

MURRAY VALLEY PRIVATE DIVERTERS (INC)

PUBLIC SUBMISSION

IPART – Draft Determination Prices for Rural Bulk Water Services Water Administration Management Charges (WAMC) 16th April 2021

Murray Valley Private Diverters (MVPD) represents irrigation interests for individual private pumpers, trusts and other smaller water delivery organisations in the Southern Riverina of NSW.

The National Water Initiative proposed the concept of full cost recovery and while this was not supported by a range of irrigation stakeholders, it remains the preferred model for Governments.

MVPD reinstates its previous concerns to IPART reviews that the concept of Full Cost Recovery should only be applied on the following principles:

Full Cost Recovery:

- Full cost recovery must be fully transparent to prevent cost shifting within Government(s)
- Requires clearer boundaries about scale/types of charges that can be applied to irrigators.
- Full cost recovery while subject to fee /pricing controls through the IPART process, should not be an open-ended concept.
- Customers should have increased and genuine capacity to have effective and meaningful consultation in strategic planning of investments and/or quality of service delivered, to seek efficiencies and levels of service comparable to the private sector
- Full Cost recovery should have processes in place that allow customer involvement in cost effective methodologies (infrastructure and services), we encourage IPART to consider establishment of such processes within Water NSW senior levels of management.
- Cost sharing should be on an equitable basis for services provided that also deliver for other beneficiaries (eg tourism/recreation)
- Customers should not bear consequences of policy or infrastructure that has not undergone due diligence, resulting in additional costs accrued by Government leading to budgetary failures
- Federal funds provided to the NSW Government for implementation of major policy reforms, are *'fully segregated, fully transparent and publicly accountable throughout the life*

of programs, to ensure revenue received is not absorbed into general government revenue leading to customers bearing pricing impacts through incremental IPART determinations

- There is inadequate transparency on what constitutes policy related charges and what are operational charges.
- There no effective customer involvement in finding efficient policy options or alternative methodologies.

MVPD submission is two parts:

- 1) Bulk Water Charges (Water NSW)
- 2) WAMC – Water Administration Management Charges

PART 1: BULK WATER CHARGES (WATER NSW)

IPART Draft determination notes the obligation to comply with the Commonwealth Government's *Water Charge Rules 2010 (WCR)*.² The WCR require IPART to set prices that fully recover Water NSW's efficient costs.

- MVPD encourages greater focus by IPART on the term 'efficient costs'.
- MVPD customers do not have sufficient evidence that NSW's Government costs are achieved via maximum efficiencies or appropriate levels of planning

Bulk water charges

- Customers in the NSW Murray Valley continue to support a mix of variable and fixed charges that are reflective of supply of service (water) and capacity to pay (irrigators)
 - *Recommendation: Retention of 60/40 fixed /variable ratio for all charges (Bulk, WAMCI/Murray Darling Basin Authority (MDBA))*
- MVPD members are also concerned that charging ratios between NSW Murray High Security and General Security entitlements require review. NSW Government policy is now conserving water to provide increased security for High Security (from one year to two years). This is causing loss of equity and yield value for General Security entitlements.
 - *Recommendation: Review charging ratios between NSW Murray High Security and General Security to reflect policy changes*
- NSW Government policy positions on Northern Basin (Darling system) water management have/and are continuing to shift the onus of meeting South Australia's minimum entitlement flow of 1850GL on to NSW Murray General Security entitlement holders.

- *Recommendation: IPART needs to factor in policy implications and reflect pricing considerations accordingly: eg Bulk Water costs that should recognise changed extraction levels in the Northern Basin that affect flows from the Darling into Menindee Lakes*
- NSW Government is not requiring Northern Basin Darling River system Water Sharing Plans (surface and/or floodplain harvesting plans) to provide 'connectivity' flows to the Murray. End of system flow requirements are only required to Wilcannia.
 - *Recommendation: IPART reflect pricing concerns to NSW Government and how costings are being increasingly borne by NSW Murray where capacity to pay is being negatively impacted by Government policy decisions, including decisions on Northern Basin Water Sharing Plans*

Murray-Darling Basin Authority (MDBA) and Barwon-Dumaresq Border Rivers Commission (BRC) charges

In July 2008, NSW Office of Water provided advice to IPART that the Intergovernmental Agreement on Murray Darling Basin Reforms – included a principle of no net cost to the states of implementing the Commonwealth Water Act 2007

The Federal Government provides funds to the States, but MVPD has raised concerns about the lack of transparency related to NSW Government's receipt of Commonwealth funds to implement the Water Act 2007. It is not clear what money was provided, how it was spent, whether funds remain and whether there has been a substantial funding shortfall to implement a more complicated Basin Plan process than originally envisaged.

It is widely assumed that the original cost estimates for preparation and implementation of the Basin Plan have been exceeded but it is not transparent, how and where original or additional funding received or costs, have been attributed.

