



**INQUIRY INTO WATER RESOURCE MANAGEMENT
AND PLANNING CHARGES**

SUBMISSION

To

Economic Regulation Authority

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Summary

The Western Australian Farmers Federation (Inc) (WAFarmers) is the State's largest and most influential rural lobby and service organisation.

WAFarmers welcomes the opportunity to comment on this initial phase of the Inquiry into Water Resource Management and Planning Charges.

In this submission, WAFarmers has reviewed the State's water reform process, as through this we are able to highlight a requirement for further information, if we are to be able to provide a considered response to latter stages of this Inquiry.

WAFarmers notes the timeline for this Inquiry, and in this submission requests that the Economic Regulation Authority, in their Draft Report of the Inquiry into Water Resource Management and Planning Charges, detail:

1. The State's National Water Initiative requirements for the collection of water resource management charges.
2. The penalties for non compliance with the National Water Initiative on water resource management charges.
3. The proportion of the State's 2009/10 'water use and optimisation budget' which is expected to be collected through water resource management charges, and the time period for review and adjustment of these.
4. The State's level of water use, licensed water use and sustainable water yield.
5. The cost and benefit of delaying the implementation of water resource management charges until the final report of the Steering Group on Water Charges can be considered.
6. The timeline for development and implementation of the Water Resources Management Bill.
7. The Department of Water's consultation process on water resource management charges.
8. The State's intention in relation to the licensing and management of domestic bores.

The Western Australian Farmers Federation

The Western Australian Farmers Federation (Inc) (WAFarmers) is the State's largest and most influential rural lobby and service organisation.

WAFarmers represents approximately 4,000 Western Australian farmers from a range of primary industries including grain growers, meat and wool producers, horticulturalists, dairy farmers, commercial egg producers and beekeepers.

Collectively our members are major contributors to the \$5.5 billion gross value of production that agriculture in its various forms contributes annually to Western Australia's economy.

Additionally, through differing forms of land tenure, our members own, control and capably manage many millions of hectares of the State's land mass and as such are responsible for maintaining the productive capacity and environmental well being of that land.

Introduction

WAFarmers welcomes the opportunity to comment on this initial phase of the Inquiry into Water Resource Management and Planning Charges.

WAFarmers has a long history of working in a cooperative manner with government and research agencies on water planning, policy and use issues. WAFarmers is currently represented on the South West Water Forum, the State Water Forum and on a number of other water related committees. Through this involvement, WAFarmers has consistently lobbied for the simultaneous delivery of rights and responsibilities in relation to the water reform outcomes defined by the National Water Initiative and for the efficient use of water in maintaining Western Australia's capacity to produce safe, quality food products for both local and export markets.

Access to water resources is a critical issue for agricultural businesses. In launching his Priority Plan for Agriculture and Food in Western Australia on March 19th 2009, Western Australian Minister for Agriculture and Food, Terry Redman noted that global food production will need to double by the mid-21st century, just to keep pace with expected increases in population. Clearly, ongoing and clearly defined access to the water resource will be required to allow Western Australian agricultural businesses to invest in their production capacity to meet this demand.

Submission

Water reform in Western Australia

The Issues Paper of the Inquiry into Water Resource Management and Planning Charges (referred to in this submission as the 'Issues Paper'), states that *'the Government has had an obligation to recover the costs, at least partially, of water resource management and planning activities since signing the Council of Australian Governments (CoAG) Water Reform Agreement in February 1994.'* WAFarmers is unaware of the Western Australian Government's level of commitment to this agreement, either in 1994, or up until signing the National Water Initiative (the NWI) in 2006.

