



National Farmers' Federation

Public Submission to the ACCC Bulk Water Charge Rules Issues Paper

18 August 2008



National Farmers' FEDERATION

Member Organisations



CANEGROWERS



COTTON
AUSTRALIA



Contents

National Farmers' Federation	4
Introduction	4
River Murray Water (RMW)	5
Basin water charging objectives and principles	6
<i>Economically efficient and sustainable use of resources and infrastructure</i>	6
<i>Sufficient revenue stream</i>	7
<i>Efficient functioning of water markets</i>	8
<i>User pays and pricing transparency</i>	8
<i>Avoid perverse or unintended pricing outcomes</i>	9
<i>Water charging principles</i>	10
Form of regulatory framework	10
<i>Pricing principles and monitoring framework</i>	11
<i>Price approval/determination framework</i>	11
<i>Effectiveness of different frameworks</i>	11
Process considerations	11
<i>Principles and monitoring framework</i>	11
<i>Price approval/determination framework</i>	12
General process	12
Duration and timing of determination	12
Guidelines	13
Information requirements	13
Consultation	13
Pricing methodology	13
<i>Service standards and obligations</i>	14
<i>Level of charges</i>	14
Capital financing	14
Asset valuation	15
Expenditure efficiency	16
Taxation	16
<i>Structure of Charges</i>	16
Cost allocation	17
Tariff structures	18
Application and implementation	19
<i>Scope of Act</i>	19
<i>Transitional arrangements</i>	19
<i>Monitoring and enforcement compliance</i>	20
<i>Avoiding perverse or unintended consequences</i>	20
Conclusion	20
NFF Contact	21

National Farmers' Federation

The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly agriculture across Australia.

The NFF's membership comprises of all Australia's major agricultural commodities. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF.

Each of these state farm organisations and commodity council's deal with state-based 'grass roots' issues or commodity specific issues, respectively, while the NFF represents the agreed imperatives of all at the national and international level.

Introduction

The NFF welcomes the opportunity to provide comment on the ACCC's issues paper for bulk water charge rules. NFF understands that this paper relates to water charges applicable at the bulk water level for water storage and delivery. Water charge rules relating to Irrigation Infrastructure Operators (IIO) are dealt with through a separate consultation process, as is the water charge rules for water planning and management.

As a first principle, the NFF supports the consistent approach to the determination of water charge rules across bulk water service providers and jurisdictions. Currently, NFF believes this is not the case. For example, the consistency of the recovery of RMW/MDBC costs from irrigators is mixed. NSW is the only state to pass on the full charges, South Australia and ACT do not, and Victoria partially recovers these costs (70% RMW and 46% MDBC)¹. NFF understands that irrigators in South Australia² do not pay bulk water charges.

Likewise, each state has different approaches to who has responsibility to set water storage and delivery charges. This ranges from governments, ministers, economic regulators, local governments, water businesses, or a combination of the above. Likewise, the statutory powers vary.³ This may account for the range and variability in the approaches to water charges.

However, the National Water Commission has noted that for rural and regional water supply cost recovery is mixed across the states, with only Victoria....have

¹ 2007 NWC, Water Storage and Delivery Charges and Water Planning and Management Costs in rural and urban water sectors in Australia, Report prepared by the NWI Steering Group on Water Charges, Executive Summary.

² Irrigators within South Australia's trust do pay significant water charges to the IIO, but these charges not the subject of this ACCC issues paper.

³ 2007 NWC, Water Storage and Delivery Charges and Water Planning and Management Costs in rural and urban water sectors in Australia, Report prepared by the NWI Steering Group on Water Charges, Executive Summary.

achieved lower-bound pricing and are on the path towards upper bound bring. State Water in New South Wales has also essentially met this commitment”⁴.

The very existence of varying approaches to water charges does mean that irrigators in some states have an advantage in the water trading market over others as their farm operational costs do not reflect the true cost of the water supplied to and used in production. NFF believes that this contravenes the very strongly endorsed principle of Governments of competitive neutrality.

In saying the above, NFF is not advocating a postage stamp approach to bulk water charges across all jurisdictions and irrigators. Rather, the NFF is advocating that bulk water charges should reflect the same prescribed methodology (or rules) in determining the quantum of the charge set by State regulators.

NFF notes that there has been some discussion about the role of ACCC to actually determine the quantum of the bulk water charges, and note that this has been provided in the Water Act 2007 (the Act) and the Murray-Darling Basin Intergovernmental Agreement signed on 3 July 2008 (IGA).

