

# *Peel Valley Water Users Association Inc*

*The only organisation that represents the Irrigation Industry in the Peel Valley*  
PO Box 952, Tamworth NSW 2340

## **Submission to the Australian Competition and Consumer Commission** **On the proposed State Water Bulk Water Pricing – 2014 to 2017**

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## **1 Executive Summary**

This current review of State Water's proposed price increases for bulk water is being undertaken by the ACCC for the first time, and we believe that it is now the responsibility of the ACCC to properly regulate the prices charged by a State owned monopoly.

The ACCC's website makes many claims, including that its role includes "*promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians*".

We maintain that the ACCC should first evaluate whether the existing prices charged by State Water actually "*promote competition*"; whether they are actually "*fair trading*"; and whether they actually produce an outcome which is "*for the benefit of all Australians*". The same evaluation should then be applied to the proposed price increases that are now being sought by State Water.

The Peel Valley Water Users Association believes that it is grossly inequitable that irrigators in the Peel Valley should currently be paying twice the charges for water usage that irrigators in the adjoining Namoi Valley are paying. And it is also grossly inequitable that irrigators in the Peel Valley should currently be paying almost three times the charges for water usage that irrigators in the adjoining Hunter Valley are paying. This outcome is hardly "*promoting competition*", it is hardly "*fair trading*", and it is hardly "*for the benefit of all Australians*". And remember that this pricing structure is being imposed by a State owned monopoly - if a commercial business entity undertook such inequitable price gouging the public would expect that the ACCC would take action against them.

The proposed price increases that are now being sought by State Water further significantly skew the current price inequity. Next year, irrigators in the Peel Valley will be paying \$74.27 /ML – an increase of 76% in one year - while irrigators in the Murray will be paying just \$2.46 /ML – a decrease of 50%. That is, the Peel Valley will be paying thirty times as much for the same quantity of water. If the ACCC cannot accept that this is an unreasonable proposition from a State owned monopoly, then we have to wonder what the role of the ACCC really is.

Further, under State Water's proposed price increases, irrigators in the state of NSW are expected to pay anywhere from \$2.46 to \$907.26 for one megalitre of water in the 2014 financial year – a multiple of 369 times the lower rate. Surely State Water's proposed pricing structure is in contravention of the Water Act 2007, which forbids the charging of prices which produce a "perverse outcome".

If the ACCC determines that this proposed pricing policy by a State owned monopoly is not a "perverse outcome", and it is actually "*promoting competition*", and it is also "*fair trading*", and it is "*for the benefit of all Australians*", then the ACCC will be demonstrating that it is as ineffectual as its predecessor in regulating the pricing of State owned monopolies.

We don't know what it takes for a regulatory authority to take the necessary action to correct obvious problems, but clearly State Water's pricing policies are desperately in need of a complete overhaul to avoid this crazy outcome.

We believe that it is now both the role and the responsibility of the ACCC to invoke a complete overhaul of State Water's pricing policies, probably with the assistance of an external firm of business consultants.

The outcomes of State Water's current pricing policies and also the proposed pricing policies in State Water's submission to the ACCC are inequitable, they are grossly unfair, and they are probably

illegal. If it has any integrity at all, the ACCC must not allow this pricing injustice to continue any longer.

## **2 Background information – Peel Valley – current water charges**

In order to understand the Peel Valley's position with State Water's current submission for further increases in water charges, it is necessary to take a step back and look at the prices that are currently being charged in the Peel Valley.

The Peel Valley irrigators currently pay \$42.26 /ML for general security surface water, while the adjoining Namoi Valley charge is \$20.29 (half the Peel Valley); the adjoining Hunter Valley charge is \$15.00 (about one third of the Peel Valley); and the Murrumbidgee charge is \$3.83 (less than one tenth of the Peel Valley).

IPART failed in its duty to properly regulate the pricing policies of State Water – a State owned monopoly.

IPART ignored the inequitable and discriminatory prices being charged in the Peel Valley by claiming that IPART was only permitted to comment on State Water's claim for price increases, and the matter of pricing relativities between valleys was outside the scope of their charter.

We believe that by restricting the focus of their review, and as the regulator of a State owned monopoly, IPART was derelict in its duty in not considering the known consequences of their decision, and thus allowing State Water to implement a pricing policy that clearly disadvantages the Peel Valley.

We also believe that the staff who have the responsibility for determining State Water's pricing policies have no consideration for the inequitable consequences of their pricing policies. State Water's customers in the Peel Valley have been the victims of unconstrained bureaucratic decisions for too long. To date, neither IPART nor the elected representatives – including the Minister responsible for water – have had the courage to correct the inequitable pricing methodology that has been adopted by State Water's staff.

To demonstrate that this is not a new problem for the Peel Valley, and to highlight the fact that IPART ignored our concerns in previous pricing reviews, we have included a copy of our previous submission to IPART at Appendix 1. At Appendix 2 we have also included the summary of our presentation to the IPART Public Hearing in Sydney on 3<sup>rd</sup> July 2012.

State Water has adopted a pricing policy which is wrong, and it is unfair, and it should not be allowed by the ACCC. No quantity of words that are provided by State Water can turn a pricing policy that is wrong into a just and fair system.

The first question for the ACCC to consider is whether it "promotes competition", whether it is "fair trading", and whether it is "for the benefit of all Australians" - for a State owned monopoly to charge water users in one valley twice the charges in a neighbouring valley, or three times the charges in another neighbouring valley, or ten times the charges in another valley in NSW.

Unless the new regulator applies some constraints in this current pricing review, State Water's entrenched pricing policies will continue to disadvantage State Water's customers in the Peel Valley.

### 3 Comments on the State Water proposed water charges – Peel Valley

#### 3.1 State Water is probably in breach of the Commonwealth Water Act 2007

IPART failed in its duty to ensure that State Water complied with the Commonwealth Water Act 2007 – in which Schedule 2, Part 2. states that -

*"The water charging objectives are:*

*(a) to promote the economically efficient and sustainable use of:*

*(i) water resources; and*

*(ii) water infrastructure assets; and*

*(iii) government resources devoted to the management of water resources; and*

*(b) to ensure sufficient revenue streams to allow efficient delivery of the required services; and*

*(c) to facilitate the efficient functioning of water markets (including inter-jurisdictional water markets, and in both rural and urban settings); and*

*(d) to 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; and*

*(e) to avoid perverse or unintended pricing outcomes".*

Both State Water and IPART claim that a State owned monopoly's charges that are twice or three times as high as the charges levied in adjoining valleys is not a perverse outcome.

However, we maintain that the current State Water charges in the Peel Valley are a perverse outcome of their pricing policies, and if they are not, then we don't know what the definition of a perverse outcome is.

But to demonstrate the case more clearly, State Water's current submission for price increases seeks prices for one megalitre of water in a range from \$2.46 in the Murray to \$907.26 in the North Coast. We know that the North Coast figure is not included in the ACCC's pricing review, but it is the result of State Water's same flawed pricing policy that also determines the price of \$74.27 in the Peel Valley next year. Surely, the price variation from \$2.46 to \$907.26 for the same quantity of water must be regarded as a perverse outcome by the ACCC – even if State Water does not believe that to be the case.

It is our view that the system employed by State Water to produce these massive pricing variations is totally and utterly broken, and we believe that it is the role of the ACCC to instruct State Water to adopt a more reasonable pricing methodology. However, as State Water has repeatedly demonstrated an unwillingness to change to a more reasonable pricing methodology, the ACCC should consider engaging a recognised firm of business consultants to review State Water's pricing and administration activities before any price increases are approved.

#### 3.2 State Water's expenditure is not part of this pricing review

State Water's submission is wholly about increases in State Water's charges to its customers due to increased expenditures incurred by State Water - and there is no limit to the expenditure incurred by State Water for which customers are ultimately responsible.

What is missing in this submission by State Water, and what ought to be demanded by the ACCC, is a detailed explanation of what cost cutting actions State Water has undertaken and will be undertaken in future to reign in the wasteful and ever-increasing expenditure. Rather than continuing to have open slather at passing on rapidly increasing costs to its customers, this State owned monopoly needs a thorough review of its operating costs by the ACCC, or alternatively by a recognised firm of business consultants.

It is inconceivable that the ACCC could consider the price increases that are being sought by State Water, without having prior reliable confirmation that this State owned monopoly has actually constrained all of its expenditure to a reasonable level.

For a long time the Peel Valley Water Users Association has been critical of the decision to have two water entities involved with the delivery of bulk water – namely State Water and NSW Office of Water. The obvious duplication of costs for administration, computer systems, staffing costs, motor vehicle costs, rented office premises, etc, etc is ludicrous, and the customers are expected to pick up the tab for this unnecessary duplication of costs. And further, there are now two regulators involved in monitoring these entities – the ACCC regulates one part, and IPART regulates the balance – and again the customers are expected to pick up the tab for this unnecessary duplication of costs. The ACCC may claim that a review of this absurd and convoluted system may be outside their role, but unless the ACCC invokes some action to rectify what must be the most unnecessarily complex system imaginable, it will simply be perpetuated, and as a consequence the customers will have to shoulder unnecessarily high and increasing costs forever.

### **3.3 Comments on some specific items contained in State Water's Pricing Submission**

It is not possible for us to comment on every statement in State Water's submission, however, the following comments reflect just some of our concerns.

#### **3.3.1 Tables 1.2 and 1.3 – page 5 – Bill impacts**

Table 1.2 is very misleading because it indicates a 2% decrease in prices in the Peel Valley from 2015 to 2017. The actual figures for the Peel Valley are an increase of 80% in 2015, an increase of 41% in 2016, and a decrease of 2% in 2017. It is very irresponsible of State Water to deliberately twist the figures to mask the true effects of their pricing policy.

Similarly table 1.3 – it indicates an increase of 8% in prices in the Peel Valley, however, in 2015 there is an increase of 81%, in 2016 there is an increase of 47%, and in 2017 there is an increase of 8%. This sort of gross inaccuracy in the presentation of figures is unacceptable, and it creates an uncertainty about all of the other figures that have been presented by State Water in their submission.

#### **3.3.2 Section 2.1 – Overview of State Water – page 6**

State Water's objectives include – "to maximise the net worth of the state's investment in the Corporation" – is this a fair objective for a State owned monopoly, when it is currently being achieved at the expense of State Water's customers? The objectives also include "to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates". One has to wonder whether that outcome is being achieved with the charges that State Water is seeking in the Peel Valley – it appears to us that this is hardly the case in the Peel Valley, and State Water is selectively complying with its objectives.

### 3.3.3 Section 3.3 – Continuous Improvement – Page 29

State Water has listed a number of projects as priorities, and the projects to be undertaken are “not limited” to those projects on the list – but who approves that these are genuinely priorities? As explained elsewhere in our comments, State Water is proposing to spend an average of more than \$3 million each and every year on computer systems during the three financial years 2014 to 2017. None of the projects listed have any benefit to State Water’s customers – the sole beneficiary of this expenditure is State Water themselves. And some of the projects listed are of dubious value. We do not know what the scope of the OPAL, or the HYDSTRA, or the CARM projects are, but we do know that the Telemetry project will require expensive satellite links in order to function in areas where there is no mobile phone reception (such as in our own case), and the State wide metering program is based on the flawed assumption that a meter which meets the new standard will automatically produce water savings. To develop systems – on a priority basis - when the concept behind the systems is flawed, is a really questionable approach – particularly when the whole of the cost is borne by State Water’s customers and they receive no benefit whatsoever.

### 3.3.4 Section 5.2 – Operating Cost Drivers – page 47

This section contains the comment – “The costs associated with the state-wide meter roll-out have been allocated across all valleys as part of the metering and compliance activity as this is a whole of business function that will increase services to all State Water customers.”

That comment demonstrates that State Water is quite capable of apportioning costs over all valleys when they choose to, but history has shown that they doggedly refuse to implement a state-wide pricing policy across all valleys. We draw this comment to the notice of the ACCC, because the implementation of a pricing system across all valleys is one option to overcome State Water’s existing inequitable pricing policies.

Also on page 47, the following comment is made - “It is noted that the introduction of telemetered meters will also result in resource costs shifting to other activities over the determination period”.

That comment demonstrates that once again State Water has completely missed the point – surely the purpose of introducing a telemetered metering system is to reduce costs – that is - eliminate a portion of them. It is not good enough for the ACCC to allow State Water to implement a seriously expensive computer system and then simply re-allocate the costs to some other activity. Cost savings that should be achieved from expensive computer systems cannot be achieved by “resource costs shifting”. This attitude is symptomatic of the culture within State Water, where any expenditure that they desire is undertaken – largely at the increasing cost to customers – and the figure for the total operating costs by this State owned monopoly just continues to escalate unchecked forever. The ACCC really needs to invoke a major review of State Water’s operating costs before approving any price increases to customers.

