

WLS SUB 21.



**ACWA SUBMISSION  
TO THE  
ECONOMICS AND INDUSTRY STANDING COMMITTEE**

**7 December 2007**

## ABOUT ACWA

The Aquaculture Council of Western Australia (ACWA) is the State's peak aquaculture industry body.

ACWA's membership represents over 95% of both the current and future gross value of production of Western Australian aquaculture industry, and consists of Institutions, Corporations, Aquaculture Sector Associations and individual members. Most members are private businesses, all of which undertake their business in all regions of Western Australia.

## INTRODUCTION

Aquaculture is a high technology, high risk industry. Government policy and regulation significantly affect the environment in which aquaculture investments are made. It is on this basis, the Aquaculture Council of Western Australia (ACWA) welcomes this inquiry as the aquaculture industry considers that there is considerable opportunity to ensure that there is fair system that fits Western Australia's situation.

ACWA's submission is presented without prejudice, with the overriding objective to design a regulatory regime that will facilitate a world class aquaculture industry in Western Australia.

ACWA utilised the following principles to make its submission:

1. **Certainty** – for industry and the community. The basis for a competitive and sustainable industry in Western Australia which can generate further significant investment and employment opportunities.
2. **Transparency** – for all stakeholders. A regulatory regime which delivers clear lines of decision making and responsibility, and which is open and efficient.
3. **Accountability** – of government and industry. A regulatory regime that ensures clear, effective and enforceable lines of accountability, which do not place undue burdens on stakeholder groups.
4. **Streamlined** – creating an efficient and timely regime through greater coordination.
5. **Anticipatory** – placing the emphasis on early planning and coordination to prevent or mitigate problems before they occur;
6. **Integrating and complementary** - ensuring that environmental management and decision-making responsibilities are consistent and mutually reinforcing; and
7. **Parity** - The need to achieve equivalence with other jurisdictions and water users.

ACWA recommends that the Economics and Industry Standing Committee take into full consideration the Keating review, in particular the following recommendations: 1, 2, 3, 7, 9, 10, 11, 18, 19, 22, 24, 47 and 50, and the Productivity Commission Research Paper "Assessing Environmental Regulatory Arrangements for Aquaculture".

ACWA submission is divided into four sections: 1. Economics and Industry Standing Committee Terms of Reference; 2 Industry Background; 3. General Comments; and 4 Specific Comments

## 1. Economics and Industry Standing Committee 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;
2. the full cost incurred by the Department of Water for administration of the current water licence system;
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;
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;
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;
6. what recognition needs to be given to the cost incurred by landholders in harvesting water, including dam construction costs; and
7. the extent to which the NWI provides for a range of different licensing systems.

## 2. Industry Background

- The 2005/2006 financial year records 189 active freshwater aquaculture licences holders<sup>1</sup>, plus an approximate 1200 yabby harvesters.
- Freshwater aquaculture is spread predominately across southern Western Australia from Northampton to Albany and east to parts of the inner wheat belt. The majority of fresh water aquaculture occurs in the Southwest region and Wheatbelt. There is also a small number of beach well/marine bore users along the WA coastline.
- Freshwater aquaculture production methods can loosely be defined in three categories:
  - Semi-Intensive pond farming involves standard drainable ponds where fish and crayfish are “lot fed” for a period of about two years then harvested by draining the pond.
  - Extensive Farming - grazing or free range farming involves custom built dams or involves stocking of pre existing water resources.

---

<sup>1</sup> Department of Fisheries “Aqua Info”

### 3. General Comments

1. Water reform is a complex issue, and there are no quick-fix solutions available. By focusing efforts on agricultural water use and policies for the current situation is wasted effort. Governments need to face the reality that the longer term solution involves major investment in and reform of urban water policy and management.
2. Effective regulation is essential to ensure markets operate efficiently and fairly, to protect the public and the environment. However, the benefits must not be offset by unduly high compliance and implementation costs.

### 4. Specific Comments

#### **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;**

It is critical that the State government consider the ultimate goal of the water reform agenda.

ACWA's view is that the ultimate goal is that WA water resource management creates true intergenerational equity, and at least cost.

To achieve the above goal, the State needs to measure resource use by all parties, where there is a demonstrated risk of their unsustainable use. It is on this basis, a register of all water users and the real time collection of data on the total usage is essential, in the at risk catchments.

#### **2. The full cost incurred by the Department of Water for administration of the current water licence system;**

The proposed charges for licensing (registration) and metering creates an immediate inequity between different classes of water uses, plus the management costs appear excessive<sup>2</sup>.

In economic terms these "full costs" create a disincentive. The consequence of the disincentive is that resources will be placed into avoidance strategies by users, rather than channeling effort into achieving the ultimate goal. It is on this basis, ACWA suggests that licensing rate be set at a low flat fee<sup>3</sup>. This will create an incentive for full compliance and good data collection. Such simple and cheap regulatory systems dramatically reduce compliance costs, as is seen in countries with flat income tax systems eg. Lithuania.

