

Peel Valley Water Users Association Inc

The only organisation that represents the Irrigation Industry in the Peel Valley

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SUBMISSION TO IPART

REVIEW OF PRICES FOR WATERNSW, RURAL BULK WATER SERVICES FROM JULY 2017

RESPONSE TO THE IPART DRAFT REPORT, ISSUED 24 MARCH 2017

This submission has been lodged in response to the comments in the IPART Draft Report regarding the Peel Valley, particularly those comments contained in Appendix D.

However, an important development occurred immediately prior to the release of the IPART Draft Report that deserves IPART's consideration. On 22nd February 2017, the NSW Minister for Water, Minister Niall Blair wrote to the Peel Valley Water Users Association with a proposed solution to the problem of excessive water usage charges in the Peel Valley. The proposed solution (after taking into account the IPART Draft Report) suggested a General Security Entitlement charge of \$4.09/ML and a usage charge of \$18.69/ML. The usage charge is significantly lower than the \$54.97/ML proposed by IPART, and the Peel Valley Water Users Association would support the Minister's proposal because of the significantly lower usage charge.

The key issue with the Minister's solution is that under the proposal the High Security Entitlement charge would be \$42.30/ML, compared to the figure of \$20.77/ML proposed by IPART in the Draft Report. Tamworth Regional Council is the major High Security Entitlement holder in the Peel Valley, and at the Council Meeting on 11th April 2017 the Councillors voted against the Minister's proposal because the net impact would be \$692,000 additional expenditure for the Council over the 4 year period of the IPART review compared to the charges proposed by IPART in the Draft Report.

Tamworth Regional Council has reportedly sought financial compensation from the Minister to offset this additional expenditure, but we understand their efforts have been unsuccessful to date.

We would urge IPART to investigate whether a resolution can be achieved; and to then adopt the Minister's proposed pricing scheme for the Peel Valley.

The Peel Valley Water Users Association's support for the Minister's solution is contingent on the General Security Entitlement charge being set no higher than \$4.09/ML as proposed by the Minister, because as this Association has submitted to IPART on multiple previous occasions:

- (a) The Peel Valley irrigators pay entitlement charges on 31,000ML of entitlement, yet the Water Sharing Plan limits the annual extractions to only 6,100ML. Therefore, the effective General Security entitlement charge for each megalitre used is approximately five times higher than the figure quoted by either IPART or the Minister, namely \$20.79/ML under the Minister's proposal.
- (b) The Peel Valley has had a historically low level of reliability of access to water for General Security irrigators. As shown in Table 3, eleven of the last 22 years have had a start of season AWD of less than 50% (including 8 years of zero allocation). The Peel Valley irrigators strongly object to paying excessive fixed entitlement charges when there is no water available.

1. Flawed accounting principle

It does not cost WaterNSW \$54.97 to deliver a megalitre of water in the Peel Valley.

On page 209 of the Draft Report, IPART acknowledges that *'the small customer base means that the price per ML would be higher for Peel valley users than users in other valleys with a larger customer base'*.

IPART has again delivered a price determination that is strongly biased against the Peel Valley. It is a travesty of justice that the regulator continues to approve enormously excessive charges in one valley just because there is a small customer base.

The current pricing policy will always penalise valleys with a small customer base, and the Peel Valley has the smallest customer base and is the smallest water user in the Murray Darling Basin. IPART should accept this as a fault with the current pricing policy, and acknowledge that the existing pricing policy produces outcomes that are inequitable, unintended and unfair.

The IPART website states that *'IPART provides independent regulatory decisions and advice to protect the ongoing interests of the consumers, taxpayers and citizens of NSW'*.

IPART has contravened its obligations in the above statement for the water users in the Peel Valley. How can such an unfair and inequitable pricing policy be endorsed by a self-professed 'independent' pricing regulator?

2. Perverse pricing

The Peel Valley Water Users Association submission to the IPART Issues Paper stated that *'we contend that the water usage charges in the Peel Valley... compared to every other valley in the Murray Darling Basin are:*

- *Unfair*
- *Inequitable*
- *and anti-competitive*
...and undeniably 'perverse'and therefore undeniably in breach of the Water Act, and therefore undeniably illegal.'