### 3.3.5 Section 5.3. - Operating efficiency targets – page 64

This section states – “As demonstrated above, the costs of providing bulk water services are continually increasing, largely as a result of new regulatory requirements and improvements to business systems. State Water has an obligation to its customers to continually seek ways of reducing costs so that price increases are minimised.

State Water has an established track record of delivering cost efficiencies in its operations. During the 2006 to 2010 regulatory period, State Water achieved cost efficiencies of 20.4 per cent through a major structure of its business, moving from a geographical to a functional structure. In addition, State Water was required to meet a further 7.2 per cent efficiency saving over the 2010 regulatory period. This has been achieved through a number of initiatives, including an administration

restructure, centralising training, centralising travel bookings and maintaining nonfrontline vacancies”.

It is not obvious to customers in the Peel Valley that State Water has reduced costs – on the contrary, all that customers in the Peel Valley can see is that State Water is seeking an increase of 79% in one year in charges that are already excessively high compared to the charges levied in other parts of the state. It is misleading to imply that State Water has functioned “so that price increases are minimised” at the same time that they are seeking a 79% increase in their charges in the Peel Valley in one year.

And while this section claims that “State Water has an obligation to its customers to continually seek ways of reducing costs so that price increases are minimised”, there is no target figure that is ever set by the regulator for reducing costs. Therefore no measurement of whether State Water has met its obligations under this section is ever undertaken. Unless the ACCC imposes agreed cost reduction targets that must be met by this State owned monopoly, the statement by State Water remains unsubstantiated and it is simply rhetoric.

### 3.3.5 Section 7.4. - Proposed capital expenditure and major works – page 77

In relation to Table 7.3, we don’t have the detailed knowledge to comment on most of the categories in this table, however, the capital expenditure of an average of \$3.5 million a year for each of the next three years on corporate systems appears excessive – especially when the whole cost is sheeted home to irrigators.

On page 86 the following statement is made “the ICT environments remain fragmented and have a number of inherent problems”, and there then follows a condemning list of failures with computer systems that should be an embarrassment to even a novice in the computer industry. The fact that this situation has been allowed to develop, and the fact that irrigators have been fully paying for the cost of this mis-managed and broken down system over the last few years, is bad enough, but the fact that irrigators are now expected to fully fund new computer systems to repair the incompetence and bad management of previous State Water bureaucratic staff is grossly unfair.

This is a further example which confirms to the ACCC that a major review of State Water’s systems is essential before any increase in charges to customers is approved.

### 3.3.6 – Section 7.4.4 - Water delivery and other operations projects - page 84

Table 7.9 indicates that a further \$19 million will be spent during the next three years on a Computer Aided River Management System, and other Water Delivery Projects.

Again, this appears hugely excessive, and the question should be asked by the ACCC as to what benefit will be obtained from this massive expenditure? Clearly, there cannot be \$19 million worth of water saved by a slick computer system, so precisely what is the real benefit? Will there be \$19 million worth of cost savings through redundancies as a result of the projects? (Doubt it).

It is grossly unfair to allow State Water to outlay this sum of money on fanciful computer systems and then wholly sheet the cost home to irrigators, when there is no tangible benefit that is apparent from the expenditure.

Again, this is another example which must confirm to the ACCC that a major review of State Water’s systems is essential before any increase in charges to customers is approved.

### 3.3.7 - Chapter 8 - Revenue required for capital expenditure – page 95

This chapter seems overly-complicated with unnecessarily complex terminology and elaborate formulae. Along with some other parts of State Water's submission, it reads as though some over-indulgent State Water staff are trying to pull the wool over the eyes of the regulator.

For example – “the ACCC intends to apply a post-tax vanilla version of the WACC”, “The vanilla WACC may be written formulaically as follows”, “State Water notes the RAB is well below the actual \$3.6 billion replacement value of its assets, measured as the Modern Engineering Equivalent Replacement Asset value in 2008”, “State Water reserves the right to challenge the continued use of the significantly written down RAB value to derive prices in future determination”, “Extrapolate the 7-year BBB debt margin to a 10-year maturity (consistent with the definition of the benchmark bond). In a number of recent determinations, the AER has used a so-called ‘paired bonds’ approach. Under this approach, the spread between 10-year and 7-year corporate debt is estimated by reference to a pair of bonds issued by the same firm, where one of the bonds in the pair has a maturity as close as possible to a 10-year term, and the other has a maturity as close as possible to a 7-year term”, etc

We do not intend to comment on State water's arguments in this chapter, nor do we wish to enter the debate as to whether either State Water's approach - or the ACCC's approach is the correct one in the circumstances.

However, this chapter is supposedly about determining the amount of revenues needed to cover the planned amount of capital expenditure. Our question is - do other State Government entities overly complicate the calculation to the extent that has been done by State Water in this submission? One cannot help but wonder whether State Water staff have over-cooked the complexity, and have completely lost sight of the real issue at hand.

Our frustration with this chapter is that State Water staff have drafted this chapter in an overly complex manner in an apparent attempt to confuse the reader, while at the same time they cannot grasp the simple and basic concept that a water charge of \$907.26 in one valley and \$2.46 in another – for the same quantity of water – is a completely ridiculous outcome of their calculations.

### 3.3.8 – Section 8.3 - Depreciation and asset lives – page 117

Similarly, we do not intend to enter into the matter of the life of dams, and their depreciation rate in this section.

However, although we do not claim to have much expertise in the area, we do intend to raise a question of accounting principle, because we do not understand why the question of depreciation is even raised. Most of the dams in NSW were built and fully paid for out of public funds before State Water came into existence.

The main reason for State Water to now claim an expense for depreciation would be to set aside a portion of their annual revenue for the purposes of assisting in the funding of the construction of additional dams. If that is the purpose of the depreciation expense, is State Water actually holding those funds in trust for the construction of additional dams? And if that is not the case, is State Water artificially diminishing its profit by claiming an expense for depreciation - which is a fictitious figure? Alternatively, is State Water attempting to depreciate the dams simply to reflect the fact that the dams are all getting older and therefore diminishing in value? If the value of the assets is

diminishing, how is State Water accounting for the fact that the rate of return on assets must be escalating correspondingly?

### 3.3.9 – Section 9.2. - National Tax Equivalent Regime – page 119

This chapter includes the comment that - “The primary objective of the NTER is to promote competitive neutrality, through a uniform application of income tax laws, between the NTER entities and their privately held counterparts”. As State Water is a monopoly and therefore by definition has no “privately held counterparts”, we cannot understand why this entire chapter is not irrelevant.

### 3.3.10 - Table 10.4 - Total revenue requirement by valley – page 125

State Water’s Table 10.4 on page 125 has been reproduced below, with an additional column added by us showing the percentage change in the revenue required to be recovered by State Water in the years covered by this review period.

From the amended table, the following observations can be made:

1. The total revenue increase to \$121.54 million delivers State Water an increase of more than 3.7% in revenue, not 2.3% as indicated in Table 10.1 on page 122 – this appears to be a deliberately misleading representation of the actual increase being sought by State Water.
2. In order to be equitable, at the very least an increase in revenue requirements should be allocated approximately equally between all valleys. However, State Water is proposing to reduce the revenue required from four valleys, and increase the revenue required from eight other valleys. Incredibly, for the whole of NSW there is a range from a decrease of 56% in revenue in one valley to an increase of 60% in another valley. This is simply unfair, inequitable and irrational.
3. The valley with the highest increase in revenue requirement out of all the valleys is the Peel Valley with an increase of 60% - more than double the valley with the next highest increase, and simultaneously with four other valleys having decreases of up to 56%. Is it any wonder that the irrigators in the Peel Valley are convinced that they are being exploited to the benefit of other valleys, by State Water’s unbalanced, inequitable and unfair systems?
4. The valley with the greatest reduction in revenue requirements is the Murray Valley, with a reduction of 56% in revenue required. However, at the same time that State Water intends to charge \$74.27/ML for water usage in the Peel Valley, State Water will charge just \$2.45/ML in the Murray. What is the justification for a reduction in the Murray – which is already paying the lowest usage charges - while the Peel’s existing usage charges are amongst the highest usage charges in NSW and are increasing by the highest percentage?

That means that the valley that is paying the least for water usage – and at just \$2.45/ML it is \$71.82/ML LESS THAN the Peel Valley – also receives the greatest reduction in revenue requirements. And the valley that is already paying (almost) the highest price for water usage is expected to produce the highest increase in revenue in the whole state.

This has to be the most perverted pricing policy that any business entity could devise – especially a State owned monopoly. The Directors of any business entity that conducted itself in this manner should expect to get rough treatment from the ACCC. It is essential that the ACCC takes immediate action in regard to State Water’s monopolistic pricing policy.

- It is obvious that State Water is aware of these details. While the average increase in revenue requirements may be 3.7% over the whole of NSW, the Peel Valley is expected to provide an increase in revenue of 60%. The fact that State Water has chosen not to include a column showing the percentage increase simply highlights that they are too embarrassed with their own lack of fairness to their customers to reveal the reality to the regulators – because the reality shows that the percentages are a muddled and confused mess.

Once again, this is a clear indication to the ACCC that a major review of State Water’s systems and pricing policies is urgently needed before any further increases to customers can be approved.

Table 10.4 Total revenue requirement by valley (\$2013-14, \$million) - AMENDED

	FY 14	FY 15	FY 16	FY 17	Change
Border	\$2.49	\$1.96	\$1.96	\$1.89	(24%)
Gwydir	\$14.36	\$13.97	\$14.94	\$15.15	5%
Namoi	\$22.49	\$17.66	\$19.67	\$21.42	(5%)
Peel	\$3.38	\$4.41	\$5.66	\$5.41	60%
Lachlan	\$13.53	\$13.67	\$14.88	\$15.29	13%
Macquarie	\$13.00	\$12.79	\$14.76	\$15.32	18%
Murray	\$18.80	\$8.32	\$8.11	\$8.35	(56%)
Murrumbidgee	\$19.26	\$18.19	\$18.15	\$18.21	5%
North Coast	\$1.12	\$1.49	\$1.49	\$1.49	(33%)
Hunter	\$6.51	\$6.88	\$6.82	\$6.72	3%
South Coast	\$0.94	\$1.24	\$1.43	\$1.16	23%
Lowbidgee	\$0	\$0.77	\$0.67	\$0.69	-
Fish River	\$10.34	\$10.31	\$10.29	\$10.44	10%
Total	\$126.23	\$111.64	\$118.85	\$121.54	3.7%

3.3.11 - Table 10.5 - User share revenue requirement by valley – page 126

State Water’s Table 10.5 on page 126 has also been reproduced below, with an additional column added by us showing the percentage change in the user share of revenue by valley that is required to be recovered by State Water in the years covered by this review period.

From the amended table, the following observations can be made on the expected user share of revenue requirement - in addition to the comments made on the total of valley revenue requirements in the previous comment:

- As is predictable from the total figures in the preceding point, the Peel Valley user share of the revenue requirement increases by 45% (the highest increase in NSW) while the Murray Valley user share of the revenue requirement decreases by 45% (the greatest decrease in NSW). And it is not just the comparison with the Murray Valley – no other valley in NSW is expected to contribute anywhere near the percentage increase in revenue that is being sought from the Peel Valley. And that is additional to the prices that are already excessively high in the Peel Valley compared to other valleys in NSW. No argument from State water can convince State Water’s customers in the Peel Valley that this is anything other than grossly inequitable.
- While the total of the user share of State Water’s revenue requirement actually decreases by 2% for the whole of NSW, the Peel Valley’s user share actually increases by 45%. This is clearly

discriminatory against the Peel Valley, and it is a further example of the inappropriate and unbalanced pricing policies that are employed by State Water.

Table 10.5 User share revenue requirement by valley (\$2013-14, \$million)

	FY 14	FY 15	FY 16	FY 17	Change
Border	\$2.29	\$1.74	\$1.75	\$1.68	26%
Gwydir	\$5.90	\$5.42	\$6.25	\$6.42	9%
Namoi	\$6.21	\$6.23	\$6.27	\$6.30	1%
Peel	\$1.20	\$1.65	\$1.85	\$1.74	45%
Lachlan	\$8.02	\$8.02	\$8.72	\$8.82	9%
Macquarie	\$7.55	\$7.89	\$8.63	\$9.25	22%
Murray	\$12.75	\$7.09	\$6.83	\$7.05	(45%)
Murrumbidgee	\$10.78	\$10.90	\$10.94	\$11.11	3%
North Coast	\$0.87	\$1.11	\$1.11	\$1.11	28%
Hunter	\$5.29	\$5.33	\$5.28	\$5.23	(1%)
South Coast	\$0.76	\$0.95	\$1.15	\$0.89	17%
Lowbidgee	0	\$0.77	\$0.67	\$0.68	-
Fish River	\$10.34	\$10.31	\$10.29	\$10.44	10%
Total	\$71.96	\$67.40	\$69.74	\$70.73	(2%)

### 3.3.12 – Section 11.1. - Objectives and principles of cost sharing – page 127

This section states that “In State Water’s previous determinations, IPART endorsed an ‘impactor pays’ approach to sharing costs between users and government. This principle suggests cost allocation should be based on who creates the demand for the costs. Importantly, this can diverge from the beneficiaries of the incurred cost.”