---

<sup>2</sup> Please refer to Attachment 1 for a detailed treatise of the costs.

<sup>3</sup> The charge costs estimated by Department of water are symptomatic of government funding process, where expenditure determines budget, rather than sales, as in the commercial world. This funding model creates an incentive for inefficiency and increasing costs. We this in mind the Committee should set the Department a fixed budget and request that they need to build the business systems to data collection at or below the budget. It is only with this discipline will cost effective and efficient government be achieved.

**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;**

ACWA agrees with the Marron Growers' submission which states:

*"There seems to have been inadequate recognition of the differences between the drivers of water policy as it applies to Eastern Australia and as it is being applied to self funded infrastructure providers in Western Australia. The dominant driver has been the over allocation of water from the major river systems in the east. This water distribution has been primarily provided by publicly funded infrastructure and has often distributed water by inefficient flood irrigation. Only parts of the dairy industry have had similar applications in southern Western Australia.*

*We as taxpayers are to contribute some twelve billion dollars to correct these distribution inefficiencies. Self funded infrastructure provided for water in WA has always used drip or sprinkler systems and piped distribution of water. It does not need fixing.*

*It also seems to be overlooked that not all water in the Eastern States is in the publicly funded inefficient distribution category. We understand that in NSW a system has recently been introduced that allows farmers to construct water storage and use water based on a graded system that recognizes the area of the property and the average rainfall in the region. No licensing or fee applies to water used within the limits to this system.*

*It would seem that such a system could well be appropriately modified to suit much of the needs in southern WA. Those in the industry that provide their own infrastructure for water have difficulty accepting the terminology "services provided to water users" from your terms of reference, as applicable. "*

**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;**

The issue is that beneficiaries of the service should pay. This is currently not the case (refer to Attachment 1).

In addition, given the intergenerational equity and environmental benefits that are accrued by the system, there is public benefit in the future water management arrangements, as such; the State has an argument for cost-sharing, rather than a cost-recovery. *Whatever the arrangements are, they must be competitive and achieve parity with all other State jurisdictions.*

**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;**

There must be equity in the licencing system. To achieve the ultimate goal of sustainable freshwater resource we must measure and monitor all users, in the at risk catchments.

The Government needs to face the reality that the longer term solution involves major investment in and reform of urban water policy and management. There is currently considerable social and economic incentive to achieve this end. By focusing efforts on agricultural water use and policies for the current situation is wasted effort.

A recent Commonwealth Parliamentary Inquiry examined the sustainability of urban water supplies in Australia (Senate Environment Committee 2002). It was scathing in its conclusions, finding that urban centres in Australia are using water in ways and quantities that are

unsustainable. The Senate Environment Committee determined that improvements in the infrastructure and management of urban water are not keeping pace with the growing damage caused by the expanding ecological footprint of Australian cities. Singled out in particular were a lack of recycling or collection and use of storm water; a lack of investment in maintenance of infrastructure; and water pricing that doesn't reflect the full cost of collecting and supplying water.

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

ACWA concurs with the MGA submission which states:

*The license charges imposed on privately funded water resources should reflect the value of the private investment. If this is not the case the public funded users will gain an unfair competitive advantage and the market will be distorted.*

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

The NWI licensing needs to be flexible enough to provide for a range of scenarios.

For aquaculture the licensing systems needs to accommodate the following:

- The unconditional exemption of beach wells/marine bores<sup>4</sup>.
- Fees not apply to water held in storage or aquaculture ponds and dams<sup>5</sup>.
- Transfers of water between ponds and dams within the farm are not subject to any controls or charges.
- Evaporation and seepage losses are accepted, and no attempt be made to measure or charge for such losses or gains.
- Self funded providers of water infrastructure have the value of this private investment recognized within the licensing regime.

---

<sup>4</sup> Department of Water has charged water license fees to beach wells used for aquaculture located on reclaimed seafloor. Details of the case can be provided upon request.

<sup>5</sup> All freshwater aquaculturists are best seen as water recyclers or interim resource users. Most are situated in high rainfall areas where most water runs straight from the property into the ocean. In this context freshwater aquaculture ponds and dams are similar with urban rain tanks and merely catch water and delay a small percentage of the run off until after use. The difference being that urban tank storage can now be supported by subsidy whilst on farm storage may be taxed by a licensing system.

## **Attachment 1**

Neil Bartholomaeus  
Manjimup and Pemberton Landowners  
PO Box 534, Manjimup WA 6258  
[www.waterreform.net](http://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 Gigalitres 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 Gigalitres 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 gigaltres, 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 gegalitre 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 gegalitres 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 gegalitre 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 gegalitre 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 gegalitres 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 gegalitre 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 gegalitre of water licensed was \$8,933 for 2006-2007 and the target for 2007-2008 is \$12,731 per gegalitre. The answer to Parliamentary Question 4780 tabulated above puts an average cost of \$2,270 per gegalitre for the 2,486 gegalitres 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 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](mailto:contact@waterreform.net) , 97724098)