

Inquiry into Water Licensing and Services

JOINT INDUSTRY SUBMISSION



To

Legislative Assembly Economics and Industry Standing Committee

Prepared by:-

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Background

The Western Australian Farmers Federation (Inc) (WAFarmers) is WA'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 and beekeepers.

It is estimated that collectively our members are major contributors to the \$5.6 billion gross value of production (2005/06 – ABS, WA Agri-Food Industry Outlook – December 2006) that agriculture in its various forms contributes 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.

The Potato Growers Association of WA and vegetablesWA represent all the vegetable growers in Western Australia.

The vegetable and potato industry has an annual gross value of 290.1 million ABS.

Water is our grower's livelihood that guarantees the production of our states fresh vegetable requirements.

The Western Australian Fruit Growers' Association (WAFGA) is the peak pome (apple and pear), citrus and stone fruit industry representative body in Western Australia, with a membership of more than 700 growers across the State. Founded over 80 years ago, WAFGA is an agri-political organisation which also funds research, development and promotional activities on behalf of fee-for-service paying growers. WAFGA's primary objective is to ensure a profitable and sustainable industry for all Western Australian fruit growers.

Access to, and the efficient use of, water is crucial to the ongoing viability of Western Australian fruit growers. In 2004/05 the three fruit commodities which WAFGA represents produced a total of 76 950 tonnes of fruit, with a total gross value of production exceeding \$90 million. All of this fruit is produced with the use of surface or ground water fed irrigation systems. The pivotal role which water has in fruit production has meant that WAFGA has a long history of working in a cooperative manner with government and research agencies on water management.

Introduction

WAFarmers, The Potato Growers Assn, vegetablesWA and WA Fruit Growers Assn (the Alliance) welcomes the opportunity to provide a submission to the Legislative Assembly Economics and Industry Standing Committee Inquiry into Water Licensing and Services.

The Alliance has participated in the State Government's water reform process since its inception and has consistently lobbied for an outcome of a reform package of "rights and responsibilities" to be delivered simultaneously.

In the initial stages of the consultation process, The Alliance's position was recognised by those managing the reform process, however, subsequent to the release of the *Government Response to A Blueprint for Water Reform in Western Australia*, this recognition has been lost as evidenced by the Government's introduction of Water Licence fees and proposed timeline for improved Water Licence security.

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

Water users recognise the need for registration and licensing of water harvesting dams in surface water catchments and groundwater use. Self supply water users support a reasonable water licence fee and licence application fee, recognising the administrative cost in assessing applications and in maintaining a licensing database. However, Government has an obligation to ensure this administrative cost is justified and kept to a minimum, and has equity in application to all water users and costs with other licensing administration systems.

Water users support measurement and reporting of water use for both surface water and groundwater systems. For surface water self supply water users (farm dams), the measurement of dam storage capacity and annual self-reporting on use should be applied in preference to a rigid metering regime that will only result in increased costs for both Government and water users.

A fee per individual dam or bore would create an additional fixed cost to farming families that cannot be recovered. Many family farms have multiple dams or bores, with the proposed license fee being multiplied accordingly. The licence fee should apply per licensed entity, such that administrative processes can be applied to the one review and renewal process.

A one size fits all approach to water policy and management will adversely impact on individual self supply water users, mostly farming families. A flexible framework recognising the different characteristics of water resource systems and the unique needs of the three agricultural water use and irrigation sectors is required:

- Irrigation Co-operatives – surface water supplied from a government built scheme;
- Surface/groundwater and river users – self-supply from a shared resource;
- On stream farm dams – self-supply from an individually contained resource.

In addition, two types of resource should be recognised and assessed independently and separately for licensing and measurement of water use:

- Shared water resources (government built stored water supply schemes, surface/groundwater and direct river pumping)
- Contained water resources (on and off-stream farm dams)

With shared water resource systems the key system characteristics are that the water is a pooled resource, not separated individually on a water user basis. Each allocation is not physically separable from another license holders' allocation requiring the pooled resource be managed as a single entity.

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For contained water resources the water from winter flow of streams is separated from the system by harvesting in a farm dam. The key characteristics of this contained resource are that the volume is known or determinable, and the location of the storage is known and separate from others share of the resource. While the volume allocated to a contained resource may come from a consumptive pool that may be defined in a statutory water management plan, the fact that it is separated from the pool makes administration and management of the allocation much simpler. Simple measurement of water level in the dam will show how much water is used. In comparison to shared water resources, individual water users need to measure all water used to be able to show the extent of water use.

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

The draft Blueprint for Water Reform in 2006 stated there were 18,764 licenses and proposed a license administration fee to recover \$5.8 million costs associated with:

- the assessment of applications
- license renewals,
- checking compliance with license conditions,
- maintaining licensing databases,
- management of appeals, and
- Community awareness.

Through exemptions granted by the Government, the number of licence holders to be charged licence fees has been reduced to 9,376 which has increased the financial burden on individual farmers accordingly.