NFF does not support the role of ACCC to make bulk water charge determinations. NFF supports the role of the ACCC should make recommendations to the Minister on the methodology or principles to determining bulk water charges (i.e. water charge rules). NFF supports the continuation of the role of state based regulators to make bulk water price determinations, as accredited by ACCC under the Act.

The following sections provide NFF views on specific concerns raised by the issues paper.

River Murray Water (RMW)

NFF notes the ACCC comments relating to RMW and that RMW is funded by the Australian, NSW, Victoria and South Australian Governments. It should be noted that the Australian Government contributes to the capital costs only (not variable or operational costs) of the MDBA/RMW.

NFF also notes the comment that RMW does not levy any charges on irrigators and the explanation in the footnote (#26) regarding NSW recovery of costs. As previously stated, NFF supports the consistent application of the methodology in recovery of water charges. Through this ACCC process, consideration must be given to the recovery of RMW costs from irrigators, i.e. all states must recover these costs, or alternative all State Governments must pay these costs from general revenue on behalf of their State (perhaps in recognition of the significant other users of the provision of a regulated water supply such as recreation, boating and fishing).

⁴2008 NWC, Update of progress in water reform: input into the Water Sub Group Stocktake Report.

During contingency situations and in the face of climate change, there should also be consideration by State Governments to recovery and not pass through all MDBC and RMW costs. This should be in recognition of that little or no water is being used by irrigators, with the system being run primarily for critical human uses. This would assist irrigators, particularly in NSW who the NSW Government recover costs for MDBC and RMW operations.

This approach is accepted as legitimate by the National Water Commission:

“In periods of extended drought, there is a case for governments to provide some fee relief so long as it is transparent and time-limited.”⁵

Basin water charging objectives and principles

Economically efficient and sustainable use of resources and infrastructure

NFF notes the discussion of the different types of efficiency in the issues paper (i.e. productive, allocative and dynamic). As a fundamental principle, NFF supports that those costs attributed to bulk water charges and recovered from users, are the relevant and efficient costs of bulk water storage and delivery for bulk water service providers.

NFF does not support the inclusion of costs that are not attributable to irrigators (e.g. bridges, roads, and parks etc use by the public that may form part of infrastructure). NFF also does not support that costs that result from inefficient businesses are included in water charges and collected from irrigators. Private enterprise is generally more efficient than Government owned entities (either Departments or State Owned Corporations). This is because private businesses, particularly irrigation corporations, have an incentive to deliver services at least cost. It is generally written into company objectives. On the other hand, some Government owned entities have a culture of not being efficient.

There is also a tension between the required Government objectives for a range of policy and legislative services (e.g. flood mitigation and environment) to the level of service required by irrigators for the storage and delivery of water. As a result there is a large difference between infrastructure fit for irrigation services and infrastructure fit for a range of services (such as human safety, flood mitigation and environmental outcomes). Irrigators term this “rolled gold” infrastructure. NFF supports the recovery of costs relevant to service standards for irrigation water delivery. Infrastructure levels above this should be recovered from state jurisdictions on behalf of the wider community.

NFF does not support the use of water charges to reflect water scarcity. This is rightly reflected in the price of water sold on an annual basis (temporary or annual trade). Annual prices can and do rise as high as cost of permanent water in times of

⁵2007 NWC, Biennial Assessment, Part 5, p. 58

scarcity (see Figures 1 and 2 below⁶) and will fall substantially when there is plentiful water available or the demand eases and in some cases when the price becomes too high. This reflects the supply and demand pattern of water, and is known and understood well by farmers.