The above statement could mean anything – but allow us to quote a practical example from the Peel Valley, where the Water Sharing Plan that was introduced from July 2010 reduced access to the total general security entitlement in the valley from 31,000ML to 6,100ML – and at the same time introduced an Environmental Contingency Allowance of 5,000ML annually. The fact is that State Water considers the irrigation industry as an “impactor”, and although the environment receives a significant 82% of the quantity of water that irrigators receive, there is no charge levied on the environmental water and the Peel irrigation industry has to pick up the tab for all water used in the Peel Valley.

In the Peel Valley at least, State Water has ignored the existence of a significant “impactor” when it comes to determining an “impactor pays approach”. If State Water wishes to adopt an “impactor pays approach to sharing costs between users and government” why is the environment – which is a comparatively significant impactor in the Peel Valley – exempted from the equation?

### 3.3.13 – Section 11.2. - Cost share ratios used for the submission – page 127

This section states “Although cost shares are not part of the ACCC *Water Charge (Infrastructure) Rules 2010*, the NSW Government has agreed to maintain the existing ratios and pay to State Water its share of the revenue requirement as it would have under the IPART framework. Consequently, contributions from government have been deducted from the revenue requirement before the calculation of proposed prices.

The cost share ratios used to determine user and government cost shares in this submission are provided in Table 11.1.”

Table 11.1 – Proposed cost shares

<b>Activity code</b>	<b>Activity name</b>	<b>User share %</b>	<b>Government share %</b>
10	Customer support	100	0
11	Customer billing	100	0
12	Metering and compliance	100	0
14	Water delivery and other operations	100	0
15	Water transfers	100	0
16	Flood operations	50	50
17	Hydrometric monitoring	90	10
18	Water quality monitoring	50	50
19	Public liability insurances	100	0
30	Corrective maintenance	100	0
31	Routine maintenance	100	0
32	Asset management planning and replacement	100	0
33	Dam safety compliance – pre 1997	0	100
33	Dam safety compliance – post 1997	50	50
34	Environmental planning and protection	50	50
50	Renewal and replacement of assets	90	10
51	Structural and other enhancements	100	0
98	Corporate systems	100	0

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Our comment on this table is – Is it any wonder that State Water is keen to retain the existing cost share ratios between the Government and the users – the majority of significant categories are 100% allocated to the users, another two categories are 90% allocated to the users, and the remaining insignificant minority are allocated 50% to the users.

Whether it is within the scope of the ACCC review to consider these cost share ratios or not, the ACCC needs to be fully aware that State Water overwhelmingly offloads all the expenditure that it incurs on to the users. Therefore, it is imperative that the ACCC is absolutely confident that State Water is restricting its expenditure to a minimum level before approving any increases in charges. Without a thorough review by an independent firm of business consultants it is difficult to understand how the ACCC can have the required confidence that this is the case.

### 3.3.14 - Table 12.1 Proposed tariff structure – page 140

Table 12.1 is reproduced below -

	Current	2014/15	2015/16	2016/17
Fixed	40%	50%	65%	80%
Volumetric	60%	50%	35%	20%

The Peel Valley is strongly opposed to the proposed change in the ratio of fixed/volumetric price tariff, for the following reasons:

- 1 State Water is in the business of selling water to its customers. If State Water has no water available for sale, State Water has nothing to sell. The ACCC should carefully consider the consequences of allowing a State owned monopoly to charge customers 80% of the monopoly's operating costs when they cannot supply any product. If one of the major supermarkets or a petrol company adopted such a tariff structure, the ACCC would go for their jugular. Why should the tariff structure of a State owned monopoly be treated any differently?
- 2 In the real world, the effect of the proposed tariff structure in the Peel Valley is enormous, because of the very low reliability of access to water. For example, at the start of the current water year the general security AWD for the Peel River is 45%, even though Chaffey Dam is at 80% capacity. If Chaffey Dam was at around 60% capacity, the start of season AWD would be zero. Under the proposed tariff structure, irrigators in the Peel Valley would be paying 80% fixed charges when water cannot be provided at the start of season in a great number of years. Not only must the ACCC consider whether it is appropriate for a State owned monopoly to charge customers a high fixed charge tariff at a time when the commodity cannot be supplied, but the ACCC should also consider whether it is appropriate for a State owned monopoly to increase the fixed charges in the Peel Valley by 262% - at the same time as increasing the fixed component of a commodity that cannot be supplied.
- 3 When the start of season general security allocation is 45% or thereabouts, the effective fixed cost per available megalitre is \$6.15 based on the current entitlement charge. This figure would be \$22.28 per available megalitre in 2016/17 if State Water's proposed charges are approved by the ACCC. Both State Water and the ACCC need to understand that due to the low reliability of supply in the Peel Valley, the effective charges are significantly higher per megalitre of available water for the Peel Valley than the figures represented in Table 14.2 – and we suspect that State Water must be aware of that fact because it has been raised in our previous submissions to IPART.
- 4 The ACCC must consider whether it is appropriate for a State owned monopoly to alter its charging policy in such a drastic way – and whether it is appropriate that such a drastic change should be made with such undue haste. The bureaucrats within State Water who have proposed this change obviously have no consideration of the impact of this change on their (monopoly) customer base. Business plans and financial forecasts that have been made throughout NSW on the basis of State Water's charging policy which was in place at the time will be completely destroyed by State Water's proposal to completely change its pricing structure over such a short period of time.

### 3.3.15 – Section 12.2. - Reasons for change – page 129

This section includes the statement “Commercial viability is the recovery of efficient costs to ensure State Water can undertake its core activities of capture, storage and release of bulk water, service its debts, and provide a rate of return to its shareholders for their capital investment. State Water is committed to maintaining its commercial viability so it can continue to provide essential services to customers and the environment in the long term.

State Water's view is that a tariff structure that more closely aligns with its largely fixed cost structure (cost reflective tariffs) is the most efficient way for State Water to ensure it is able to finance its operations in the face of uncertain demand."

We believe that State Water's argument for a tariff structure which is based on a higher proportion of fixed costs is entirely inappropriate. If State Water has no water to sell, then State Water's customers (irrigation farmers) cannot generate an income - simply because of State Water's inability to supply water - and the customers must not be subjected to high fixed charge bills in these circumstances. It would be an act of fraud for a State owned monopoly to charge for services when the goods cannot be supplied.

We also believe that State Water can achieve its objective of "commercial viability" in a much more equitable way, without again penalising its customers in the Peel Valley. State Water refuses to recognise that its (monopoly) customer base also has to remain commercially viable – otherwise they will not be able to pay State Water's ever-increasing charges.

This section also includes the following commentary on water charging principles:

*"The **water charging objectives** are:*

*(a) to promote the economically efficient and sustainable use of:*

*(i) water resources; and*

*(ii) water infrastructure assets; and*

*(iii) government resources devoted to the management of water resources; and*

*(b) to ensure sufficient revenue streams to allow efficient delivery of the required services; and*

*(c) to facilitate the efficient functioning of water markets (including inter-jurisdictional water markets, and in both rural and urban settings); and*

*(d) to 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; and*

*(e) to avoid perverse or unintended pricing outcomes"*

Elsewhere in our comments on State Water's submission, we have highlighted that we believe that a water charging system that produces a range in prices from \$2.46 to \$907.26 for one megalitre of water definitely has to be recognised as producing a perverse outcome – in contravention of sub-clause (e), as shown above. Therefore, we believe that State Water will be in breach of the Water Act 2007 if this proposed charging structure is adopted.

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### 3.3.16 - Section 12.6. - Tariff design – page 139

This section states that "In relation to promoting the economically efficient use of water infrastructure, the pricing principles state:

*"In practice, this can be best achieved where the fixed and variable components of a charge recover the fixed and variable costs of providing services. Charges must also be sufficient to ensure that the required infrastructure services continue to be efficiently delivered. That is, charges must be designed so that businesses earn a sufficient revenue stream in order to meet their regulatory, legal and other obligations."*

As outlined above, State Water's current tariff structure is inconsistent with the pricing principles as approximately 95 per cent of State Water's costs are fixed, whilst only 40% of revenue from water charges is fixed. This has resulted in State Water under-recovering its revenue requirement during the most recent drought."

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Our comment on this section is similar to our previous comments on this topic – State Water is in the business of selling water, and when it has no water to sell it is not entitled to charge for something that it cannot supply. Charging for goods or services which cannot be supplied is fraud – whether it is committed by a small business, or a State owned monopoly, it is still fraud. State Water has engaged with its customers on a business basis, and they have known for several decades that the nature of the business that they are engaged in can be affected by the vagaries of the weather. State Water has established a monopoly business where customers understand that they pay fees when the product is available, and at times when the product is not available, the customers are only responsible for minimal fees. It is a gross breach of trust for State Water to now seek to drastically change the established business basis – and to seek to do so in a short period of time.

### 3.3.17 - Table 14.2 - Proposed general security entitlement charges (\$/ML) – page 151

Table 14.2 has been reproduced below, with an additional column added by us showing the percentage increase in the fixed entitlement charges per megalitre in each valley -

	2013/14	2014/15	2015/16	2016/17	% Increase
Border	\$3.21	\$3.26	\$3.23	\$3.19	(0.6%)
Gwydir	\$4.06	\$4.95	\$6.81	\$8.86	118%
Namoi	\$9.09	\$11.66	\$15.24	\$18.87	108%
Peel	\$2.77	\$5.59	\$7.70	\$10.03	262%
		102%	178%	262%	
Lachlan	\$4.42	\$5.13	\$7.16	\$9.44	114%
Macquarie	\$4.24	\$5.54	\$7.83	\$10.49	147%
Murray	\$2.33	\$1.47	\$1.88	\$2.29	(1.7%)
Murrumbidgee	\$1.59	\$1.83	\$2.39	\$2.94	85%
North Coast	\$7.25	\$53.66	\$70.02	\$86.50	1,093%
Hunter	\$8.86	\$7.61	\$9.80	\$11.94	35%
South Coast	\$10.09	\$53.66	\$70.02	\$86.50	757%
Lowbidgee	-	\$1.02	\$0.93	\$0.85	-

The following comments apply to the figures in Table 14.2, which contains figures that are of great concern to State Water’s customers in the Peel Valley –

- 1 The figures themselves, and the percentage increases (or decreases), are a chaotic mess – completely unstructured, completely inequitable, completely contrary to “promoting competition”, completely contrary to “fair trading”, and completely not “fair to all Australians”.
- 2 We have already provided some of our reasons for objecting to these inequitable proposed fixed charges in our comments at our references 3.3.14, 3.3.15, and 3.3.16. In addition to those comments, the ACCC must consider whether it is appropriate for a State owned monopoly to increase its charges in the Peel Valley by 262% over three years – irrespective of State Water’s attempt to justify such an increase. Given that State Water requires an average increase in revenue of just 3% per year (see page 122 of State Water’s submission), the ACCC must consider how an increase of 262% in the Peel Valley over three years can possibly be justified.
- 3 Although State Water is attempting to “cry poor”, its current charges will produce a financial result that will exceed its revenue requirement by \$6.2 million in the current financial year. (See page 34 of State Water’s submission). State Water’s required increase in profit amounts to \$3.4 million a year, so this year’s financial result almost covers two years of growth in revenue. Therefore, State Water has no basis for changing

the existing tariff structure to the detriment of its customers, solely for the purpose of generating a monopolistic super profit.