Western Australia was the second last Australian State to sign to the NWI. As recently as 2004, the former State Government did not believe that the NWI aligned with Western Australia's water management program. On 25th June 2004 in a media release entitled; Prime Minister's water initiative 'sold WA down the drain', ⁽¹⁾ then Premier Geoff Gallop commented that:

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- *“Western Australia’s interests would have been sold down the drain had he signed up to the Commonwealth’s national water initiative.”*
 - *“This initiative has absolutely no real benefit for WA.”*
 - *“States in the south east of Australia are going to receive \$200million in Commonwealth funding but WA has been offered nothing. Instead, we would be exposing millions of dollars of Western Australian taxpayers’ money to a scheme that returns nothing except the prospect of higher charges for water users.”*

Further to this, on 16th September 2004, in the media release ‘Howard’s National Water Initiative in disarray’⁽²⁾ he commented

- *“I never signed the national water initiative in the first place because I believed there was nothing in it for WA. It was all focussed on the Murray Darling basin.”*

Some two years later, on 6th April, 2006 the media release entitled ‘Millions of dollars available to secure Western Australia’s water future’⁽³⁾ contained; *Western Australia will be eligible to apply for millions of dollars in funding for major water projects, with Premier Alan Carpenter set to sign up to the National Water Initiative today. Mr Carpenter said signing the agreement with Prime Minister John Howard in Perth today would see funding go towards a range of water projects designed to secure WA’s water future. “We welcome the Federal Government’s commitment to progress its assessment of WA’s water projects and to view our proposals positively,” the Premier said.*

The State Government’s resistance to the NWI was finally overturned by the lure of the sizable amount of federal government funding associated with its adoption and implementation. Given the increase in demand for water and the decrease in State Government investment into water management in the years prior to 2006, additional funding was a sizable inducement. In 2003, the Office of the Auditor General’s assessment of the state’s water management⁽⁴⁾ found that the Water and Rivers Commission (WRC) faced some major challenges, including;

- The State’s ground and surface water monitoring program has been progressively reduced. As a result, WRC does not have the information needed to accurately determine the sustainable level of groundwater and surface water use in many areas of the State.
- WRC has not determined allocation limits for a significant number of water resources. Where limits have been determined, they have not always been entered into WRC’s primary water management database, though licences to take water from these areas have nevertheless been issued. WRC relies on the local knowledge of their regional officers to manage licence allocations in these situations.
- Licensed water use in parts of 13 of the State’s 44 groundwater management areas exceeds the estimated sustainable limit. WRC is falling behind in its processing of water licences despite staff efforts to improve licensing procedures. The average waiting time for a licence is three months, with some licences taking over nine months to process. At June 2003 over 1000 new applications were waiting to be processed whilst thousands of licences are renewed after minimal assessment.
- Approximately only 11 per cent (2 747) of the State’s 25 652 water licences have ever been checked for compliance. Lack of regular surveys means WRC cannot accurately assess water use and availability.

- WRC has not won any of the last 25 appeals against decisions to refuse further water allocations. The Appeals Tribunal has often found that WRC’s decisions lacked scientific rigour. However, when lacking scientific data, WRC takes a 'precautionary approach' to water allocation, but under the Act this discretionary approach can be appealed.

The findings of the Office of the Auditor General’s most recent assessment (2009) ⁽⁵⁾ are detailed in the Issues Paper. Essentially, the report found that whilst progress in water management had been made, there were a number of significant challenges remaining. Whilst, water resource management and planning charges was not identified, other services which relate to these charges were. Future activity in addressing these challenges will be impacted by the decrease in allocation of net appropriations for the delivery of services to the Department of Water in the 2009/10 State budget. In this, investment decreases from the 2008/09 estimated actual of \$85.7 million, to the budgeted allocation of \$70.7million in 2012/13.

The Issues Paper provides a brief summary of the development of water resource management charges in Western Australia, whilst a late signatory to the NWI, the State has advanced a range of water reform measures (Table 1), including water reform management charges pre and post 2006.

| Timeline of water reform in Western Australia | |
|--|----------------|
| Activity | Time |
| A State Water Strategy for Western Australia | February 2003 |
| Intergovernmental Agreement on a National Water Initiative signed between the Commonwealth of Australia and New South Wales, Victoria, Queensland, South Australia, Northern Territory and the Australian Capital Territory. | June 2004 |
| Premier Gallop rejects involvement in National Water Initiative | June 2004 |
| Premier Gallop again rejects involvement in National Water Initiative | September 2004 |
| Final Report of the Irrigation Review Steering Committee | July 2005 |
| Government Response to the Report of the Irrigation Review Steering Committee | September 2005 |
| Premier Alan Carpenter commits WA to National Water Initiative | April 2006 |
| A blueprint for water reform in Western Australia | December 2006 |
| Government response to A blueprint for water reform in Western Australia | February 2007 |
| Western Australia’s Implementation Plan for the National Water Initiative | April 2007 |
| Western Australia’s achievements in implementing the National Water Initiative - Progress report | November 2008 |