Figure 1 Murray Irrigation Ltd Water Exchange Annual Water Sales 2007/08⁷

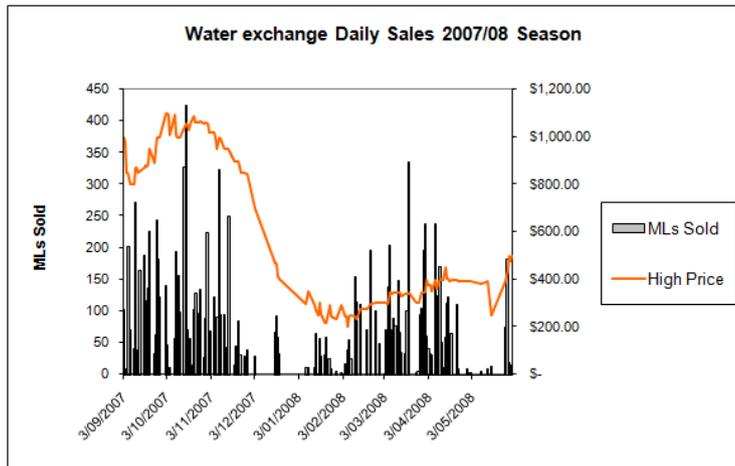
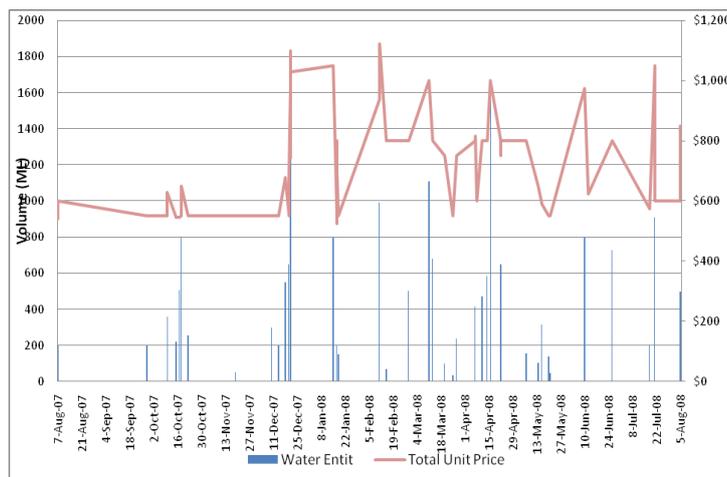


Figure 2 Murray Irrigation Ltd Water Exchange Permanent Water Sales 2007/08⁸



Sufficient revenue stream

NFF supports the recovery of sufficient revenue to undertake the agreed service levels, and providing such services are undertaken in an efficient way (as described previously in this submission). NFF supports that where bulk water service providers are inefficient, that an efficiency dividend is deducted from the revenue stream to ensure efficient costs are delivered.

⁶ Murray Irrigation Water Exchange has used as this is only of the readily accessible website to ascertain this detailed information, quickly and easily. NSW Department of Water & Energy has similar information but it is not easy to put this information into graph form.

⁷ Murray Irrigation Website <http://www.murrayirrigation.com.au/content.aspx?p=20021>

⁸ Murray Irrigation Website http://www.murrayirrigation.com.au/watexch/perm_hist.aspx

NFF does not support the inclusion of environmental externalities in bulk water charges. The recovery of environmental externalities should be reflected in the recovery of water planning and management costs⁹ and NFF expects this discussion to be included in ACCC's issues paper on water planning and management charge rules.

Efficient functioning of water markets

NFF supports the consistent application of regulatory practices and pricing policies across jurisdictions (noting that this does not mean the same price is set for bulk water across jurisdictions). This supports the concept supported by Governments of competitive neutrality and removes any potential for market distortions from competitive advantage accorded to some irrigators and not others.

User pays and pricing transparency

NFF supports the principle that charges should reflect service standards. However, some service standards of Government are in excess of those required for the supply of irrigation water. As an example, Governments are required to ensure that major dams are capable of withstanding one in ten thousand year flood events. This requirement is largely driven by the higher risks of dam failure, particularly where there are major cities situated downstream of dams, e.g. Wagga, Shepparton and Albury Wodonga. Such provisions also reflect the multiple uses of these dams (recreation, fishing, boating, tourism, amenity, hydro-electric power, flood mitigation and irrigation). A dam constructed purely for irrigation only use may require infrastructure capable of withstanding a one in one thousand year flood event. The difference in standards must be paid by Governments on behalf of the wider community.

NFF supports wider discussion of how these issues may be resolved in the development of water charge rules.

NFF does not support cross subsidies between different classes of water entitlement and across water sources (e.g. valleys, groundwater, regulated and unregulated).

NFF also does not support the recovery of costs from users, where Governments have been tardy in supplying required funds for refurbishment and maintenance of infrastructure (this occurred in NSW and IPART requires the recovery of these costs by the NSW Government).

NFF also supports the continued recognition of sunk costs.

While NFF supports the recovery of costs using both fixed and variable charges, the level of these costs should be negotiated. While most costs for water delivery businesses are fixed (about 80%), there is an argument that the recovery of a high

⁹ This reflects the methodology in NSW where IPART agrees that the recovery of such costs is the recovery of environmental externalities.

proportion of fixed costs may adversely affect the capacity of irrigators to pay these costs in drought years.