3.3.18 - Table 14.3 - Proposed usage charges (\$/ML) – page 151

Table 14.3 has been reproduced below, with an additional row added by us showing the percentage increase in the water usage charges per megalitre in the Peel Valley. The percentage change over the review period is not relevant in these usage charges, because they are offset by the drastic increases in fixed entitlement charges -

	2013/14	2014/15	2015/16	2016/17
Border	\$9.43	\$6.28	\$6.22	\$6.16
Gwydir	\$12.97	\$11.95	\$8.85	\$5.36
Namoi	\$19.98	\$19.88	\$14.00	\$8.04
Peel	\$41.61	\$74.34	\$55.09	\$33.33
	-	+79%	+32%	-20%
Lachlan	\$18.04	\$18.20	\$13.67	\$8.39
Macquarie	\$13.98	\$14.68	\$11.18	\$6.96
Murray	\$4.97	\$2.46	\$1.69	\$0.96
Murrumbidgee	\$3.78	\$3.16	\$2.22	\$1.26
North Coast	\$45.04	\$904.22	\$635.32	\$364.39
Hunter	\$14.77	\$21.85	\$15.14	\$8.57
South Coast	\$40.38	\$111.82	\$82.27	\$49.41
Lowbidgee	0	\$3.16	\$2.22	\$1.26

Table 14.3 also contains figures that are of great concern to State Water’s customers in the Peel Valley, and the following comments apply to the figures in the table –

- 1 Our complaint with the usage charges has always been the inequitable relativity between valleys. At present, the Peel Valley is paying twice the usage charges that apply in the adjoining Namoi Valley, three times the usage charges that apply in the adjoining Hunter Valley, and more than ten times the charges that are applied in the Murrumbidgee. We have always considered that this is a grossly unfair and inequitable outcome from a State owned monopoly. But in 2016/17, the Peel Valley will be paying four times the usage charges in the Namoi Valley, four times the usage charges in the Hunter Valley, and thirty five times the usage charges in the Murray. How can a regulator whose role includes “*promoting competition, fair trading and regulating national infrastructure for the benefit of all Australians*” possibly accept that State Water’s proposed pricing outcomes for the Peel Valley achieve those objectives?
- 2 The ACCC must consider whether it is appropriate for a State owned monopoly to charge an increase of 79% in one year, followed by an increase of 32% in the following year, whilst also simultaneously increasing other charges (ie fixed charges) by 102% and 178% in the corresponding years. These appear to be grossly excessive price increases that are being levied by a State owned monopoly – and they are being levied on charges that are already excessive and inequitable in the Peel valley.
- 3 And just repeating the comment from the previous point - given that State Water requires an average increase in revenue of just 3% per year (see page 122 of State Water’s submission), the ACCC must consider how an increase of 79% in the Peel Valley

in one year can possibly be justified. – particularly in conjunction with the other increase of 102% in fixed charges in the same year.

- 4 And again repeating the comment from the previous point, although State Water is attempting to “cry poor”, its current charges will produce a financial result that will exceed its revenue requirement by \$6.2 million in the current financial year. (See page 34 of State Water’s submission). State Water’s required increase in profit amounts to \$3.4 million a year, so this year’s financial result almost covers two years of growth in revenue. Therefore, State Water has no basis for seeking the proposed excessive and inequitable charges - to the detriment of its customers in the Peel Valley - solely for the purpose of generating a monopolistic super profit.

Once again, this is a clear indication to the ACCC that a major review of State Water’s systems and pricing policies is urgently needed before any further increases to customers can be approved.

### 3.3.19 - Chapter 15 – Metering Charges – page 162

The bulk of this chapter on metering charges is irrelevant to the Peel Valley, because there is nothing in Chapter 15 that refers to the costs for user-installed meters.

In June 2013 the NSW Minister for Primary Industries confirmed in writing that the northern NSW valleys had exited the NSW Metering Program.

Whilst the Peel Valley Water Users Association was not consulted by anyone prior to the decision to exit the program, and neither was this Association invited to provide a representative at any of the discussions leading up to the decision, we are nevertheless willing to accept the decision that has been made for the northern NSW valleys including the Peel Valley.

That having been said, the following comments need to be made about the metering program:

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- 1 The program to have new meters installed to meet the National Water Initiative is one of the most ill-founded programs in recent history. A bureaucratic assumption has been made that a water saving of around 3% can be made simply by installing a new standard of meter. This assumption has been made without any field testing of existing meters in the Peel Valley, and possibly without any testing of existing meters in other northern NSW valleys. The fact that all NSW irrigators must replace their existing meters based on this untested assumption is simply ludicrous.
  - 2 All irrigators must have a meter which meets the new standards installed by 30<sup>th</sup> June 2016 – for all regulated surface water, unregulated surface water, and groundwater sources. However, at August 2013 neither State Water nor NSW Office of Water can nominate which meters meet the new standards, and neither can they quantify the costs that will be levied by State Water for user-installed meters (there is nothing in Chapter 15 that refers to the costs for user-installed meters). That leads us to the conclusion that not only was the program ill-founded, but it is also being poorly implemented.
  - 3 The costs of this program far exceed the benefits – for example, in this area we do not have mobile phone reception so telemetry will not work. State Water has indicated that they will purchase satellite services in order to take meter readings by telemetry in areas where mobile phone reception is unavailable. The ACCC should consider whether it is appropriate for a State owned monopoly to charge its customers excessive fees to provide a basic service - just because they have decided to utilise the most expensive form of technology that is currently available (ie, satellite) to provide that basic service.
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- 4 In the real world, the replacement of a water meter can often be a major and time consuming task, so it would probably be undertaken during the winter months to avoid disruptions in the summer irrigation season. NSW Office of Water has indicated that the brands of meters which meet the new standards may not be known for another 12-18 months from August 2013. The reality is that once the brands of complying meters have been announced, there simply may not be a sufficient number of meters available in the world market to have new meters installed by 30<sup>th</sup> June 2016.
  - 5 The annual costs for Commonwealth funded meters in Table 15.2 on page 168, for State Water funded meters in Table 15.3 on page 169, and for Commonwealth funded meters in Table 15.4 on page 170 are all completely disproportionate to the actual capital cost of the meters. Whilst we recognise that the annual costs in these tables are not the relevant figures for user-installed meters in the Peel Valley, it is therefore with some trepidation that we await the determination of the charges that State Water intends to levy for user-installed meters in the Peel Valley. At this stage, we do not know when these charges will be announced by State Water.
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#### 3.13.20 – Additional comments - High Security water prices

Whilst most of the focus of this submission is on the prices being sought for general security water by State Water, we also wish to make a passing comment on the prices for high security water, which is predominantly the domain of Tamworth Regional Council.

The ACCC needs to consider the impact of State Water's water charges on the residents and the businesses in the Tamworth region. The high security water charges that are currently levied by State Water on Tamworth Regional Council are five times higher than the charges that are levied on councils in the southern parts of NSW. Like all councils, Tamworth Regional Council adds a margin to the prices of the water that is supplied to the residents and businesses in Tamworth, but the residents and businesses are clearly paying excessive water costs due to State Water's inequitable charging system for the Peel Valley. The high water charges levied by State Water are a barrier to entry for new many businesses, and a barrier to future growth for existing businesses.

In times of excessive charges being levied by many State owned monopolies, why would a high water usage business (such as an abattoir) look at establishing or growing a business in Tamworth when one of their major input costs is five times higher than in other parts of NSW?

No doubt Tamworth Regional Council will submit their own arguments against the inequitable high security water charges in the Peel Valley – as they have done in all of the previous reviews by IPART.

For the benefit of all of Tamworth Regional Council's residential and business customers it is essential that the ACCC considers the repercussions of State Water's inequitable pricing policy in the Peel Valley from the businesses' and residents' perspective – not just the irrigators' perspective.

#### 3.13.21 - Additional comments - NSW Irrigators Council

We acknowledge that our position will probably differ from that which will be presented by the NSW Irrigators Council.

However, our Association does not have representation on the NSW Irrigators Council, nor do we have any communication with them, so they cannot possibly represent the views of the Peel Valley Water Users Association. They obviously represent their own membership, but they do not represent valleys such as the Peel Valley. While they are a self appointed peak body, they are not a genuinely NSW wide organisation that represents all irrigators in the state.

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Further, we acknowledge that the NSW Irrigators Council predominantly represents the interests of larger irrigators in the southern parts of NSW, and consequently they have no reason to be concerned about State Water's perverse pricing policies which deliver extremely cheap water usage prices to them, and exorbitant prices to irrigators in the Peel Valley.

Therefore, we believe that the position of the NSW Irrigators Council is just one point of view that the ACCC should take into consideration when reviewing State Water's pricing submission.

#### 3.13.22 – Additional Comments – Comparison with other states

The ACCC needs to consider whether any other state of Australia has a state owned monopoly which is proposing a pricing structure for any commodity with a range of \$2.46 to \$907.26 per unit.

If this situation existed elsewhere, the ACCC would surely have already dealt with the situation, and we expect that the ACCC will take the appropriate action to implement a review of State Water's illogical claims for price increases in the Peel Valley – probably by a competent firm of business consultants.

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#### **4 Conclusion**

State Water has a nerve to submit a pricing policy to the ACCC for approval when it intentionally sets prices in a range from \$2.46 to \$907.26 for one megalitre of water. This is obviously absurd, and completely out of touch with the reality of the commercial world in which State Water's customers have to operate. The fact that State Water – a State owned monopoly - has the brazen audacity to lodge this crazy pricing structure for approval is symptomatic of the inappropriate culture of the organisation, and demonstrates that there is something terribly wrong at State Water.

No quantity of words from State Water can justify this ridiculous pricing structure, and the ACCC has no alternative other than to instruct State Water to get their act together and rectify the pricing anomalies. However, from State Water's previous submissions to IPART, and from this current submission to the ACCC, State Water has demonstrated that it is incapable of setting prices to their customers at a fair and equitable level. Therefore, the ACCC should implement a thorough review of all of State Water's financial and management systems by a recognised firm of independent management and financial consultants before considering the pricing structure currently being proposed by State Water.

There is an obvious problem with the existing water charges that are being levied by State Water in the Peel Valley today, as well as the proposed prices in the submission from State Water.

But it is not only the water charges that are increasing at an unacceptable rate – the cost of electricity to pump the water has also increased dramatically, and the combined effect – compounded by the low level of access to water under the Water Sharing Plan - will soon cripple the irrigation industry in the Peel Valley. The fact that in the past IPART approved excessive and inequitable price increases by two NSW State Government owned monopolies demonstrates that IPART has been completely ineffective in regulating the prices charged by State owned monopolies.

IPART failed to recognise that irrigators cannot keep passing on the additional costs to their customers, and neither can they continue to absorb price increases of the magnitude being sought by State Water. The ACCC must take account of the fact that NSW State Government owned monopolies are progressively pricing the irrigation industry out of existence in this part of NSW. Furthermore, the ACCC must take account of the fact that many regional irrigation-dependent businesses will also be forced to close in the Tamworth region if State owned monopolies are allowed to continue on their uncontrolled pricing rampage.

We expect that the ACCC will take a fresh and more robust approach when reviewing the price increases that are currently being sought by State Water.

## **5 Appendices**

Appendix 1 - Previous submission by the Peel Valley Water Users Association to IPART

*(Please see following pages)*

# *Peel Valley Water Users Association Inc*

PO Box 952, Tamworth NSW 2340

## **EXECUTIVE SUMMARY**

This submission is lodged on behalf of the Peel Valley Water Users Association Inc, which is an organisation representing irrigators in the Peel Valley (and its tributaries), as well as a number of major businesses in the Tamworth area that are connected to the irrigation industry.

This submission contains the following sections:

### **1. General comments**

- In every previous IPART bulk water pricing review, the Peel Valley has highlighted the discriminatory pricing mechanism that results in the Peel Valley paying twice the usage charges that are applied in the Namoi Valley, three times the prices that are applied in the Hunter Valley, and ten times the usage charges that are applied in the Murrumbidgee.

### **2. Previous IPART Determinations have been in breach of the National Water Initiative 2004, and the Commonwealth Water Act 2007**

- This Association believes that both of IPART's recent determinations of State Water bulk water charges in 2010, and the NSW Office of Water charges in 2011 are in breach of the national agreements mentioned above. Specifically, we believe that they are in breach of Clause 64, subsection (v) which states that water pricing arrangements will "avoid perverse or unintended pricing outcomes."
- It is a perverse outcome that the Peel Valley pays usage charges that are ten times the Murrumbidgee Valley, twice the Namoi Valley and three times the Hunter Valley. We are currently seeking a legal opinion on this matter, and we are also seeking a legal opinion on the recovery of unlawfully imposed charges retrospectively to the date of their introduction.

### **3. IPART should insist on equitable water pricing across the state of NSW**

- State Water and NSW Office of Water are State owned monopolies, and their price gouging policies ought to be monitored and regulated by the Independent Pricing and Regulatory Tribunal. It is the clearly stated responsibility of IPART to "set the methodology for fixing the maximum price for a government monopoly service".
- Any independent person would agree that something is wrong with a situation where the Peel Valley pays about twice the usage charges in the adjoining Namoi Valley, three times the adjoining Hunter Valley, and TEN TIMES the Murrumbidgee. We need to go back to basics to correct this inequitable and discriminatory pricing policy.