Table 1. Timeline of water reform in Western Australia

In 2003, ‘A State Water Strategy for Western Australia’ ⁽⁶⁾ raised the prospect of water resource management charges, when it noted that:

‘As the pressures on our water resources increase, so to do the costs associated with water resource management. In the most recent years the annual cost associated with managing the State’s water resources has been around \$50 million – more than twice that of 15 years ago. It is expected that the cost will rise markedly within the next 20 years because of an expected doubling in water use and the much higher cost of managing aquifers and streams that are fully allocated and threatened by more intensive land use activities.

In other Australian states, water resource management charges are small charges that apply to water users (typically licensed commercial self-suppliers and water service providers) that operate on ‘beneficiary or user pays’ principles to fund water resource management costs. Clearly, water resource management charges are not the only way to fund water resource management but they can help to achieve equity for all users and contribute to a sustainable water future.’ The Strategy recommended:

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- The Government will continue to fund water resource management activities being undertaken to ensure a sustainable water future.
 - Undertake an investigation of the applicability of implementing a water resource management charge in Western Australia. This will include consultation with key stakeholders and should consider the possible timeframes, potential impacts and the overall applicability of any possible implementation.

Established as a recommendation of 'A State Water Strategy for Western Australia', the State Water Strategy's Irrigation Review Steering Committee progressed these recommendations when in their Final Report ⁽⁷⁾ they concluded:

'The Steering Committee supports the introduction of water resource management charges that recover the share of management costs attributable to water users. The public should fund that proportion of water resource costs associated with public benefits including environmental protection. The basis of charging must be transparent and the money raised should be used for agreed purposes. The first step should be to recover costs associated with licensing and compliance.'

These are particularly interesting findings given that 86% of the submissions received by the Review did not support the introduction of 'water resource management fees', raising questions over their compliance with the State Water Strategy's recommendation of 'consultation with key stakeholders'.

The Government Response to The Report of The Irrigation Review Steering Committee Government of Western Australia ⁽⁸⁾ commented; *'All jurisdictions except Western Australia and the Northern Territory charge a fee that recovers costs associated with administration of the licensing system. However, there is little or no uniformity and actual charges appear to vary widely depending upon the purpose for which water is used, whether a volumetric charge also applies, location and individual service provider.'*

The Government intends to:

- *Consider the introduction of basic licence fees, as per other States, in the first instance.*
- *Evaluate the best approach to funding, including assessment of the merits of funding mechanisms in other states.*
- *Evaluate funding requirements at a regional level to ensure that these are linked directly to the actual water resource management effort required in specific water management areas.'*

The document 'A blueprint for water reform in Western Australia' ⁽⁹⁾, released some eight months after Western Australia committed to the NWI, on the issue, had three recommendations in this area, being;

RECOMMENDATION 42

That the Department of Water introduce a water licence administration fee consisting of an application fee for all licences and permits under the Rights in Water and Irrigation Act 1914 and an annual administration fee for all section 5C licences to take water. This would be based on the structure outlined below.

That the water licence administration fee recover the costs associated with the assessment of applications and licence renewals, checking compliance with licence conditions, maintaining licensing databases, management of appeals and community awareness. Further, that applicants be required to pay an initial and non-refundable application fee of \$175 applicable to:

- *New applications for a section 5C licence to Take Water*
- *New applications 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*
- *Applications to amend a 5C licence*
- *Transfer applications for 5C licences*
- *Trade applications for 5C licences*
- *Agreement applications for 5C licences.*

Upon being granted a section 5C licence to take water, the licensee will be liable to pay the difference between the application fee and the annual fee in accordance with the above schedule.