NSW IPART recognised this issue in its last determination, and moved away from fixed cost recovery of 80% to 40% fixed 60% variable. In other words, in better resource years when irrigators can afford it, the majority of costs are recovered. On the other hand, in drought or low resource years, the exposure of irrigators to a huge financial burden is reduced. The application of this principle since 2002/03 may have assisted many irrigators in their financial situation. Particularly as State Governments implemented different fixed charge assistance programs (e.g. Victoria provided a rebate, NSW has largely provided no relief to its irrigators, while in SA there was no fixed charge to pay).

The downside for bulk water service providers is the need to manage a more highly variable cash flow across financial years and the demands of Governments for dividends in financial years with no recognition of the wider implications.

NFF supports the principle that the contributions by Governments to infrastructure should not be recovered from irrigators (e.g. the \$5.8 billion Rural Infrastructure program under Water for the Future plan and other programs). This would amount to double dipping by the bulk water service providers.

In reality the major issue will be the ongoing future refurbishment (capital) and maintenance (operating) costs for the infrastructure upgrades. As such Government funded assets are added to asset registers of bulk water service providers, there will be a future adjustment to the total asset value and hence costs recovered. There is some argument that the community has demanded the provision of higher assets standards above those required by irrigators, and hence the Government, on behalf of the community, should pay the ongoing capital and operating costs associated with these assets.

The precedent of this situation is akin to the payment of environmental services by Government on private land, using market based mechanisms. This recognises that there is a duty of care by farmers to the natural resources they own and manage, but where the community demands protection and enhancement of these assets, then the Government (on behalf of the community) pays the farmer to manage these assets at a higher level of care. The Environmental Stewardship Pilot Program under Caring for our Country is one such example; others include various programs run by regional NRM bodies.

The same principle should also be applied to infrastructure investment by Governments. There are really two methods of Government payment for these higher levels of infrastructure service – by an enduring annuity paid to the bulk water service providers or 100% attribution to Government for the asset in the Regulatory Asset Base (or asset register).

Avoid perverse or unintended pricing outcomes

Care must be taken in determining bulk water charge principles and determinations. NFF raised earlier in this submission the concept that irrigators accept paying the efficient and full costs of services attributable to irrigators. However, previous experience shows that in determining charges, bulk water service providers often cannot reasonably qualify costs and (perhaps unintentionally) attempt to recover costs that are not attributable to irrigation. Examples include recovery of costs for road works or bridges across major dams (Bethangra Bridge over Hume Dam is a good example).

NFF urges care in establishing water charge rules to ensure that only the charges attributable to irrigation are recovered; all others must be excluded from assessment or attributed 100% to Government.

Another issue which has gained little prominence is that Governments can receive income from operations to mine salt from salt evaporations basins using water sourced from the salt interception schemes. NFF understands that revenue from the mining of salt is determined under State mining legislation. However, the water is being pumped from water resources in the Basin, using infrastructure paid for by Governments and recovered, in some States, from irrigators. NFF recommends that the State Governments use this income to offset the costs of MDBC/RMW costs prior to assessment of the costs to be recovered from irrigators.

Water charging principles

NFF notes the comments in this section on environmental externalities. NFF reiterates its earlier comments that the recovery of environmental externalities forms part of the water charge rules for water planning and management and should not form part of the recovery of costs for the storage and delivery of bulk water.

Form of regulatory framework

NFF notes the discussion on a lack of competition from monopoly firms to be efficient and innovate. There is also a difference between private monopoly firms (such as irrigation corporations) and public monopoly firms (state owned corporations). There are two fundamental reasons – Government culture and the requirement to provide a dividend to Government as the shareholder compared to not for profit private corporations.

NFF supports the continued regulation of bulk water charges, but does not support the recovery of inefficient water charges, even if determined by a regulatory authority.

Given the history and experience of irrigators in state based water charge determinations (lack of transparent information, inefficiency and inappropriate charges), NFF does not currently support the approach of “pricing principles and monitoring framework”. Continuation of price approval and determination

framework is recommended until such time that irrigators have confidence in the information provided by bulk water service providers and the efficiency of these businesses.

Pricing principles and monitoring framework

NFF notes that this proposal appears to remove the need for state based regulatory authorities, with the ACCC detailing principles and ensuring compliance by assessing the charges. This would inherently reduce any ability for irrigators to influence the level of charges applied through the consultation process. As stated above, there is insufficient confidence in the ability for bulk water service providers to enact the necessary business model that operates efficiently and determines charges based on the relevant costs attributable to irrigators.