Given the NWI's reference to "avoiding perverse and unintended pricing outcomes" (Clause 64.v), the State Government's proposed water licence fee schedule, in capturing only a portion of licence holders and groundwater users across the State is clearly in breach of this NWI requirement.

As stated earlier, this submission accepts the need for cost recovery of the assessment of license applications and maintenance of a licensing database and argues the following:

- **Cost of the assessment of applications and license renewals**
Actual published cost for assessing water license applications (licensing) and renewal in 2005-06 was \$4,108,702, or 71 per cent of \$5.8 million. Despite this figure, a new fixed \$200 application fee is proposed for 2007 to recover the cost of new license assessment and renewal. Based on \$200 and applying the principle that license renewal costs should not be higher than application, and that either activity arises only once within the 10 year tenure, application and renewal amounts to \$373,480 annually, which is 6.44% of \$5.8 million, not 71%. Factoring in that some licenses may be shorter than 10 years, the gap between 6.44% and 71% is staggering and is yet to be justified.

Clearly, a \$200 application fee would not recover the cost of assessment or renewal. Department of Water officers have publicly stated that the fees are based on the complexity and size of each allocation, to recover the cost of the assessment work; however, this is contradicted by a 'flat' \$200 application fee irrespective of the size of the water allocation and license sought. It would be rational and fairer to all license holders if the application fee related to the volume of water allocation sought.

- **Cost of maintaining licensing databases** (7 per cent of \$5.8 million is \$405,083) - for maintaining licensing databases. We have proposed without success a \$222 fee for a 10 year duration license (equivalent to a drivers license), which would raise \$414,562 annually to maintain licensing databases and fully cost recover this core function of a licensing system. (Estimate of \$414,562 based on 18,674 licenses in 2006).

Checking compliance with licence conditions, management of appeals, and community awareness should not form part of a licence administration fee for the following reasons:

- **Cost of checking compliance with licence conditions** (14 per cent of \$5.8 million is \$810,166) – this should be met by the Consolidated Revenue Fund, as is the case with other regulatory and enforcement activities such as employment and workplace safety standards, road transport safety, environmental pollution and many other laws impacting on business that are administered by the State Government, and applicable to farming businesses. Penalties for breaches of water license conditions could/should in part contribute to recovery of enforcement costs.

There were only three prosecutions during 2001-06 under the *Rights in Water and Irrigation Act* 1914 and the Department of Water has no Performance Indicators in Budget Estimates for compliance/enforcement.

- **Cost of managing appeals** (4 per cent of \$5.8 million is \$231,476) – again this should be met by the Consolidated Revenue Fund. Farmers have to meet their own costs when they appeal to the State Administrative Tribunal. The Department of Water should not expect water license holders to meet the cost of the Department's response to appeals against DoW decisions before the State Administrative Tribunal. This cost should only be applied to farmers for water licenses if and when it also applies by way of a fee or charge on all parties subject to legislation within the scope of the State Administrative Tribunal. There has only been one decision of the State Administrative Tribunal since 2001 regarding the *Rights in Water and Irrigation Act* 1914.
- **Cost of community awareness** (4 per cent of \$5.8 million is \$231,476) – general promotional campaigns and information programs related to water should not be included in fee structures imposed on water license holders, but once again be met from Consolidated Revenue as are information services in other areas of Government, for example Agriculture. The Minister for Water Resources has said the \$231,476 is mainly to run 10 advisory committees. Charging water stakeholders to provide advice will destroy the advisory process. The committees provide a service to Government that it would otherwise have to pay consultants for.

The proposed cost recovery approach doesn't apply in other areas such as Occupational Safety and Health advisory committees, trade training advisory committees and arts assessment panels.

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.

Western Australia's Implementation Plan for the NWI (page 55) lists:

"The overall objective of water resource planning and management is to secure a sustainable water future for all Western Australians through:

- regulating equitable and efficient use of water by administering licences and permits and monitoring compliance;*
- managing water resources through planning at state, regional, sub-regional and local levels;*
- monitoring water use to set sustainable yields and to sustain ecological values through measurement and assessment of resources; and*
- protecting and conserving water quality".*

In relation to cooperation with other jurisdictions (page 57) the NWI notes that Western Australia will work cooperatively at the national level to facilitate the development of any nationally driven work on cost recovery for planning and management, and with regard to linking of outcomes in the NWI, as:

"The Parties agree to implement water pricing and institutional arrangements which:

- promote economically efficient and sustainable use of:
 - water resources;*
 - water infrastructure assets; and*
 - government resources devoted to the management of water;**
- ensure sufficient revenue streams to allow efficient delivery of the required services;*
- give effect to the principles of user-pays and achieve pricing transparency in respect of water storage and delivery in irrigation systems and cost recovery for water planning and management;*
- avoid perverse or unintended pricing outcomes."*

On progress against these activities, it is noted that (page 56) "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. 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".

As we have noted in other parts of this submission, the Alliance questions the timing of delivery of parts of the government's water reform package and the level of consultation that has occurred.

