2	

1. Figures based on data in the 2007-2008 Project Management System
2. Figures for Perth Head Office are direct licensing support staff

ATTACHMENT 1

ORIGINAL CALCULATIONS TO DETERMINE THE WATER LICENCE APPLICATION AND ADMINISTRATION FEES

BACKGROUND

The Government Response to the Final Report of the Irrigation Review Steering Committee agreed that it is appropriate to recover the costs associated with the administration of water licensing.

CURRENT STATUS

The Water Reform Implementation Committee facilitated a number of community workshops on the Draft Blue Print for Water Reform in Western Australia.

A number of recommendations were provided by the Water Reform Implementation Committee to Government regarding water licence administration fees. These recommendations included:

“That the Department of Water provide information to all licence holders in advance of fees being levied on what the fee recovery is for and how the fees are calculated”

A water licence is a tangible and valuable right to a tradable asset for licence holders predominantly engaged in commercial activities. Licences enable allocation decisions that reflect the efficient long term management of the water resource for the community's benefit (including environmental concerns) and provide the certainty of supply that businesses desire.

It is no longer commonplace for governments to completely fund resource management and administration without some level of cost recovery from users. As outlined in the Draft Blue Print, only Western Australia and the Northern Territory do not charge water licence administration fees.

COSTS TO BE RECOVERED FROM A LICENCE ADMINISTRATION FEE

The recovery of licence administration costs would be for assessment of applications and licence renewals, checking compliance with licence conditions, maintaining licensing databases, management of appeals and community awareness (water resource management committees) since these activities are directly related to the creation and protection of water users' valuable entitlements.

NB: It is important to note that the below figures are extracted from the 2005/2006 budget figures and not 2006/2007 figures. The figure below does not account for costs associated with the implementation or administration/maintenance of a licence administration fee system.

Table 1: DoW costs associated with licensing for 2005/2006

Deliverable:	Cost:	Number of Projects
Licensing	\$4,145,918	12
Compliance	\$812,875	7
State Administrative Tribunal	\$237,965	4
Community Input (WRMCs)	\$243,653	4
Licensing Support (database administration)	\$386,986	3
Total	\$5,827,397	30

Licensing

Refers to all receipting and assessment of:

- 5C Licences to Take Water (including new applications, renewals, amendments);
- Transfer, trades and agreements to Take Water (5C);
- 26D Licences to Construct or Alter Wells (including new applications and amendments); and
- 11/17/21A Permits to Interfere or Obstruct Bed and Banks (including new applications and amendments).

The *Rights in Water and Irrigation Act 1914* require DoW to have regard to certain matters when assessing an application that include but not limited to:

- Determine eligibility to hold a licence;
- Advertising of application;
- Ecological sustainable;
- Environmentally acceptable;
- Prejudice current and future needs for water;
- Are in keeping with local practice, relevant by-laws and relevant decisions of Committees; and
- Consistent with land use planning instruments, policies of other Government Agencies and intergovernmental agreements.

Compliance

There are costs associated with surveys and enforcement actions. Surveys form an integral part of ensuring the compliance with licence terms and conditions. Surveys are carried out, both during assessment and after the issuing of a licence and include inspection of properties.

Enforcement action refers to the action taken by the DoW when there is a breach of licence terms and conditions, or a breach of the *Rights in Water and Irrigation Act 1914*. This would include meetings and interviews with licensees and the physical gathering of evidences, as well as the preparation for and participation in legal proceedings.

State Administrative Tribunal

Any appeals against the decision of the Commission are assessed by the State Administrative Tribunal (SAT). Actions include collation of papers, evidence and supporting documents for both the SAT Tribunal and the appellant.

With declining availability of water resources there is a corresponding increase in appeals against DoW decisions to refuse applications.

Community Input

Costs associated with managing and supporting community based Water Resource Management Committees and Advisory Committees. The cost includes sitting fees and travelling expenses for members as well as venue and catering expenses.

A smaller proportion of the cost goes towards community education on water resources that include the provision of up to date information on water availability and other pressing local issues via the print media.

Licensing Support

Licensing support includes costs for:

- database maintenance and enhancements, including data validation and cleansing;
- delivery of training to regional licensing officers; and
- providing supporting expertise for regional licensing staff.

CALCULATING THE WATER LICENSING ADMINISTRATION FEE

The aim of the Water Licensing Administration Fee was to fully recover the \$5.8M in costs associated with administering and maintaining water licences and integral licensing systems. To do this, the following information needed to be defined:

- Number of entitlement classes of licences according to the amount of work required for that volume;
- The portion of budget spent in that category; and
- The costs to be recovered (total DoW licensing budget for 2005/2006 financial year).

The costs to be recovered have been outlined in the previous section.

LICENCE CLASSES

The initial proposal put forward contained five licence classes that were based on the amount of effort required to administer licences of different water entitlements. Based on the feedback from the community workshops for the Draft Blue Print, this has been reviewed to form seven licence classes. The DoW suggests using an additional two classes (seven-band structure) outlined in Table 2. The revised structure contains additional bands at the top end of licensing.

Table 2: Revised entitlement classes

Original Licence Class	Original Entitlement Class	New Licence Class	New Entitlement Class
1	0 - 5,000	1	0 - 5,000
2	5,001 - 50,000	2	5,001 - 50,000
3	50,001 - 500,000	3	50,001 - 100,000
		4	100,001 - 500,000
4	500,001 - 5,000,000	5	500,001 - 1,000,000
		6	1,000,001 - 5,000,000
7	> 5,000,000	7	> 5,000,000

These classes were defined by the level of work, estimated number of hours required, in assessing and maintaining a licence/permit. Table 3 outlines the development of these classes.