NFF notes that bulk water service providers are often driven by the legislative and other requirements of State Governments, which may have little or nothing to do with the efficient delivery of bulk water.

As state above, NFF does not believe there is sufficient confidence in bulk water service providers to enable this framework to be adapted.

Price approval/determination framework

There is currently a high degree of confidence in the state based regulatory processes. NFF supports the continuation of this role. While the Water Act 2007 provides for ACCC to undertake the determination function (with this being referred by State Governments), NFF supports the concept that the ACCC sets the water charge rules, accredits state regulatory authorities, and that those state regulators make bulk water charge determinations that set the charges to be recovered from water users.

Effectiveness of different frameworks

Question 1: NFF supports the approval/determination framework.

Question 2: NFF has outlined above a number of additional matters that may be considered.

Question 3: No further comment.

Question 4: No further comment.

Question 5: No further comment.

Process considerations

Principles and monitoring framework

NFF does not support this approach. However, notes that there could be a future consideration of a move to this approach if and only if irrigators could have confidence in the transparency of the process as well as the bulk water service providers, and if the bulk water service provider's costs underwent an independent assessment with consultation with stakeholders. NFF would need to have confidence that State Governments were not using this approach to transfer their cost share responsibilities to irrigators. Likewise that bulk water service providers were not attempting to recovery costs from irrigators that were inefficient, not attributable to irrigation water storage and delivery, or were not prudent (such as the timing of capital expenditures).

Question 6: There would need to be some assessment of cost shifting by State Governments and bulk water service providers to irrigators.

Question 7: No comment.

Price approval/determination framework

General process

NFF understands that the process outlined is similar to state based regulators. However, in many instances, state regulators also seek submissions from stakeholders on any consultant's reports it may engage (diagram 2 on p. 24). Alternatively, it is preferable that these consultant's reports are made available at the same time as the regulators' discussion paper to enable all information to be made available to stakeholders for comment in their submission. However, NFF accepts that the latter process may not be possible.

Question 8: In addition to the above comment, NFF also suggests an in depth consultation with stakeholders on the detailed financial information (actual and forecast) provided by bulk water service providers.

Question 9: No comment.

Duration and timing of determination

The experience of the irrigation sector shows that the duration of determinations has historically been driven by the quality of the information provided by bulk water service providers. NFF supports that the power to set a regulatory period should be delegated to the state regulator. NFF understands that there will need to be a transition period from current pricing regimes to the application of these bulk water charge rules. As with water sharing plans, NFF supports that current pricing determinations (where these are in place) should continue until their expiry with the new bulk water charge rules applying then.

Question 10: No comment.

Question 11: NFF supports that State regulators are provided with the flexibility to determinate the regulatory (pricing) period based on the quality of the information and circumstances in place at determinations.

Guidelines

There may be merit in the drafting of guidelines, particularly where there is significant consultation with stakeholders on the development of these.

Question 12: No comment.

Question 13: No comment.

Question 14: Any consultation process must involve those processes referred to in the issues paper (scoping, issues paper, draft guidelines etc), and will also require consultation with a range of stakeholders (irrigators, representative organisations and IIO) and regulators.

Information requirements

Question 15: Historically, service levels have been one area that stakeholders could provide to regulators. However, the majority of stakeholder input is going to be derived from an assessment of the information provided by the bulk water service provider by applying the knowledge and experience of stakeholders.

Consultation

Question 16: NFF supports the range of forms of consultation listed in the issues paper. Additionally, consultation is required with stakeholders on any consultant's reports commissioned by the regulator. This could be via submissions.

Pricing methodology

NFF supports the concept of full cost recovery. However, experience shows that this is largely a shifting goal post – just when cost recovery is achieved, there is a new determination showing increased costs, or new water reforms are implemented, or a whole range of new costs or pricing structures is included. In reality cost recovery will never rarely occur (the Murrumbidgee Valley in NSW is one example where cost recovery was higher than 100%).

The issue with this is not the concept of full cost recovery, but the view society has on irrigators NOT achieving full cost recovery, being perceived to be not complying with the Governments reform agenda, and not paying for the full costs of water delivery which lead to inefficient use of water perceptions. The issues paper also takes this view, even if not consciously, by use of the concept of achieving an economically and sustainable use of water resources and water infrastructure assets (even if there are multiple uses for those assets).