#### **4. Rejection of options that are listed in the Discussion Paper**

- None of the options for the Peel Valley that are put forward by IPART are acceptable, because we do not believe that either upper bound pricing or lower bound pricing are appropriate for a State Government owned monopoly.

#### **5. Proposal of alternative options that are more appropriate for the Peel Valley**

- In terms of future pricing for the Peel Valley, given that we have suffered substantially financially over the years, it would be appropriate for the Government of NSW to declare a permanent Community Service Obligation (CSO) so that the Peel Valley pays the NSW weighted average water charges detailed in this submission, and listed below:

General Security Entitlement charge	-	\$4.30 per ML
High Security entitlement Charge	-	\$6.03 per ML
Usage Charge	-	\$7.91 per ML

## **1 General Comments**

- a. We thank IPART for the opportunity to submit our comments on the Discussion Paper, and we acknowledge that IPART has prepared a detailed document within a short timeframe. However, the rushed process also results in a short timeframe being available to respondents, which is most unsatisfactory when dealing with a topic of such complexity.
- b. When a motor vehicle is registered in Bathurst or Tumut or Glen Innes, the same NSW State Government registration fees apply. Why is it then, that the Peel Valley pays twice, or three times, or even TEN times the fee for the same volume of water that other valleys pay? This grossly discriminatory pricing policy against the Peel Valley surely must attract the attention of the ACCC, even if IPART continues to turn a blind eye to the problem.
- c. Part of the root cause of the problem is the fact that State Water and NSW Office of Water are split into two separate entities – both of which separately levy charges on general security regulated water users. This is a simply absurd situation which should never have existed, and should not be allowed to continue. The duplication of costs in administration, accounting, HR, office rental, printing and stationery, and every other business function in having two separate Government entities charging users for the same commodity is unnecessary.
- d. The Peel Valley has argued in previous submissions to IPART, that the retrospective introduction of “cost recovery” and “return on investment” charges on public water assets that have already been fully funded out of taxpayer funds is morally wrong. There was no consideration of “cost recovery” or “return on investment” charges when the dams in NSW were completed and fully paid for by the NSW taxpayers 40 or 50 years ago, and the retrospective introduction of charges based on these assets is no more than a “cash grab” by Government. The fact that the Peel Valley now suffers under a discriminatory pricing regime makes the situation extremely frustrating.
- e. The number layers of bureaucracy affecting all irrigators is simply ridiculous –
  - We have to deal with State Water
  - We have to deal with NSW Office of Water
  - The irrigation industry has to comply with the NSW Government’s budgetary income requirements
  - We have to deal with IPART
  - We now also have to deal with the ACCC
  - We have to comply with the National Water Initiative
  - The Water Administration Ministerial Corporation gets involved
  - We have to comply with the Water Charge Infrastructure Rules (2010)
  - We have to comply with the Water Management Act 2000
  - We have to comply with the Water Act 2007
  - We have to meet the needs of the Council of Australian Governments (COAG)
  - Many of us also have to deal with the Murray-Darling Basin Authority, and the Commonwealth Environmental Water Holder

Put simply, irrigation farmers produce food, and we produce other products which are inputs to the human food chain. We generate wealth and we create employment from our efforts and our investment – and we are over-regulated on irrigation matters! We do not need these ever-increasing multiple layers of bureaucracy - particularly when they continue to deliver bad outcomes!

1.6 It is irrelevant what methodology either State Water, or the NSW Office of Water uses to calculate their price increases, or how they justify their discriminatory pricing – they are State owned monopolies, and their discriminatory pricing policies should be monitored and regulated by the Independent Pricing and Regulatory Tribunal.

Under the Independent Pricing and Regulatory Tribunal Act 1992, Division 5 Clause 13A (1) states that in making a determination for a government monopoly service, IPART's role includes –

“ (a)(ii) setting the methodology for fixing the maximum price for the government monopoly service”.

It is very clear that IPART has the ability to determine the methodology for the maximum price applicable to water in the Peel Valley.

The outcome of the pricing policy process to date has been grossly discriminatory against the Peel Valley, and as the outcome is wrong, then that means that the process is wrong - and the process should be completely transformed and the current inequities should be rectified.

## **2 Previous IPART Determinations have been in breach of the National Water Initiative 2004, and the Commonwealth Government Pricing Objectives 2011**

The Commonwealth *Water Act 2007* (the Water Act), made under Section 92(1) of the Water Act, creates the institutional and governance arrangements that address the sustainability and management of water resources in the Murray-Darling Basin (the Basin). Among other things, the Water Act gives the Minister for Water the role of making water charge rules. Schedule 2 of the Water Act documents the relevant objectives and principles for these charge rules.

The *Water Charge (Infrastructure) Rules 2010* contribute to achieving the Basin water charging objectives and principles set out in Schedule 2 of the Water Act.

Broadly, these objectives and principles seek to

- a) promote the economically efficient and sustainable use of water resources, water infrastructure assets and government resources devoted to the management of water resources
- b) ensure sufficient revenue streams to allow efficient delivery of the required services
- c) facilitate the efficient functioning of water markets
- d) give effect to the principle 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, and
- e) avoid perverse or unintended pricing outcomes.

The water charge infrastructure rules were registered on 11 January 2011 and had legal effect from 12 January 2011 (*Ref - IPART Review of Rural Charging Systems – Discussion Paper June 2012 pg 35 6.1.2*)

The Peel Valley Water Users Association believe that the NSW Governments bulk water charges for both State Water (IPART Determination and Final Report 2010) and the NSW Office of Water (IPART Determination and Final Report February 2011) are in breach of the Commonwealth Governments pricing objectives and principles since they became legal on the 12<sup>th</sup> January 2011. Specifically they are in breach of meeting condition ***e) avoid perverse or unintended pricing outcomes.***

The NSW Governments Bulk Water Charges are also in breach of the Intergovernmental Agreement on a **National Water Initiative** between the Commonwealth of Australia and the Governments of NSW, Victoria, Queensland, South Australia, the Australian Capital Territory signed into effect on the 25<sup>th</sup> June 2004 by the then Prime Minister (John Howard) and the Premiers and Chief Ministers of the above States and Territories. The breach by the NSW Government is of **Best Practice Water Pricing and Institutional Arrangements – Outcomes – Section 64 (v) avoid perverse or unintended pricing outcomes.** (*Ref - Intergovernmental Agreement on a National Water Initiative 25<sup>th</sup> June 2004 page 13 64 (v)*)

As demonstrated below -

2.1 State Water and the NSW Office of Water Regulated River Charges 2012-13 – Water bill for a 500ML **General Security Entitlement** with 60 % usage of entitlement

Valley

Water bill

Murrumbidgee	\$2731.00
Peel	\$14,159.00

Given that 1 ML of water will produce about the same amount of hay or milk in either Valley this pricing outcome for the same entitlement and usage (for the same service) can only be considered as a perverse or unintended pricing outcome and in breach of the Commonwealth Government pricing objectives and principles. See Fig 1

2.2 State Water and the NSW Office of Water Regulated River Charges 2012-13 – Water bill for a 16,400ML **High Security Entitlement** with a 50% usage of entitlement (Indicative of Tamworth Regional Council)

<u>Valley</u>	<u>Water bill</u>
Murrumbidgee	\$102,090.00
Peel	\$701,346.00

This is an unfair burden on the residents of Tamworth who like many others in NSW are struggling to raise their young families against a continuous barrage of ever increasing costs of which water is but one. This price differential between the two valleys for the same entitlement and usage (for the same service) can again only be considered to be a perverse or unintended pricing outcome and in breach of the Commonwealth Government pricing objectives and principles. See Fig. 2.

2.3 Depending on the definition of what is considered to be a perverse or unintended outcome the bulk water charges in many valleys could be considered to also be in breach of the Commonwealth Governments pricing objectives and principles. See Fig. 3

The Commonwealth Governments Pricing Objective and Principles and the National Water Initiative can easily be met by the NSW Government implementing a price structure based on a weighted entitlement charge and a weighted usage charge across all valleys to achieve the same revenue requirement as is currently being obtained. To meet State Waters and NSW Office of Water financial requirements for the 2012-13 water year, all valleys would need to pay a

General Security Entitlement charge of \$4.30 ML

High Security Entitlement charge of \$6.03

Usage Charge of \$7.91

*(Refer Table 1)*

This would mean that a General Security entitlement holder in any valley in NSW MDBA with a 500ML entitlement using 60% of entitlement would get the same bill of \$4523.00 for the same service, as shown in fig 3.

No valley could claim that this pricing structure would be in breach of the Commonwealth Governments Pricing Principles and Objectives or the National Water Initiative.

If IPART is not the appropriate body to deal with this apparent breach of the Commonwealth Pricing Principles and Objectives, and the National Water Initiative, will IPART please declare in its determination which government entity is responsible for addressing this issue, and explain how IPART intends to handle bulk water pricing until this matter is resolved.

**TABLE 1 Entitlement Usage and Water Charge Details for State Water & the NSW Office of Water - Weighted Average Pricing**

<b>Valley</b>	<b>Peel</b>	<b>Lachlan</b>	<b>Macqarie</b>	<b>Murrumbidgee</b>	<b>Gwydir</b>	<b>Namoi</b>	<b>Border R</b>	<b>Murray</b>	<b>Total</b>	
<b>GS Ent 1</b>	30911	632946	631716	2264065	509665	255780	263085	2076223	6654590	
Ent Charge 2										
SW	2.46	4.25	4.06	1.6	4.07	9.01	3.33	2.32		
NOW	1.9	1.51	1.7	1.18	1.3	2.32	2.23	1.44		
Total	4.36	5.76	5.76	2.78	5.37	11.33	5.56	3.76		
Revenue	134772	3645769	3638684	6294101	2736901	2897987	1462753	7806598	28617565	
									26954	20% Peel
									28644519	
<b>HS Ent 1</b>	17381	60778	42594	436928	21458	8527	3125	257438	848229	
HS Charge 2										
SW	20.9	11.11	9.84	2.81	13.11	15.1	9.94	2.98		
NOW	1.9	1.51	1.7	1.18	1.3	2.32	2.23	1.44		
Total	22.8	12.62	11.54	3.99	14.41	17.42	12.17	4.42		
Revenue	396289	767018	491535	1743342	309210	148540	38031	1137876	5031839	
									79257	20% Peel
									5111096	
<b>Usage 3</b>	13052	258319	300832	1805846	247734	165558	148535	1541376	4481252	
Usage										
Charge 2										
SW	36.92	17.07	13.14	3.72	12.69	19.69	9.11	4.9		
NOW	3.01	1.74	1.63	0.75	1.2	1.59	1.71	0.93		
Total	39.93	18.81	14.77	4.47	13.89	21.28	10.82	5.83		
Revenue	521166	4858980	4443278	8072132	3441025	3523074	1607140	8986222	35453126	

Weighted Entitlement Charge - General Security  $\$28644519 / 6654590 = \$4.30\text{ML}$