Table 3: Description of Licence Class

Entitlement Class (kL)	Description	Hours / licence
0 – 5,000	Fast track assessments - small domestic, non-commercial activities, hobby farms. Includes all 26D licences (new, renew and amended), 11/17/21A permits (new, renew and amended) and all 5C licences for allocations less than 5,000 kL per annum (new, renew, amended, transfers, trades and agreements).	7
5,000 – 50,000	Some fast track assessments for 5C licences - generally commercial, large scale domestic.	11
50,000 – 100,000	Moderate assessment requirements for 5C licences, no fast track assessments.	20
100,000 – 500,000	Moderate assessment requirements for 5C licences, compulsory advertising and review of submissions.	40
500,000 – 1,000,000	Full assessment required for 5C licences, metering conditions, reporting requirements.	60
1,000,000 – 5,000,000	Full assessment required for 5C licences, operating strategies, hydrogeology reporting, metering.	80
> 5,000,000	Full assessment required for 5C licences, operating strategies, hydrogeology report, metering, DoW modelling and hydrology work.	100+

Determining the portion of budget for each licence class for the recovery of \$5.8M

The portion of budget assigned to an entitlement class is calculated by:

- ‘No of licences per class x hours of work = total hours of work per category;’
- ‘Total hours of work per category / total hours of work = percentage; and’
- ‘Total cost to recover per category = % of total work of category x total budget.’

Table 4: Budget requirements for 7 licence classes prior to the exclusion of licences for stock and domestic

category	Licences in force	*Hours per instrument	total hours per category	breakdown	portion of budget required	average cost per annum
1: 0 - 5,000	5279	7	36953	19%	\$1,098,644.43	\$208.12
2: 5,001 - 50,000	5,752	11	63272	32%	\$1,881,130.90	\$327.04
3: 50,001 - 100,000	1,114	20	22280	11%	\$662,403.54	\$594.62
4: 100,001 - 500,000	898	40	35920	18%	\$1,067,932.45	\$1,189.23
5: 500,001 - 1,000,000	179	60	10740	5%	\$319,309.42	\$1,783.85
6: 1,000,001 - 5,000,000	253	80	20240	10%	\$601,752.58	\$2,378.47
7: > 5,000,000	66	100	6600	3%	\$196,223.67	\$2,973.09
Total	13541		196005	100%	\$5,827,397.00	

HOW THE LICENCE ADMINISTRATION FEE WORKS

The licence administration fee would utilise the seven tiered entitlement classes in much the same manner as the original five tiered entitlement classes.

On receipt of application, users would be required to pay an initial \$200. This fee is non-refundable and would apply to:

- New application for a section 5C licence to Take Water;
- New application for a section 26D licence to Construct or Alter a Well;
- New applications for section 11/17/21A permits to Obstruct or Interfere with Bed and Banks;
- Transfer applications for 5C licences;
- Trade applications for 5C licences; and
- Agreement applications for 5C licences.

The initial application fee will not apply to renewal applications (for all licences and permits) or amendment applications for 5C licences.

Refunds would only be available for applications where a licence is not required. Applications resulting in a refusal to grant the licence or permit or applications which are withdrawn would still be liable for the application fee.

Table 5 Licence classes

Licence Class	Approx. fee required to achieve full cost recovery	% recovery of proposed water licence administration costs	Proposed annual fee (per licence)	Revenue from Annual Licence Fee (\$)
1	\$208.12	100%	\$200.00	1,055,800
2	\$327.04	100%	\$325.00	1,869,400
3	\$594.62	100%	\$600.00	668,400
4	\$1,189.23	100%	\$1,200.00	1,077,600
5	\$1,783.85	100%	\$1,800.00	322,200
6	\$2,378.47	100%	\$2,400.00	607,200
7	\$2,973.09	100%	\$3,000.00	198,000
Total Revenue				5,798,600

Upon grant of a licence, the licensee would be liable for the outstanding amount of the annual fee within the entitlement class. On subsequent anniversary of the issue date, an invoice for the corresponding entitlement amount would be issued.

Example 1:

Jo Smith applies for a licence to take water for 3,500 kL, (class 1) on 21 May 2006. The licence is granted and issued on 30 May 2006. What costs will Jo have to pay?

On Application (21 May 2006):	\$200
On Issue of licence (30 May 2006):	\$0
On anniversary of issue (30 May 2007) and every year for duration of licence	\$200

Example 2:

ACME Mining applies for a licence to take water for 575,000 kL, (class 5) on 21 May 2006. The licence is granted and issued on 30 May 2006. What costs will ACME Mining have to pay?

On Application (21 May 2006):	\$200
On Issue of licence (30 May 2006):	\$1,600
On anniversary of issue (30 May 2007) and every year for duration of licence:	\$1,800

Impacts of the proposed licence fees

Table 8: Examples of costs for typical water users

User type	Water licence administration fees
Domestic scheme and garden bore user	\$0
Commercial scheme water user	\$0
Stock and rural domestic user	\$0
Off-stream farm dam user	\$0
Small dairy (1 licence)	\$200
Small Wanneroo vegetable grower (1 licence)	\$325
Large vineyard (50ha) (1 licence)	\$600
Large (export) vegetable grower (1 licence)	\$1,800
Large irrigation cooperative (eg Ord) (1 licence)	\$3,000
AQWEST (Bunbury Water Board) (2 licences)	\$4,800
LGA (eg City of Swan with 91 licences prior to amalgamation of licences)	\$32,100
LGA (eg City of Swan with 13 licences after amalgamation)	\$10,625
Mine (eg. BHP with 55 licences)	\$51,125
Water Corporation (231 licences)	\$317,600