This is viewed negatively, when there should be acceptance of the concept that full cost recovery is a snap shot in time for a defined period of time. Additionally, in systems where there are significant CSOs, full cost recovery will in reality never be achieved. This is most likely in coastal systems.

Service standards and obligations

NFF notes the link between service standards and legislative obligations. However, it should be noted that some of these are directly related to irrigators, whereas others may not be. However the bulk water service provider is required to implement a wide range of these obligations. There should be a distinction and clarification of those which apply to bulk water delivery and those that apply for other reasons. The latter should be quarantined and excluded from the costs to be recovered from irrigators, as these are a Government obligation and cost on behalf of the wider community.

The ACCC notes that prices should be reflective of service levels and bulk water service providers should be able to demonstrate that price increases relate to service improvements sought by customers.

What has been difficult to establish in many cases is the link between service standards imposed by Governments and agreed service standards for irrigators – the latter in many cases is difficult to link to bulk water service providers.

Question 17: No further comment.

Question 18: NFF notes previously that bulk water service providers are required to provide services beyond those that would be required from bulk water delivery to users itself. In the main, most of these requirements reflect state based policies and regulation (e.g. environmental objectives). As stated, any obligations that are not directly related to bulk water delivery and agreed service levels, should be funded by Governments on behalf of the wider community. In other cases, irrigators may be funding inadequate levels of service, e.g. manual reading of meters in an electronic age when telemetry and remote reading is available.

Level of charges

Capital financing

NFF notes that it is difficult for bulk water service providers to estimate capital expenditure more than five years in advance.

NFF notes the discussions between annuity and regulatory asset base (RAB). While NFF does not support one way or the other, NFF notes that many bulk water service providers are moving towards the RAB. The issues of concern are that the level of the discount rate in determining the capital requirements can significantly affect the revenue requirements and that in commencing an RAB, the asset base should recognise the contribution by irrigators to the asset and sunk costs.

NFF notes the discussion on upper bound pricing, including that the transition to upper bound pricing should occur where practicable, as required by the National Water Initiative. The NWC reports that NSW, the majority of SunWater (Qld) and Victoria have achieved and are moving towards upper bound pricing. The NWC notes that the remaining states require further work to achieve lower bound pricing¹⁰.

NFF supports the NWI and notes that this is a vexed issue for irrigators. As a high level principle, NFF supports consistent application of water charge rules across all jurisdictions and bulk water service providers. This inherently assumes that either upper bound or lower bound pricing should apply, but not either as the regulator deems fit. To do otherwise provides a pathway for contravening the principal of competitive neutrality.

Question 19: No further comment.

Question 20: No further comment.

Asset valuation

NFF notes that in some cases an RAB has been established for some bulk water service providers. The issues paper discusses the principles for establishing an RAB, including opening valuations. NFF notes that there appears to be no discussion as to whether bulk water charge rules established under the ACCC process may interact with RABs that have already been established, i.e. will there be a re-valuation as a result.

NFF supports the concept that the opening value for assets should equal zero in recognition of the financing of such assets under a renewals annuity approach and contributed by irrigators, not the bulk water service provider (on behalf of Government). This has been known as the line in the sand approach and differentiates past (legacy) investment and new investment.

NFF would urge great care in re-valuing the RAB. As noted in the issues paper, this may result in windfall gains and losses. The conditions under which an RAB is re-valued must be clearly defined and limited.

Question 21: No further comment.

Question 22: No further comment.

Question 23: Without an in-depth analysis of the different approaches used by Victoria and NSW, NFF cannot comment any further on whether a review of the RABs set by each jurisdiction is warranted by ACCC. What does concern NFF is that one state has applied a significant value to rural assets (including allocating a user share of this value) and one state has set rural assets at zero. This would indicate a need to review the RAB to ensure consistent approaches were used in

¹⁰ 2007 NWC, Biennial Assessment, appendices.

estimating the RAB and the apportionment of the RABs to Government and irrigators.

Question 24: NFF is not in a position to comment.

Question 25: NFF notes that this would require an assessment, in conjunction with an analysis of the NSW and Victorian RAB. NFF supports a consistent approach across jurisdictions.

Expenditure efficiency

NFF supports the concept that bulk water service providers are efficient and recover costs that are both prudent and efficient. NFF deems that prudent costs are those costs that relate to the provisions of bulk water storage and delivery and agreed service standards.