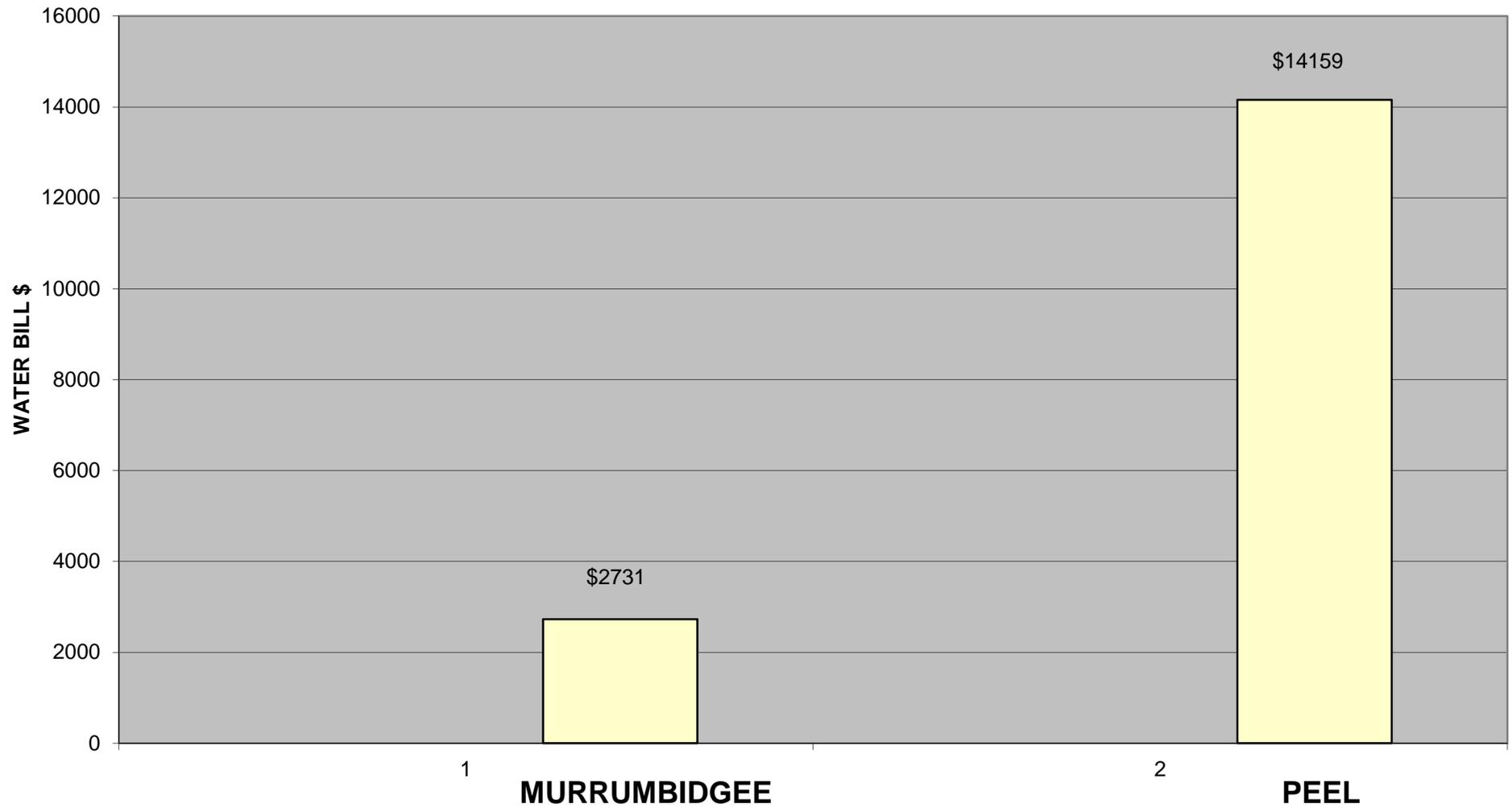
High Security  $\$5111096 / 848229 = \$6.03\text{ML}$

Weighted Usage Charge - HS & GS  $\$354453126 / 4481252 = \$7.91$

3 IPART Review of Bulk Water Charges for State Water Corporation  
determination and Final Report June 2010 Table 9.1 page 119

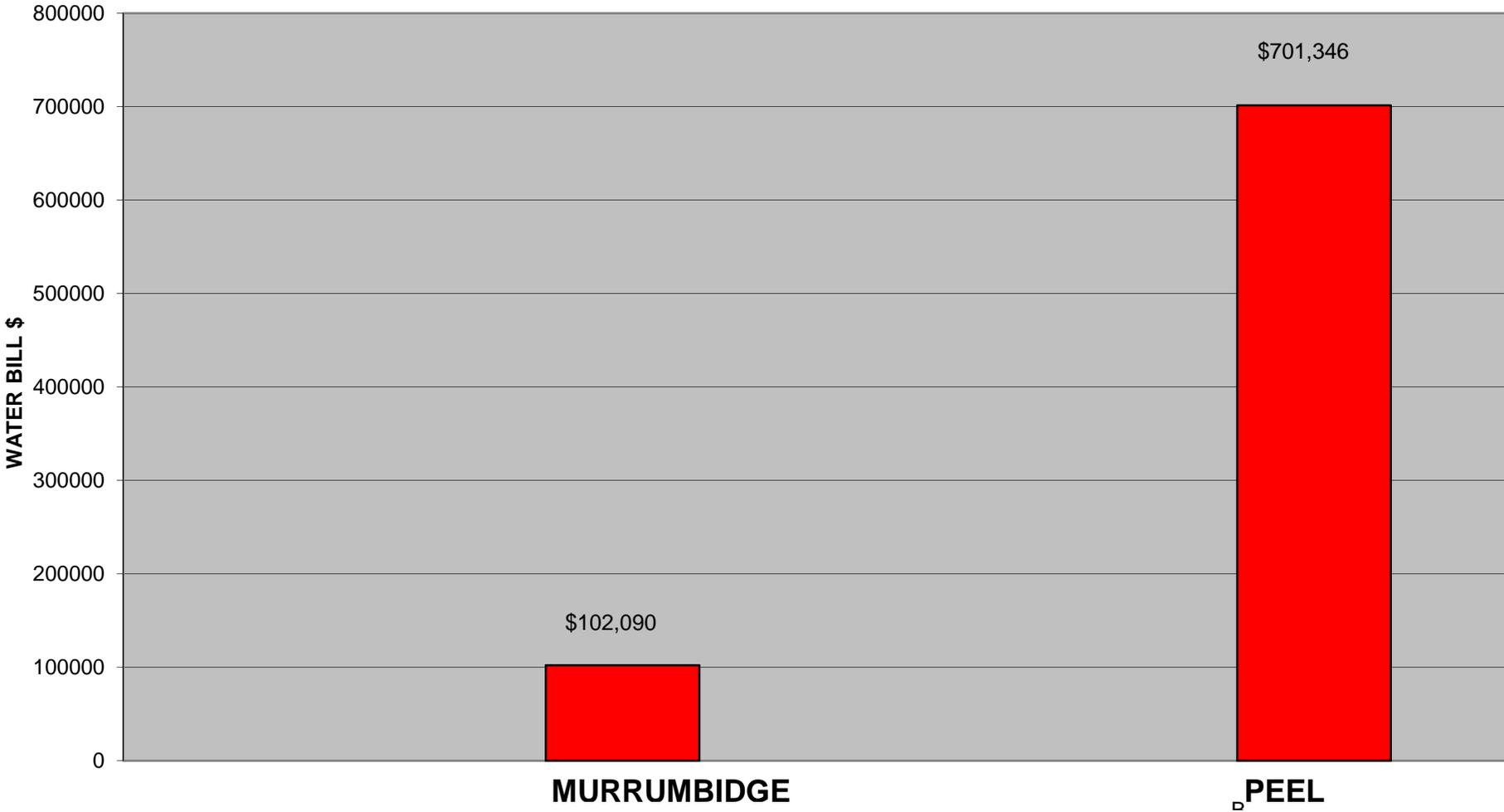
**SW & NOW REGULATED RIVER CHARGES 2012-13 WATER BILL CRITERIA 500ML GENERAL SECURITY ENTITLEMENT; 40/60 FIXED / USAGE RATIO; 60% WATER USAGE**

**FIG 1**

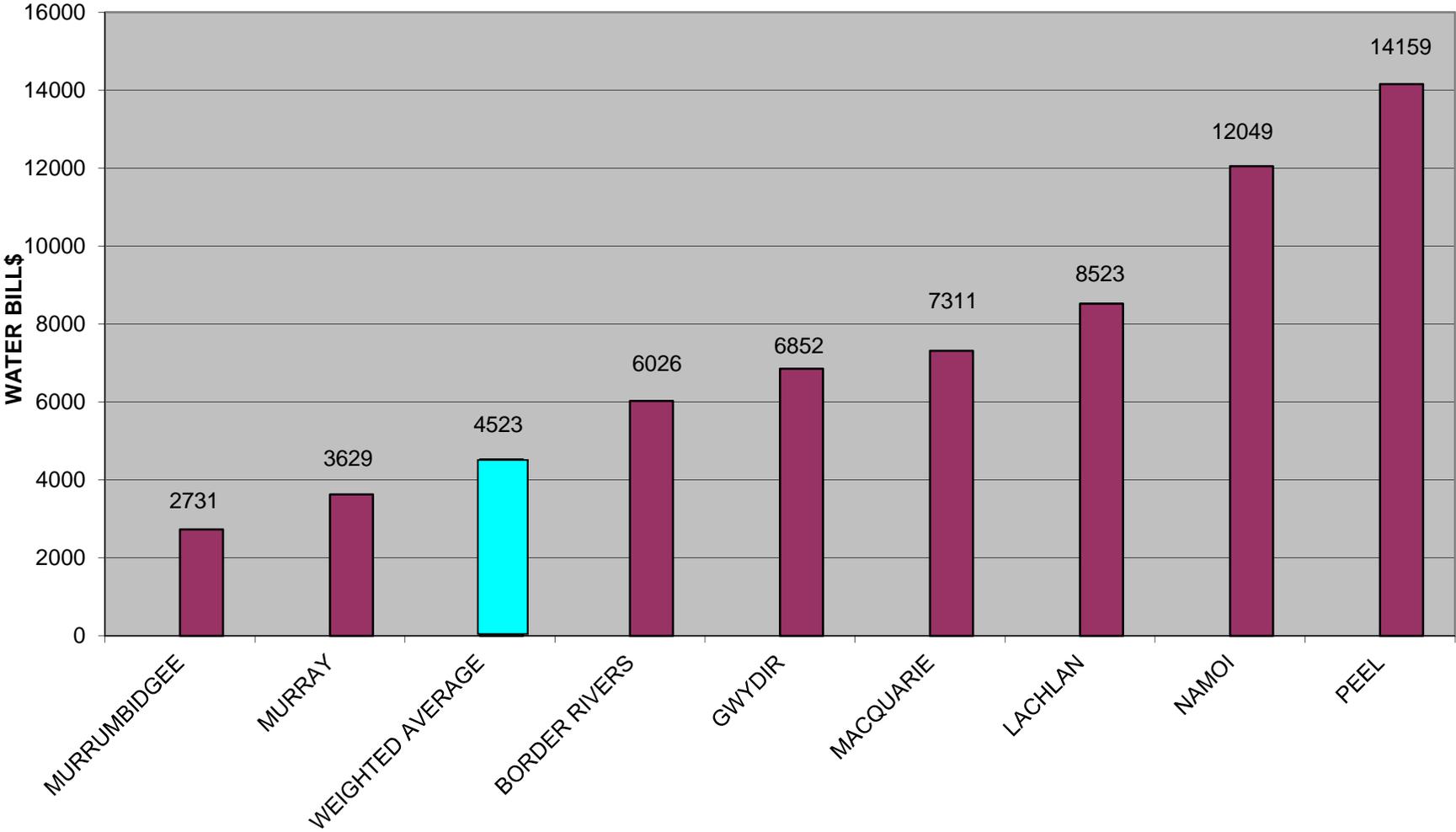


SW & NOW REGULATED RIVER CHARGES 2012-13 WATER BILL CRITERIA 16,400ML HIGH SECURITY ENTITLEMENT (TRC) 40/60 FIXED USAGE RATIO; 50% WATER USAGE

FIG 2



**SW & NOW REGULATED RIVER CHARGES 2012-13 WATER BILL CRITERIA 500ML  
GENERAL SECURITY ENTITLEMENT; 40/60 FIXED / USAGE RATIO; 60% WATER USAGE **FIG 3****



### 3. IPART should insist on equitable water pricing across the state of NSW

#### 3.1 Why is the move to Uniform State Wide Bulk Water Pricing inevitable and necessary?

- **Climate Change**

Very few doubt that climate change is taking place. It is the degree of the change that is contestable. Reference CSIRO "Water availability in the Murray Darling Basin Oct 2006.

*"The impacts of climate change by 2030 are uncertain; however, surface water availability across the entire MDB is more likely to decline than to increase. A decline in the south of the MDB is more likely than in the North. In the south of the MDB, a very substantial decline is possible. In the north of the MDB, significant increases are possible. The median decline for the entire MDB is 11 percent – 9 percent in the north of the MDB and 13 percent in the south of the MDB."*

*"The relative impact of climate change on surface water use would be much greater in dry years. Under the median 2030 climate, diversions in driest years would fall by more than 10 percent in most New South Wales regions, around 20 percent in the Murrumbidgee and Murray regions and from around 35 to over 50 percent in the Victorian regions. Under the dry extreme 2030 climate, diversions in driest years would fall by over 20 percent in the Condamine-Balonne, around 40 to 50 percent in New South Wales regions (except the Lachlan), over 70 percent in the Murray and 80 to 90 percent in the major Victorian regions."*

That is with climate change it is likely there will be a lot less water available to generate revenue for State Water.