The Peel Valley Water Users Association submission also stated that:

'Further, we believe that IPART cannot make a ruling on whether the water usage charges in the Peel Valley are a "perverse pricing outcome" or not unless IPART publishes its definition of the term "perverse pricing outcome". We believe that it is the regulator's role to ensure that a state-owned monopoly is not in breach of the Water Act.'

On Page 210 of its Draft Report, IPART has trivialised the importance of a potential breach of the Water Act, by stating that *'We consider that prices in this determination are not perverse, unfair, inequitable or anti-competitive'* and *'We also consider that the prices in the Peel valley do not produce perverse outcomes.'* IPART has repeatedly ignored the request to define what constitutes a 'perverse or unintended pricing outcome'.

A potential breach of the Water Act by a Government-owned monopoly is a vitally important matter which rightfully ought to be determined by the facts, and not summarily dismissed in an unsubstantiated statement of opinion by the regulator.

IPART is hereby again requested to provide a written definition of the term 'perverse or unintended pricing outcome' that it has used in order to decide that WaterNSW is not in breach of the Water Act.

3.3 Unregulated water charged at Regulated water rates

Approximately 61% of the Peel Valley catchment is located below Chaffey Dam. Therefore, a large proportion of the water in the Peel River never enters Chaffey Dam, and is therefore technically unregulated water.

There are a number of significant tributaries that flow into the Peel River below Chaffey Dam before the Peel River joins the Namoi River. These tributaries include Duncan's Creek, Dungowan Creek, Timbumburi Creek, Tangaratta Creek, Goonoo Goonoo Creek, and the Cockburn River.

WaterNSW incurs no costs for supplying this 'regulated' water other than monitoring stations, yet WaterNSW sells all of that water at Full Cost Recovery rates.

This point has been made to IPART previously, and it is unjust that such a large volume of unregulated water is charged at Full Cost Recovery rates.

3.4 The Peel Valley pays 100% of the Full Cost Recovery charges in return for 5% of the water

The Peel Valley Water Users Association has also previously highlighted to IPART that the irrigators and Tamworth Regional Council combined only access 5% of the long term average annual end of stream flow in the Peel River.

Therefore, the irrigators and Tamworth Regional Council should not be responsible for payment of 100% of the Full Cost Recovery charges in the Peel Valley.

If IPART genuinely intends to impose cost reflective charges in each valley, then IPART ought to limit the charges in the Peel Valley to 5% of the Full Cost Recovery charges in the Peel Valley, not 100%.

No credit or recompense has ever been offered by IPART to the Peel Valley for the 95% of water that the Peel Valley supplies downstream, on which Peel Valley water users have already paid 100% of the Full Cost Recovery charges.

4. Price Gouging

The Peel Valley Water Users Association's submission to the IPART Issues Paper requested that IPART explain how the prices in the Peel Valley are not 'price gouging'.

On Page 210 of the Draft Report, IPART states that '*WaterNSW is not price gouging under our determination....*', and then proceeds to explain that the NSW Government needs to recover costs (and make a return on investment), and also that other valleys should not subsidise the Peel Valley.

Regardless of that explanation, the fact remains that a Government-owned monopoly which deliberately increases water charges in just one valley until the point at which water users are priced out of business, is clearly price gouging in that valley.

That is the definition of price gouging.

Therefore, unless IPART uses an alternative definition of 'price gouging', the Peel Valley Water Users Association submits that IPART is permitting price gouging by WaterNSW in the Peel Valley.

6. Water usage statistics for the Peel Valley

On Page 210 of the Draft Report, IPART makes the statement that:

*'Where prices are higher than the upper limit, there is a broad change in customer behaviour. This would include the surrender of licences and a clear reduction in water usage. However, despite gradual increases in bills over the last three determination periods to reach Full Cost Recovery, licence numbers and entitlement volumes have remained stable **and there has been no observable downward trend in water usage in the Peel Valley**'.* (Emphasis added)

It is inappropriate for IPART to publish statements that are not supported by the facts, and as submitted to the IPART Public Hearing in Sydney on 4th April 2017, this statement is wrong for two reasons:

6.1 'This would include the surrender and return of licences'

Surrender and return of licences would only occur if the entitlement charge was excessive – that is, if the cost of keeping the licence was so great that it was uneconomical to continue to hold the licence. In the Peel Valley the General Security entitlement charge is currently at a reasonable level, so there is no reason for IPART to expect Peel Valley licence holders to surrender their licences due to excessive pricing.