NFF supports that where bulk water service providers cannot deliver an efficient business model, then the regulators must be allowed to apply an efficiency dividend (i.e. cost reduction). This is already applied by NSW IPART in recognition of the inefficiency of the business model (and culture). This does send a message to bulk water service providers to become more efficient, and NFF would accept that where this can be demonstrated to the regulator and customers, then the dividend is waived.

Question 26: NFF understands that there is inconsistent application of plans in relation to capital and operating expenditure, and would support the development of such plans, in consultation with customers and with independent consultants used to assist the preparation of these plans.

Taxation

NFF notes the discussion and would support a review of bulk water service providers and in particular the structure and the taxation liabilities. There should be bulk water charge rules established to allow adjustment to prices where tax was provided and not paid in reality by the bulk water service provider. This amounts to double dipping.

NFF supports further analysis of the various bulk water service providers and their actual taxation status in relation to existing taxation provisions in bulk water charges.

Question 27: No further comment.

Structure of Charges

Prior to a discussion on cost allocation, there needs to be a discussion on the allocation of costs between users and Governments on behalf of other users. The issues paper appears to have omitted this important provision. This should include quantifying the share of costs for other users (boating, fishing, recreational, flood

mitigation, hydro-electricity and so on). The issues paper notes the process used by NSW IPART to ascertain this apportionment.

Once the above is established, there can be discussion of the cost allocation (fixed and variable) between users.

Cost allocation

NFF supports:

- Differential pricing based on the security of the entitlement (high or general) as this factors the higher priority accorded to some entitlements over others (e.g. dam space, water allocation regimes, water carried over etc).
- The provision of clear and transparent community service obligations.
- Elimination of cross subsidies between water sources and geographic regions (i.e. between valleys or aquifers).
- Segmentation based on water sources (groundwater, regulated and unregulated) and geographic regions.
- The allocation of MDBC and RMW costs to irrigators in all states, or alternatively the removal of the recovery of these costs from all irrigators in all states. Where these costs are passed through, the methodology for recovery between the different water sources and geographic regions must be included in water charge rules (this has been a contentious issue in NSW).
- Consideration of the socio and economic factors for full cost recovery (i.e. ability to pay and provisions for recovery rates or maximum increases between years). This should be considered in light of the drivers for bulk water service providers being 80% fixed and the impact of this in drought for irrigation businesses.
- The provision of a Government contribution to costs on behalf of the wider community (e.g. flood mitigation, environmental protection and navigation and listed on p.44).
- Postage stamp pricing, after the above, for irrigators of each entitlement type within each water source and geographic region.

NFF notes the ACCC comments on p.43 regarding NSW legacy costs and disputes the reason provided for these costs. In reality, the NSW Government failed to implement capital investment and maintenance (including environmental standards), i.e. it was a lack of investment to the standards of the day. IPART recognised this failure and attribute the costs of undertaking these works 100% to the NSW Government.

Question 28: No further comment.

Question 29: This should be determined by the drivers for those costs and for irrigators, whether there is a direct link to service levels and the provision of bulk water delivery.

Question 30: NFF does not have sufficient information across jurisdictions to make comment. NFF urges the ACCC to ensure that this information is provided by either the State Governments or bulk water service providers to enable an assessment of the impacts and possible cost implications.

Question 31: This should be the subject of an independent assessment, similar to that undertaken by NSW IPART, including consultation with irrigators (and a call for submission prior to a final report).

Question 32: NFF supports this methodology, i.e. the use of user shares to assist in determining the costs between irrigators and Governments on behalf of communities.

Question 33: No further comment.

Tariff structures

NFF supports the statement that the scarcity value of water is established through water markets and water resource efficiency is promoted by the efficient functioning of markets. Likewise the cost of water delivery should then reflect the prudent and efficient costs of those costs attributable to irrigation and linked to agreed service levels.

As previously stated there is some merit in a higher variable charge being set then reflects the variable costs of the business to take account of capacity to pay in times of resource constraint. This also reflects that the demands on the system are not for irrigation supplies but for critical human needs.

Given that bulk water service providers are Government owned corporations, there is little likelihood that assistance in the form of cash management or insurance will be available in times of water constraint. Irrigators fought strongly for fixed charges relief over recent years, only to be turned down in all except Victoria. It is unlikely that bulk water service providers will have cash available to assist as Governments demand hefty dividends for general revenue – in many cases leaving little in reserve for capital investment programs. This has traditionally been the case for urban water businesses.

NFF does not support these mechanisms.

Question 34: NFF supports the deviation of the fixed and variable charges from the underlying cost base as outlined above.