- **Impact of the Murray Darling Basin Authority**

(Reference -The Basin Plan – A Concept Statement June 2009)

*The central legal requirement of the Basin Plan is to set environmentally sustainable limits on the amount of water that can be taken in future from the Basin's water resources. Such a limit is known as a "sustainable diversion limit"(SDL).*

*SDLs will limit the quantity of **surface water** and **groundwater** that may be taken from the Basin water resources as a whole. **There will also be SDLs to limit the quantity of surface water and groundwater that can be taken from individual water resource plan areas and particular parts of water resource plan areas within the Basin.***

*The current Cap on surface-water diversions is set at a level based on historic use, not on what is sustainable. In addition, the existing Cap does not limit the use of groundwater, and groundwater consumption has grown significantly in the context of the introduction of the surface water Cap.*

*The SDLs must be set at a level that the Murray-Darling Basin Authority (MDBA), **using the best available scientific knowledge**, determines to be environmentally sustainable.*

*This is defined as the level at which water in the Basin can be taken from a water resource without compromising key environmental assets, key ecosystem functions, key environmental outcomes or the productive base of the water resource.*

*Given the stresses on the Basin environment, it is likely that the Basin-wide SDL for both groundwater and surface water will be set at a level below the current level of use.*

(note: this is not necessarily the impact on an individual valley basis but is likely to be the case in most valleys.

This Plan whilst only a conceptual statement leaves little doubt that the active use of Bulk Water in the Murray Darling Basin will be less than current active use. The question is by how much will active use be cut?

### **3.2 The Impact of Inter Valley Bulk Water Sales.**

Neither the MDBA or IPART have addressed the issue of inter valley trading on Valley Based price structures. What happens if entitlement is sold say from the Peel to the Namoi. Does the Peel's entitlement and usage charge go with the entitlement? Do the remaining entitlement holders pay more?

In the Peel it is possible that half the General Security entitlement could be sold out of the Valley. The cost impost on the remaining entitlement holders could be enormous in a system which is already unviable price wise.

The Murray Darling Basin Authority in its concept plan of June 2009 states

#### **Trade**

*Develop efficient water trading regimes across the Basin*

*A Basin-wide approach to the trading of water rights is another important element of the Basin Plan.*

Even IPART in its State Water Issues paper July 2009 promotes Bulk Water sales.

*The ability to trade entitlements produces strong financial incentives for water to be traded to its highest value use due to the more productive and profitable outcomes that the purchaser can achieve with it. The financial incentives created through the operation of a secondary market produces strong demand management outcomes by ensuring that water is diverted towards those who value it most.*

There is little doubt that inter valley Bulk Water trading will become a significant mechanism for ameliorating the impacts of reduced Bulk Water availability and getting Bulk Water to its highest valued use.

These issues are very hard if not impossible to deal with under vastly different Valley based pricing structures.

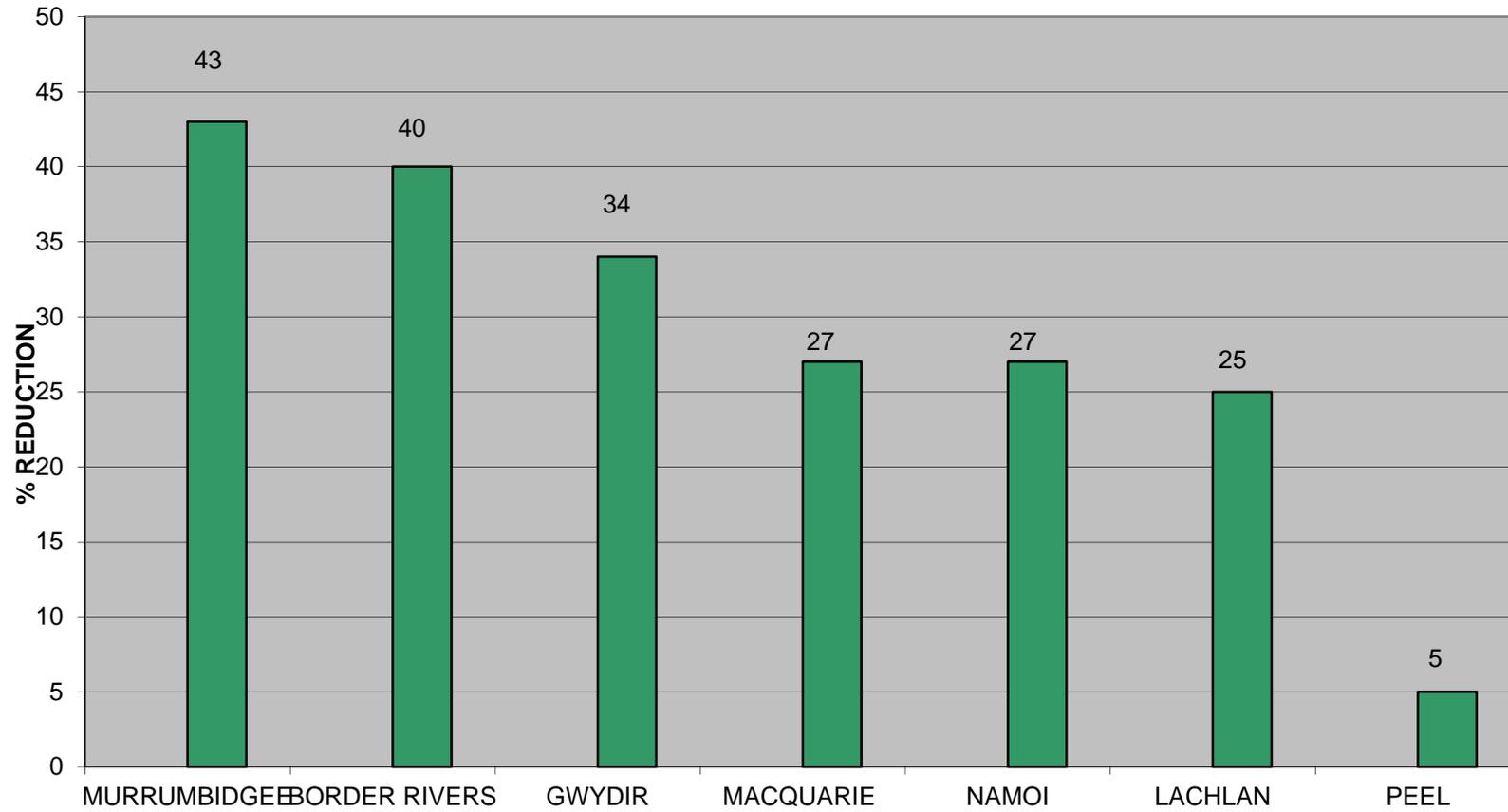
Uniform State Wide Bulk Water Pricing solves this issue as the price structure is the same for all Valleys.

**Environmental Protection – promotion of ecologically sustainable development via appropriate pricing policies.**

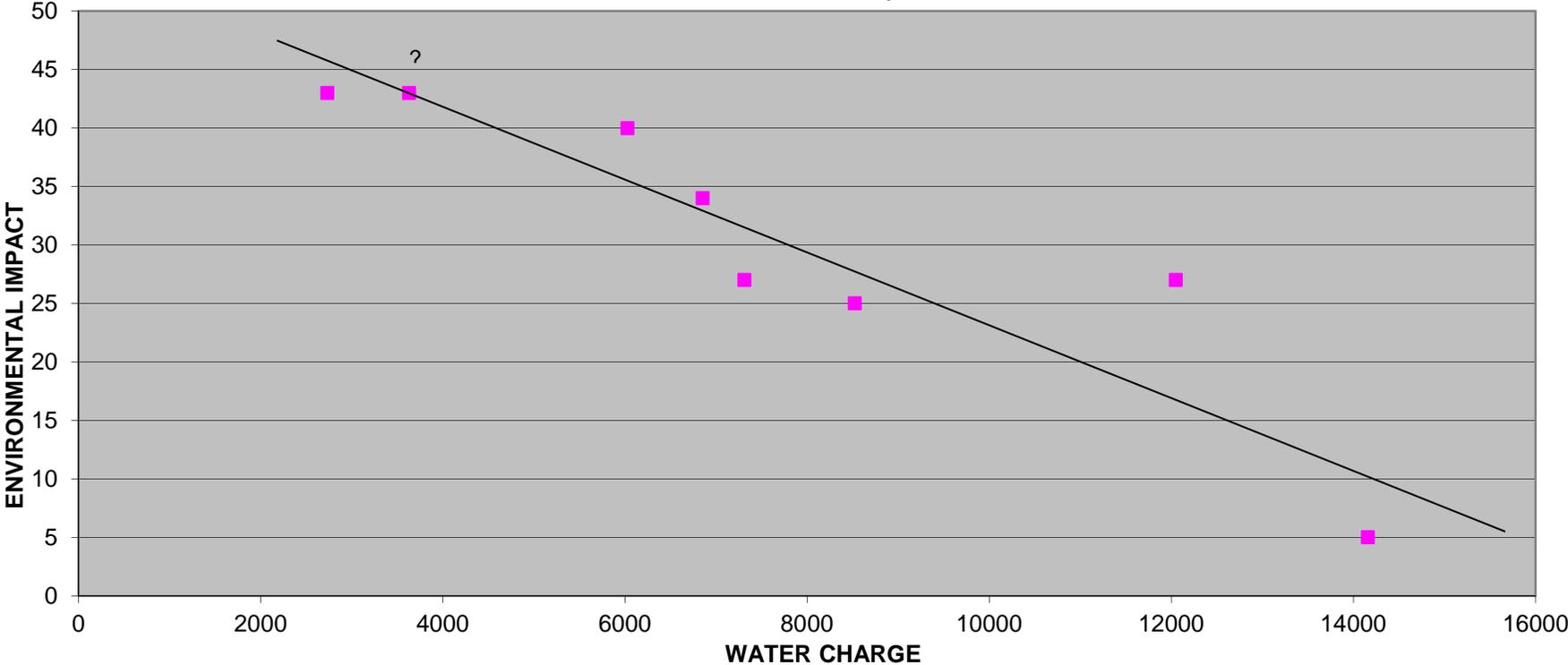
Currently the water pricing process has resulted in the valleys which do the most environmental damage having the cheapest water, as clearly demonstrated in the following Figures **4 and 5**.

It is notable that the Peel Valley, which has the lowest impact on the environment, has the highest effective price.

**Figure 4 - ENVIRONMENTAL IMPACT - REDUCTION IN LONG TERM AVERAGE END OF STREAM FLOW DUE TO WATER EXTRACTION**



**Figure 5 - WATER CHARGE VERSES ENVIRONMENTAL IMPACT (REDUCTION IN END OF STREAM FLOW)**





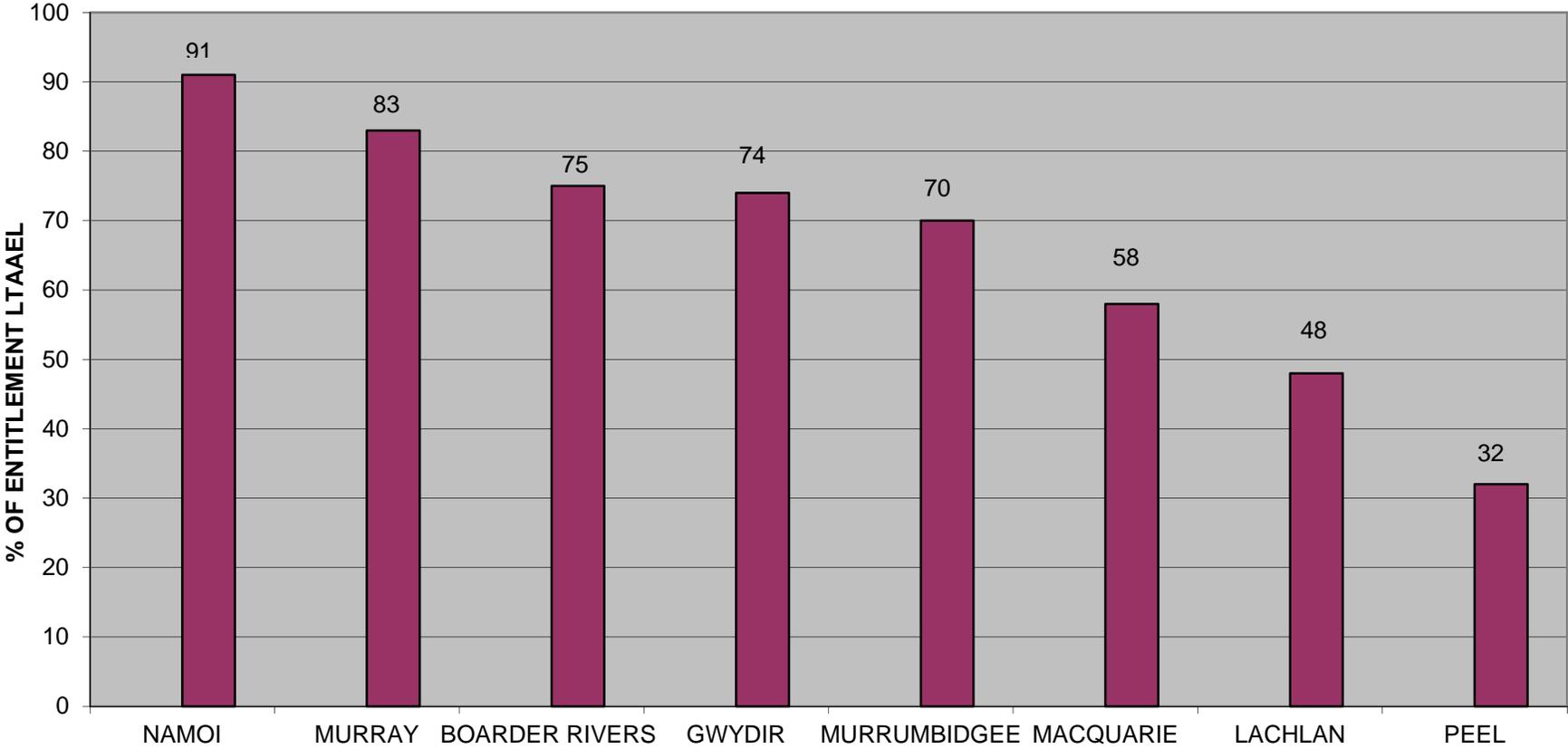
### 3.3 Water Sharing Plans

The WSP for the Peel Regulated System will limit active use of the General Security Users in the Peel to 20% of General Security entitlement. Which means on average something less than 6,100 ML and decreasing over time will be all that State Water can levy a usage charge upon, reducing State Water's revenue and no doubt further impacting on the viability of the Peel Valleys General Security water users.