Currently, we believe that only a very small proportion of water users will be required to meet the costs of WLAF, which fails to meet the State's requirements of 'user pays' as it is not being priced in a fair and equitable manner across all water users, but rather it provides the burden of responsibility onto a small number of licensed water users. This approach clearly does not consider the management of the resource as it is applied to a very large number of non-licensed users.

The Alliance notes that even through 2006 the number of licensed water users to which WLAF would be applied to decreased significantly effectively increasing the costs to those remaining.

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 National Water Commission (NWC) has been contacted in relation to the Government's introduction of water licence fees and exemption has been sought of any punitive or other action should the timetable for implementation of NWI commitments be breached whilst this issue is renegotiated.

Advice received from the NWC (in part) reads;

As you may be aware, the NWC was requested by the Minister for the Environment and Water Resources, the Honourable Malcolm Turnbull MP, to provide advice on the implementation of water administration fees in Western Australia.

By long-established conventions including in relation to the pre-election caretaker period, I am not at liberty to discuss that advice in any more detail at this stage however, the Australian Government is well aware of the issue and is examining it closely.

The outcome of the recent Federal election in all likelihood will result in further delays in the NWC's investigations.

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.

The alliance believes that residential bore owners should be licensed and be required to pay a nominal licence fee of say \$20 per annum.

Licence holders previously exempted by the Government, should also be required to pay a licence fee. It is simply inequitable that farmers be solely responsible for the funding of a licensing system that will benefit the entire community.

It is estimated (A State Water Strategy for WA, 2003, Page 8) that "garden bores use 5% of the total water amount of water used in Western Australia". This equates to nearly 90 GL of water annually.

The Alliance's position on this is that the use of this water is largely unregulated (3 day per week restrictions were introduced only in 2007) and of course currently is available to use at no cost.

It is apparent from previous discussions with relevant Ministers and staff that the Department of Water do not support some form of 'fee' for bore ownership simply because they are unaware of the location of the estimated 160 000 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.

The Alliance believes that lack of management in the past should not be a determining factor in the current discussions and that if the State government is in fact committed to the principle of 'fair and equitable management for all users' then access at no cost to the unconfined aquifer needs to be addressed, given the environmental pressures faced in this area.

Clearly there will be pricing issues involved in this, given that each residence will be using 650 kL/year (average figure) however the current system clearly creates a differential between city and country, which we believe is inequitable.

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

Clauses 25 and 26 of the NWI detail the outcomes and actions agreed to by NWI signatories in relation to Water Access Entitlements and Planning Framework.

The State Government in its document "Western Australia's Implementation Plan for the National Water Initiative" at section 3.1 details the timeline for implementation of its Water Access Entitlement and Planning Framework obligations which indicates that water access entitlements are to be defined and implemented in 2009.

Clearly stakeholder involvement in this process is critical and will be undertaken as part of the Government's stalled development of the Water Resource Management Bill. This is also the forum in which Water Licence Management Fees should be negotiated.

Conclusion

A set of principals for new water licence administration fees has been developed and endorsed by several industry groups. These principals are attached for the information of the Standing Committee.

The Alliance believes that these principals represent a way forward which will avoid further conflict over the water licence fee issue and ensure that critical debate over the new legislation to occur during 2008 is not subject to the distraction of lingering ill feeling between industry and the State Government.

The Alliance notes that the Standing Committee may decide to hold hearings at a later date and encourages the Standing Committee to do so.

The Alliance would welcome the opportunity of meeting with the Standing Committee to expand on this submission, particularly the attached set of principals.

.....**END**.....



**Principals for new Water Licenses Administration Fees
(Post Disallowance or withdrawal of Regulations)**

Endorsed by the following organisations:

**WAFarmers Federation
Vegetables WA
WA Fruit Growers Association
WA Potato Growers Association
Avocado Growers Association of WA
WA Pork Producers Association
Table Grapes WA**

1. New joint industry/DoW developed water license administration fees to be introduced simultaneously with improved license security (perpetual and 40 year) and rolled out progressively as each statutory water management plan is completed. This will mean waiting until the new and highly complex "Water Resources Management Bill" is legislated sometime in 2008, and result in delivering some procedural fairness to water reform in WA
2. Fees to recognize the differing management requirements/costs between individual catchments and aquifers similar to the approach in NSW where the Independent Pricing and Regulatory Tribunal transparently set fees that are directly related to the level of government resources expended.
3. New local water management groups be fostered and encouraged to form and be legally enabled to take responsibility for their own water resource management. New fee schedule to recognise the contribution of local management groups (including irrigation cooperatives) in water administration with the ability for DoW to devolve resource management responsibility, therefore minimizing Government costs. Self supply areas desire the same opportunity as irrigation cooperatives to collectively manage water at a local level within an appropriate structure. It has been demonstrated that this type of self management drives efficiency and is strongly supported by water users and the broader community.
4. Application fees for new licenses to include the cost of assessment, not hidden in annual fees as are presently the case.
5. All fees collected in individual catchment/aquifers are quarantined for water resource management expenditure back in the same catchment/aquifer they were collected from.

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