Question 35: Please note comments above.

Question 36: NFF does not support this proposal. There is not yet the confidence in bulk water service providers to provide this leeway due to underlying Government policy and influence.

Question 37: Please note comments above.

Application and implementation

Scope of Act

NFF does not support that some bulk water service providers may not be captured by these water charge rules. Unless this is resolved, the very purpose for the establishment of such rules, i.e. to ensure consistent pricing principles for all irrigators across jurisdictions, will be a worthless exercise. This situation will be most egregious if such vertically integrated businesses are also not included by the bulk water charge rules for IIOs.

NFF concurs that the application of the various water charge rules will inevitably result in complexity and costs for various businesses. The costs must be offset by the Australian Government. Unfortunately, while the principle of consistent water pricing is supported, there is little that can be done to reduce the complexity for non-MDB and MDB irrigators, unless State Governments chose to refer those areas to the ACCC for inclusion.

NFF assumes the comments relating to other irrigators (industrial users, irrigators and stock and domestic customers) to which bulk water rules (including the reference to making regulations) will not apply means those users outside of the MDB. If this means those users within the Basin, NFF makes the observation that bulk water charge rules should apply to all relevant irrigators who own a water access entitlement or equivalent (in many cases industrial users are part of town water supplies). NFF does not support charging for “basic landholder rights” or the equivalent.

NFF reserves the right to comment on this when clarification from ACCC is provided.

A further issue is that the water charge rules only apply to regulated water. To ensure consistency, and reduce complexity, water charge rules should apply to groundwater and unregulated water within the Basin.

Question 38: No further comment.

Question 39: NFF does not support the inclusion of basic landholder rights (or equivalent), and accepts that all the rules should apply to all water access entitlement holders.

Transitional arrangements

NFF supports that current pricing determinations should continue until these expire. These rules are to be included in the Basin Plan and this does not commence until 2011. As a consequence, NFF supports that the NSW IPART should make a further one year determination to coincide with the commencement of the Basin Plan. Alternatively, NSW (and SunWater) ought to be provided with the option of a further transitional determination to coincide with the expiry of the Victorian determination.

Question 40: No further comment.

Question 41: No further comment.

Monitoring and enforcement compliance

Question 42: NFF would support the development by ACCC of a range of protocols, guidelines, accounting standards and reporting templates that may assist bulk water service providers and reduce their costs. Such costs should be borne by the Federal Government.

Avoiding perverse or unintended consequences

The implementation of adequate monitoring and compliance should provide information and referrals due to perverse or unintended consequences of the implementation of the bulk water charge rules. The need for a review of water charge rules can then be made.

NFF would also support the referral (directly or indirectly or anonymously) to ACCC by affected parties of any complaints that may arise from perverse or unintended consequences. Where these can be substantiated, a review may be warranted.

Question 43: No further comment.

Conclusion

The implementation of bulk water charge rules will inevitably result in added complexity to water price determinations. NFF has made comment on a range of issues throughout this submission.

NFF supports the notion that where state pricing regulators are in existence, they should retain the right to make water price determinations. The role of the ACCC is to set the rules (or principles) that underpin the determination. NFF notes that there may be some pricing principles applied by state regulators that may warrant adoption by the ACCC in bulk water charge rules, and that these may not have been considered.

NFF assumes that the relevant water charge rules will be reviewed when the Basin Plan is reviewed. Clarification of this should be provided in the position paper.

NFF notes that all environmental water managers (Government and non Government) must continue to pay the appropriate bulk water charges (both fixed and variable) as the “owners” of water access entitlements. This is consistent with the requirements for other irrigators.

NFF recommends that the bulk water charge rules include a provision for rules relating to socio-economic considerations of irrigators, namely the capacity to pay.

NFF is concerned that there appears to be a number of “loopholes” arising from the implementation of the various water market, trading and charge rules. As an example, where a state does not have a bulk water supply authority (e.g. South Australia and Victoria), water supplied within that State may be “escaping” the application of bulk water charge rules. Likewise, the definition of IIO in the water market rules papers will mean that water market rules will largely only apply to NSW IIO and not the equivalents in other states.

NFF strongly urges the ACCC and the Federal Government to rapidly close the loopholes that will allow this most unfortunately situation to continue and to ensure that the integrity and outcomes sought by the development of water charge, trading and market rules is maximised. To do otherwise will offend the basic first principle of a consistent approach to the determination of water charge, trading and market rules that apply to rural water across all entities, irrigators and jurisdictions.

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