Each Valley's ability to use entitlement due to restrictions by the water Sharing Plans is demonstrated in Figure 6.

The General Security water users in the Peel Valley are even worse off than that depicted in Figure 6 as the General Security Access will be limited to a long term average of 20%. This situation becomes more complicated if a valley breaches the extraction limit, as the AWD will be wound back by the NSW Office of Water, so that water sharing compliance is met. For Valleys such as the Macquarie, Lachlan and Peel, whose water sharing plans allow quite low access to entitlement, the cuts in the AWD will be significant at 0.4 to 0.7 per unit share to achieve compliance. How will IPART address this issue?

**Figure 6 - WSP RESTRICTIONS - ABILITY TO USE ENTITLEMENT - WSP LTAAEL AS A % OF GS & HS ENTITLEMENT**



#### **4 Rejection of options that are listed in the Discussion Paper**

The options for cost recovery and government subsidy in the Peel Valley in the Discussion paper are:

- Option 1 – freeze current Peel Valley prices with the remainder of the costs covered by an explicit community service order (CSO)
- Option 2 – progressively increasing the average Peel Valley bill by 5% per annum in real terms with the remainder of the costs covered by a CSO
- Option 3 – targeting lower bound pricing with the remainder of the costs covered by an explicit CSO

None of the options for the Peel Valley that are put forward by IPART are acceptable, because we do not believe that either upper bound pricing or lower bound pricing are appropriate for a State Government owned monopoly.

**Upper bound pricing** is defined as “ the level at which, to avoid monopoly rents, a water business should not recover more than the operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes (TERs), provision for the cost of asset consumption and cost of capital, the latter being calculated using a weighted average cost of capital (WACC).

**Lower bound pricing** is defined as “ the level at which to be viable, a water business should recover, at least, the operational, maintenance and administrative costs, externalities, taxes or TERs (not including income tax), the interest cost on debt, dividends (if any) and make provision for future asset refurbishment/replacement. Dividends should be set at a level that reflects commercial realities and stipulates a competitive market outcome”.

These pricing mechanisms are simply not relevant for a State owned monopoly.

Every business would like their profitability to be determined by either of these pricing mechanisms, however, they are not applicable to businesses which grow something, make something, and contribute substantially to the economy - by nailing two pieces of wood together and taking a business risk in doing so. Why is it that there is an ever increasing portion of the community who produce nothing, grow nothing, make nothing, take no risk, but expect to be rewarded handsomely by either upper or lower bound pricing mechanisms?

## 5 Proposal of alternative options that are more appropriate for the Peel Valley

In general terms, the Peel Valley is in favour of freezing the current cost share ratios, and maintaining the status quo.

In terms of future pricing for the Peel Valley, given that we have suffered substantially financially over the years, it would be appropriate for the Government of NSW to declare a permanent Community Service Obligation (CSO) so that the Peel Valley pays the NSW weighted average water charges detailed previously, and listed below:

General Security Entitlement charge	-	\$4.30 per ML
High Security entitlement Charge	-	\$6.03 per ML
Usage Charge	-	\$7.91 per ML

The value of the proposed Community service Order is in the order of 1% of the estimated water user contribution for the 2012/13 water year. This is well within the accuracy of the projected water use and projected revenue, which is based on the inherent inaccuracies of using the 20 year rolling average of use to determine revenue.

IPART needs to clearly understand that the Peel Water Sharing Plan which took effect from 1<sup>st</sup> July 2010 has restricted irrigators' access to general security regulated surface water by 80% - (from 31,000ML to 6,100ML). The result is that irrigators can only access a maximum of on average 20% of their total entitlement, and IPART must therefore be aware that fixed charges on 80% of the total entitlement in the Peel Valley apply to entitlement that can never on average be used.

Part of the problem for the Peel Valley is that any price increase that is based on a percentage increase adversely affects us, because the Peel Valley is already suffering excessive charges. Any percentage based increase is disproportionately excessive in the Peel Valley because it is calculated on a high starting figure.

IPART will be aware from submissions to previous IPART hearings that the two main outputs from irrigated farming in the Peel Valley are lucerne hay and dairy products – (predominantly milk). There is a limit to the price that a purchaser will pay for lucerne hay, and milk prices are set by the milk factory - therefore the irrigation farmer cannot pass on the cost increases, and as a result irrigated farming becomes progressively less sustainable. In about the last ten years, the number of dairies operating in the Peel Valley has at least halved and the milk factory in Tamworth has closed. At the rate that dairy farms have ceased operating, there will come a time where it is uneconomical for the milk processor to keep transporting diminishing quantities of milk to either Toowoomba or Newcastle, and the whole dairy industry in the district will be priced out of business. Exactly the same scenario applies to lucerne hay production – with fewer and fewer producers bearing an increasing share of the cost of irrigation, it is only a question of time before the whole irrigation industry is forced to close down due to the excessive prices charged for water in the Peel Valley.

IPART already knows that it is not just the irrigators that are affected by the consequences of the discriminatory pricing policies that affect the Peel Valley – there are many businesses in town that rely heavily on the irrigation industry, and many of them have joined our Association to support our case. In addition, many businesses with high water usage (such as the 3 abattoirs in Tamworth) are also under threat from the excessive High Security water charges that are imposed on Tamworth Regional Council by IPART. Those businesses, their employees and families, the on-farm employees and their families - and all of the other businesses with whom all of those people transact their business affairs – are all under threat from IPART's ongoing discriminatory pricing policy.

Appendix 2 - Summary of previous presentation by the Peel Valley Water Users Association to the Public Hearing held by IPART

*(Please see following pages)*

# *Peel Valley Water Users Association Inc*

PO Box 952, Tamworth NSW 2340

## **Presentation to IPART – Tuesday 3<sup>rd</sup> July 2012**

**Ildu Monticone – President, Peel Valley Water Users Association Inc**

My presentation is in two parts – first, some general comments on the water pricing in NSW and IPART's role in the process, and secondly, some comments on the specific issues that are raised in the Discussion Paper regarding the Peel Valley

### First – some general comments –

4. If you look at the figures, the Peel Valley pays about twice the adjoining Namoi Valley, three times the adjoining Hunter Valley, and TEN TIMES the Murrumbidgee. Any reasonable person would agree that something is not right with this predicament. We need to go back to basics to correct some dreadful inequities. Any accounting process that delivers these atrocious outcomes is fundamentally flawed, and needs to be ditched. That means that IPART, or the ACCC, or some other independent consultant should review the process that delivers these bad outcomes. A State owned monopoly that allows this discriminatory pricing policy to continue, and which continues to impact the Peel Valley, should be brought to account by an appropriate regulator.
5. By way of comparison, when a motor vehicle is registered in Bathurst or Tumut or Glen Innes, the same NSW State Government registration fees apply. Why is it then, that the Peel Valley pays twice, or three times, or even TEN times the fee for the same amount of water that other valleys pay? This grossly discriminatory pricing policy against the Peel Valley surely must attract the attention of the ACCC, even if IPART continues to turn a blind eye to the problem.
6. Part of the root cause of the problem is the fact that State Water and NSW Office of Water are split into two separate entities – both of which separately levy charges on general security regulated water users. This is a simply absurd situation which should never have existed, and should not be allowed to continue. The duplication of costs in administration, accounting, HR, office rental, printing and stationery, and every other business function must be horrendous in having two separate Government entities charging users for the same commodity.
7. The Peel Valley has argued in previous submissions to IPART, that the retrospective introduction of “cost recovery” and “return on investment” charges on public water assets that have already been fully funded out of taxpayer funds is morally wrong. There was no consideration of “cost recovery” or “return on investment” charges when the dams in NSW were completed and fully paid for by the NSW taxpayers 40 or 50 years ago, and the retrospective introduction of these spurious charges is no more than a “cash grab” by Government. The fact that the Peel Valley now suffers under a discriminatory pricing regime makes the situation extremely frustrating.
8. Part of the problem for the Peel Valley is that any price increase that is based on a percentage increase adversely affects us, because the Peel Valley is already suffering excessive charges, so that the amount of any percentage based increase is disproportionately excessive in the Peel Valley because it is calculated on a high starting figure.

9. The number layers of bureaucracy affecting all irrigators is simply ridiculous –
- We have to deal with State Water
  - We have to deal with NSW Office of Water
  - The irrigation industry has to comply with the NSW Government’s budgetary income requirements
  - We have to deal with IPART
  - We now also have to deal with the ACCC
  - We have to comply with the National Water Initiative
  - The Water Administration Ministerial Corporation gets involved
  - We have to comply with the Water Charge Infrastructure Rules (2010)
  - We have to comply with the Water Management Act 2000
  - We have to comply with the Water Act 2007
  - We have to meet the needs of the Council of Australian Governments (COAG)
  - Many of us also have to deal with the Murray-Darling Basin Authority

Put simply, we are irrigated farming producers - we produce food, and we produce other inputs to the human food chain, and we generate wealth and we create employment from our efforts and our investment – and WE ARE OVER-REGULATED ON IRRIGATION MATTERS! WE DO NOT NEED THESE EVER-INCREASING MULTIPLE LAYERS OF BUREAUCRACY! PARTICULARLY WHEN THEY CONTINUE TO DELIVER BAD OUTCOMES!

6 It does not matter how either State Water, or the NSW Office of Water calculate their price increases, or how they justify their discriminatory pricing – they are State owned monopolies, and their discriminatory pricing policies should be monitored and regulated by the INDEPENDENT PRICING AND REGULATORY TRIBUNAL. The fact is, that the outcome of the process to date has been grossly discriminatory against the Peel Valley, and if the outcome is wrong, then that means that the process is wrong - and the process should be completely transformed and the current inequities should be rectified.

#### Comments specific to the Peel Valley

1. Based on the previous comments, we do not accept the premise of questions 23 to 26 on page 77 of the Discussion Paper. We believe that by responding to the questions in the manner in which they have been phrased, we would be incriminated as an accomplice in the ongoing perpetration of the unjust and discriminatory pricing policies that have been applied to the Peel Valley in previous IPART rounds.
2. We therefore propose the following alternative options for the consideration of IPART –
  - Option 1 – Until such time as they are merged by an agreed date, and on an ongoing basis thereafter, State Water and NSW Office of Water should both continue to calculate their total costs on a valley by valley basis, and then aggregate the costs for each of the individual valleys into a NSW State total cost figure. This total cost figure for the whole of NSW should then be apportioned over all of the valleys in NSW on a more equitable basis than the current disproportionate range of figures.
  - Option 2 – State Water and NSW Office of Water should each be compelled by IPART to develop an alternative and more transparent charging system which does not result in the same discriminatory pricing outcomes as the current system produces.

- Option 3 – The least acceptable option is the same as IPART’s “OPTION 1” on page 71 – “freeze current Peel Valley prices with the remainder of costs covered by an explicit Community Service Obligation”

3 IPART needs to clearly understand that the Peel Water Sharing Plan which took effect from 1<sup>st</sup> July 2010 has restricted irrigators’ access to general security regulated surface water by 80% - (from 31,000ML to 6,100ML). The result is that irrigators can only access a maximum of 20% of their total entitlement, and IPART MUST THEREFORE BE AWARE THAT FIXED CHARGES ON 80% OF THE TOTAL ENTITLEMENT IN THE PEEL VALLEY APPLY TO ENTITLEMENT THAT CAN NEVER BE USED.