6.2 'There has been no observable downward trend in water usage in the Peel Valley'

This statement is not correct.

The figures in Table 3 were provided by WaterNSW and show the water usage in the Peel Valley from 1995-1996 to the current water year. The figures are shown separately for both the General Security irrigators and High Security users – primarily Tamworth Regional Council.

The figures in Table 3 (on the following page) have been summarised as follows:

Table 2 – Summary of water usage by irrigators in the Peel Valley – General Security licences

Period	General Security Average Usage (Irrigators)	Decrease In General Security water usage	Comments
1991-1998 Benchmark	7,600ML	-	Peel Water Sharing Plan Clause 39 sub-clause (2) (b)
1995-1996 to 2005-2006	7,013ML	-7.7%	4 zero start of season AWDs Relatively low price increases imposed by IPART
2006-2007 to 2016-2017	5,914 ML	-22.2%	4 zero start of season AWDs Significant price increases imposed by IPART

The figures in Table 2 above clearly demonstrate that there has already been a '*broad change in customer behaviour*' for irrigators – (as separate from Tamworth Regional Council).

The Peel Valley Water Users Association is not authorised to comment on behalf of Tamworth Regional Council, but Council is not seriously concerned about the high water usage charges because the charges are simply passed on to ratepayers (together with a significant mark-up).

Table 3 - Water usage by irrigators in the Peel Valley

Water Year	Start of Season General Security AWD	End of Season AWD	General Security Water usage (ML)	High Security Water Usage (ML)	Total Water Usage (ML)
1995-1996	0%	30%	4,043	1,899	5,942
1996-1997	10%	65%	3,468	2,173	5,641
1997-1998	100%	100%	9,021	6,999	16,020
1998-1999	100%	100%	2,825	2,736	5,561
1999-2000	100%	100%	5,058	2,251	7,309
2000-2001	80%	100%	5,247	4,994	10,241
2001-2002	100%	100%	9,849	4,822	14,671
2002-2003	60%	60%	12,654	9,151	21,805
2003-2004	0%	35%	5,085	8,240	13,325
2004-2005	0%	65%	10,665	4,500	15,165
2005-2006	0%	45%	9,269	5,484	14,753
2006-2007	0%	0%	3,169	6,549	9,718
2007-2008	0%	50%	6,548	2,532	9,080
2008-2009	30%	80%	4,881	5,302	10,183
2009-2010	80%	100%	10,939	6,578	17,517
2010-2011	60%	100%	3,484	3,431	6,915
2011-2012	78%	100%	3,701	517	4,218
2012-2013	78%	83%	10,366	2,951	13,317
2013-2014	45%	45%	12,018	5,394	17,412
2014-2015	0%	0%	2,044	4,008	6,052
2015-2016	0%	100%	5,257	5,754	11,011
2016-2017 (to 15 March 2017)	100%	100%	2,646	3,744	6,390
<i>Source: WaterNSW</i>					

7. IPART has again treated the water users in the Peel Valley with complete contempt

7.1 On Page 210 of the Draft Report, IPART states that:

We consider that prices in the Peel Valley under this draft determination are not perverse, inequitable or anti-competitive.'

This dismissive statement demonstrates just how far out of touch with reality IPART has become.

Everyone whom the PVWUA has contacted - except for IPART - agrees that the charges in Table 1 of this submission are definitely unfair, definitely inequitable and definitely anti-competitive.

If IPART cannot grasp that basic concept, then IPART is probably unsuited to continue in the role of regulator of a Government-owned monopoly.

Unfortunately for the water users in the Peel Valley – and probably also those in the North Coast and the South Coast Valleys – the Bill lapsed on prorogation.

Details of the Private Members Bill can be accessed at the following link:
<https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=2641>

9. Conclusion

The Peel Valley Water Users Association encourages IPART to investigate whether the Minister's proposed '80:20' pricing solution may be implemented in the Peel Valley, on the proviso that the General Security entitlement charge is not higher than the figure proposed by the Minister.

The PVWUA would hope that, after considering this submission, IPART makes significant amendments to the contents of the IPART Draft Report before the release of the Final IPART Report - which is scheduled for 13th June 2017 - with effect for the next four years commencing from 1st July 2017.

If that is not the case, water users in the Peel Valley will consider the options that are available to them in order to achieve a more reasonable and more equitable pricing outcome than the water usage charges that have been proposed by IPART for the Peel Valley.