| <i>Licence Class</i> | <i>Entitlement Class (kilolitres per year)</i> | <i>Suggested Fee</i> | <i>Frequency</i> |
|----------------------|--|----------------------|-----------------------|
| | <i>Application Fee</i> | <i>\$175</i> | <i>On application</i> |
| <i>Class 1</i> | <i>0 – 5000</i> | <i>\$175</i> | <i>Annual</i> |
| <i>Class 2</i> | <i>5001 – 50 000</i> | <i>\$280</i> | <i>Annual</i> |
| <i>Class 3</i> | <i>50 001 – 100 000</i> | <i>\$505</i> | <i>Annual</i> |
| <i>Class 4</i> | <i>100 001 – 500 000</i> | <i>\$1015</i> | <i>Annual</i> |
| <i>Class 5</i> | <i>500 001 – 1 000 000</i> | <i>\$1525</i> | <i>Annual</i> |
| <i>Class 6</i> | <i>1 000 001 – 5 000 000</i> | <i>\$2035</i> | <i>Annual</i> |
| <i>Class 7</i> | <i>> 5 000 000</i> | <i>\$2540</i> | <i>Annual</i> |

Table 2: Water License Administration Fees as listed in the ‘A blueprint for water reform in Western Australia.

RECOMMENDATION 43

That the Economic Regulation Authority independently reviews the structure and amount of the water licence administration fee within two years of its introduction and regularly thereafter.

RECOMMENDATION 44

That, with the exception of a water licence administration fee and any charges associated with metering, the introduction of further charges for water resources planning and management only be considered by the Western Australian Government once a nationally consistent approach is adopted and substantial progress is made on water reform in Western Australia, i.e. the completion of statutory water management plans and the establishment of longer term secure water access entitlements.

The Government Response to ‘A blueprint for water reform in Western Australia’⁽¹⁰⁾ supported these recommendations, although reviewed the fees suggested in Recommendation 42 and on Recommendation 44, commented ‘The Government is bound by the requirements of the NWI to introduce water resource management changes and is part of a national review to develop uniform national charges.’

This review demonstrates that it was during the later part of 2006 and early 2007 that the discussion on water resource management charges was largely replaced by a focus on the proposed water license administration fees. Whilst one was fundamentally a subset of the other, the strong government focus on the introduction of the water license administration fees stifled the debate on the broader issue of water resource management charges.

The introduction of water license administration fees, via the Rights in Water and Irrigation Regulations 2000 Amendments (June 2007) and the Rights in Water and Irrigation Regulations 2000 Amendments (December 2007), and the disallowance of both is not a template of effective government agency consultation with its stakeholders. In their 'Progress report of Western Australia's achievements in implementing the National Water Initiative' ⁽¹¹⁾ the Department of Water noted;

'Cost recovery for the management of water licences is an element of the full cost recovery of planning and management. 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.'

Extensive consultation regarding cost recovery for water licences has occurred since 2002 when the Department of Environment Stakeholder Reference Group, and later in 2004–05 the Irrigation Review Steering Committee, consulted with irrigation stakeholders and the wider community. The Water Reform Implementation Committee conducted further consultation in 2006 as part of the formulation of the draft version of 'A blueprint for water reform in Western Australia'.

A policy position paper on water administration fees was completed and signed off in 2006. An analysis of water licence administration revealed that full cost recovery would require raising revenue of \$5.8 million. A water licence administration fee would recover the costs of administering and maintaining water licences.

Following the development of 'A blueprint for water reform in Western Australia', the state government produced a schedule of fees. Two amendments were made to this schedule prior to gazettal. They concerned exemptions from licence fees for stock and domestic licensees and revision of the basis for farm dam licensing. The Rights in Water and Irrigation Amendment Regulations 2007 and the fee schedule were gazetted on 22 June 2007.

As part of the cost recovery process, a desktop application was installed that links the licensing database and finance systems. This assists with managing the different fee schedules for licence administration fees. Operational guidelines and training were supplied, and administrative support arrangements were developed.

These fees took effect from 1 July 2007 but the fee schedule was disallowed in the Legislative Council of Western Australia on 22 November 2007. The disallowance motion was based on a perception of inequity both among licence classes and between licence holders and unlicensed users. This occurred because the fees only applied to areas where licences currently exist and it did not apply to areas where a licensing regime had not yet been proclaimed. Additionally, there were perceptions that licensing regimes do not capture large volumes of water extracted through unlicensed metropolitan and suburban domestic water bores, causing concerns over how the government can accurately assess how much water is taken out of those aquifers.

A new schedule of fees was gazetted on 28 December 2007 following an agreement on a revised fee schedule. The revised fee schedule was disallowed in the Legislative Council on 8 April 2008. The disallowance motion was in response to the perceived lack of adequate consultation and engagement with stakeholders. The revised fee schedule was also perceived as inequitable, and the approach to averaging cost recovery over licensees was found to be unacceptable.

In parallel with this process, the Economics and Industry Standing Committee held an inquiry into water licensing and services. The government response to this inquiry gave the Economic Regulation Authority the mandate for independently inquiring into and reporting on the most

appropriate forms of cost recovery for water resource management activities. In the event that the current government commissions an inquiry into this matter, subsequent to the Economic Regulation Authority's advice, the government will determine the most appropriate and equitable way to implement any future charges and fees.

In the meantime, the Department of Water is progressing with an internal program to consider paths to cost recovery. The Water Reform Integration and Transition Committee is examining this issue from the perspective of building internal capabilities to facilitate cost recovery in the event that regulations are gazetted.

Drafting instructions relating to full cost recovery for the new water resources legislation have been completed. Some cost recovery is permissible under the existing legislation and is being pursued.

It should also be noted that further to section 5.1 of this report, the Department of Water is participating in the Water Sub Group program, which has built on the work of the Steering Group on Water Charges. The national pricing principles for cost recovery developed by the steering group have not been released. The release of this information will inform any future cost recovery considerations and ensure alignment with the national agenda.'

WAFarmers requests that, as well as consideration of this rather sanitised version of events, the Inquiry considers the Final Report of the Economics and Industry Standing Committee ⁽¹²⁾, specifically in terms of their findings into the timing of introduction, and rate of the water licence administration fees. These included:

Recommendation 3: The Department of Water must increase its efforts to ensure that the community is better informed in relation to the National Water Initiative and its ramifications, especially its impact on local areas.

Recommendation 7: That water resource management charges be imposed separately, but not until statutory water management plans are in place.

Recommendation 20: That the Department of Water increase its efforts in relation to consultation.

On these WAFarmers believes that Recommendation 7 should be expanded to include detailed advice on the proposed water licence structure, terms and security.

Terms of Reference

In accordance with the Terms of Reference, the Economic Regulation Authority is to provide the Government with a range of options and recommendations for:

- the recovery of the water resource planning and management expenses incurred by the Department of Water; and
- the most appropriate regulatory arrangements for the setting of service standards for the water resource manager, the setting of the charges and the subsequent recovery of those charges from water users.

The Issues Paper lists the State Government's commitment to cost recovery for water planning and management, contained in Sections 67 and 68 of the NWI. On these, in their 'Progress report of Western Australia's achievements in implementing the National Water Initiative' ⁽¹¹⁾ the Department of Water notes;

“The NWC has convened a Steering Group on Water Charges to investigate the most appropriate ways to recover planning and management costs. The Steering Group has developed a framework for categorising water planning and management activities. This framework can be used by jurisdictions to determine the types of activities that should be passed on to water users. Further work is still to be done, including consideration of the most appropriate cost recovery mechanism. Agreement on principles for achieving consistency in pricing and attributing the costs of water planning and management has not been reached by the end of 2006. The Steering Group will report through NWIC to the NRMMC in November on this action. Further consideration by the Western Australian Government will be undertaken to determine the most appropriate way to implement the recommended cost recovery mechanisms. In any event, any introduction of further cost recovery will take place only after extensive consultation and the completion of statutory water management plans and the establishment of longer-term secure water access entitlements.”

WAFarmers has had extensive involvement in the State’s water reform program however we are challenged by the un-availability of much of the information required to make an assessment on the Inquiry’s Terms of Reference. As such, we highlight the following issues and questions which we believe must be responded to in the Draft Report of the Inquiry into Water Resource Management and Planning Charges.

1. Total Water Resource Management and Planning Charges

The 2009/10 State budget identifies that the total cost of ‘water use and optimisation’ for 2009/10 as \$47 480 000. The budget identifies that the existence of 13 300 water licences will each require, on average investment of \$1829 to manage, totalling \$24 325 700. There is considerable uncertainty over how much of the ‘water use and optimisation’ costs that water users will be expected to meet under a water resource management charge.

Complicating this is the unavailability of accurate water availability, allocation and use data. An extensive assessment in 2000 ⁽¹³⁾ identified that total water use in Western Australia was 1796 GL/year a figure which equated to about 15% of the State’s sustainable yield. Since then however it has been difficult to obtain accurate figures on current Western Australian levels of water use, licensed water use and the sustainable yield. The State Water Plan 2007 ⁽¹⁴⁾ stated ‘an estimated 2340 gigalitres of water was used in Western Australia in 2005. In response to a parliamentary question (4780 – May 2007) the Minister for Water Resources advised that licensed water use was 2,486 Gigalitres. Until stakeholders are provided with timely and accurate information on water use, a determination of what fraction should be paid by a particular sector is not possible.

2. Pricing Principles

The NWI was signed by the majority of Australian States and Territories in 2004, providing significant time for this issue to be considered. The Issues Paper however notes the lack of a consistency in water pricing and recovery across Australia. Further WAFarmers believes that the introduction of a State-based pricing mechanism through this Inquiry process, without consideration of the NWI’s requirement for ‘consistent approaches to pricing’ should not occur.

3. Water Resources Management Bill

Drafting of the Water Resources Management Bill is progressing. WAFarmers believes that this legislation presents an opportunity for the positive aspects of the NWI and ‘A blueprint for water reform in Western Australia’ can be delivered. These positives include longer term water license security, increased autonomous self management at the regional level, badly needed transparency, procedural fairness, and a better outcome for all stakeholders. The ERA review process, unlike the

proposed introduction of water licence administration fees, should aim to jointly deliver the consistency in pricing and the benefits of this Bill.

4. Consultation with stakeholders

If the recent experience with the Water License Administration Fee delivered any lessons, it was of the very strong need for the Department of Water to have greater communication with its stakeholders. Unfortunately since the election of the current government, consultation on water reform has halted, to a point that the State Water Forum has not been convened during this period. It has however been cancelled on one occasion.

Further, it appears that the Department of Water has not embraced the concept of an inclusive process with stakeholders but rather continues to a policy development process which delivers an effective fate accompli to stakeholders. The water licence administration fee experience demonstrated the lack of effectiveness in this approach in its wastage of time and resources developing policy in isolation only to have it strongly resisted by industry. As such WAFarmers questions the government's commitment to effective consultation with stakeholders.

5. Equity in application of water resource management fees

Through our involvement in the water reform process, WAFarmers has consistently called for equity of application in its implementation. 'A State Water Strategy for WA' ⁽⁶⁾ comments that 'garden bores use 5% of the total water amount of water used in Western Australia', which equates to nearly 90 GL of water annually.

It is apparent that the Department of Water is unaware of the location of the estimated 140 000 bores in the greater Perth area, as they do not have a complete register of domestic bores and currently little capacity to collect that information. This lack of management in the past should not be a determining factor in the future management of an aquifer which is exhibiting considerable stresses. WAFarmers therefore is at odds with the previous government's position on licensing and applying charges to this water use.

Clearly there will be pricing issues involved, given that each residence will be using 650 kL/year (average figure) however the current large differential between the management applied to licensed water users and that to domestic bores is inequitable.

WAFarmers therefore requests that, in order for us to respond to this Inquiry in an informed manner, the ERA, in their Draft Report of the Inquiry into Water Resource Management and Planning Charges, detail:

1. The State's NWI requirements for the collection of water resource management charges.
2. The penalties for non compliance with NWI on water resource management charges.
3. The proportion of the State's 2009/10 'water use and optimisation budget' which is expected to be collected through water resource management charges, and the time period for review and adjustment of these.
4. The State's level of water use, licensed water use and sustainable water yield.
5. The cost and benefit of delaying the implementation of water resource management charges until the final report of the Steering Group on Water Charges can be considered.
6. The timeline for development and implementation of the Water Resources Management Bill.
7. The Department of Water's consultation process on water resource management charges.
8. The State's intention in relation to the licensing and management of domestic bores.

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