The MDBA has a staffing contingent of approximately 300 and a significant proportion of these are not involved in river operations. However it is not possible to clearly identify what components of the MDBA costs are directly related to river and dam operations and what is more applicable to policy and planning.

Without full transparency, the full cost recovery principle may be allocating significant price impacts to irrigators outside core river operations.

IPART draft notes that MDBA charges will generally increase by up to about 12% (plus inflation), while BRC charges decrease slightly. It is not clear why BRC costs are reducing.

- MDBA charges remain non-transparent to the extent that there is no clear delineation between river operations and MDBA policy design, management and implementation

This includes:

- Transformation of licenses to meet ACCC rules
- Public consultation on policy related matters
- Additional environmental gauging sites
- Preparation and development of the Sustainable Diversion Adjustment Mechanism (project development/consultation)
- NSW Pre Requisite Policy measures/operational river changes
- The MDBA developed a Basin Plan that was not equitably applied across the entire Basin. The Plan also has major errors and modelling inaccuracies that is now recognised.
- MDBA is not held accountable for its mistakes and/or lack of willingness to accept revised information, publicly and readily available
- MDBA efficiencies remain at odds with customer and community expectations
- MDBA consultation methods are costly and do not actually deliver meaningful changes even when information provided, can lead to a more effective Basin Plan
- MDBA has overseen and participated in policies relating to NSW Murray Valley General Security entitlements that have decreased reliability which is contrary to the property rights principles enshrined in the National Water Initiative and recognised in the Water Management Act 2007
- MDBA's Basin Plan has led to significant pricing impositions and reliability entitlement loss, (General Security – Southern Basin) as a result of Northern Basin Floodplain Harvesting. Irrigators (Northern Basin) operating outside legal requirements, have not been licensed and therefore non-contributors of payment of fees. Fees are socialised to the South.
- MDBA provide services and oversight to the Northern Basin but have ignored elements of 'take' in the Northern Basin Water Sharing Plans (surface and proposed floodplain harvesting plans) that do not ensure levels of connectivity with the Murray River and/or continue to operate outside legal requirements
- There is no transparency on MDBA costs and/or those passed onto or incurred by the NSW Government in relation to meeting the requirements under the Federal Water Act 2007 of:
 - Water Sharing Plans – accreditation
 - Water Resource Plans – preparation and accreditation
 - Note: NSW Government received Federal Funding to implement the Basin Plan.

MDBA : Allocating the costs of managing salinity

IPART draft determination Page 51 states: After consulting with DPIE it confirmed that irrigation itself is by far the dominant driver of salinity in the Murray Darling Basin. However MVPD argues this is not a valid argument and significant salinity investments, land management and new modelling, has significantly changed predicted salinity risks.

IPART intends to apply 'user pays principle' for managing salinity. The question for IPART to consider is, how it will apply 'impactor pays' policy to water entitlement customers when decisions are not actually related to customer impacts.

- Salt interception schemes have previously been paid for by NSW Murray Valley customers.
- Currently MDBA policy has ceased operation of the majority of salt interception works.
- MDBA's Murray Darling Basin Plan has a high probability of recreating salt mobilisation through application of environmental flows in major sites such as Chowilla (a major beneficiary of environmental water) – under IPART policy position, this of 'impactor pays' ,

1.3

IPART draft determinations highlights the following for High Security entitlements:

- For a typical high security customer with 500ML of entitlements and 100% usage, our prices would result in an increase in their annual bulk water bill for 2021-22 of between:
- 7% and 41% in MDB valleys (compared to 39% and 61% under Water NSW's proposal)

IPART draft determinations highlights the following for General Security entitlements:

- For a typical general security customer with 500ML of entitlements and 60% usage, our prices would result in an increase in their annual bulk water bill for 2021-22 of between:
- 7% and 76% in MDB valleys (compared to 32% and 105% under Water NSW's proposal)

Recommendation:

- 1) *IPART has not provided transparent justification why General Security is incurring a higher percentage charge*
- 2) *Why the statement of market value of allocations and entitlements traded on the water market over the 2019-20 period is valid*

1.4 Water NSW's efficient costs are higher, but less than it proposed

- *MVPD remains concerned that Water NSW does not have a customer process that allows interaction to increase efficiencies for investments and/or operations – largely Customer Advisory Committees provide advice to customers, but there is no mechanism to have dialogue with Water NSW senior management and/or DPIE who make policy*
- *Water NSW Customer Advisory Committees provide a positive mechanism for interaction but this does not mean that there is customer capacity to influence efficiencies*

1.5 Government contribution is less than under Water NSW's proposal

IPART has determined the NSW Government's share of (community benefit) costs is \$126.8 million, or 27.5% of the total efficient costs.

Recommendation: MVPD does not support current cost shares that Governments incur on behalf of the broader community. The weighting is disproportionately higher to irrigators, which raises high levels of inequity

1.6 Water NSW's proposed costs for metering reform are still at a preliminary stage of development

IPART determination noted "In November 2020, Water NSW submitted a supplementary proposal to include additional metering costs and introduce a new suite of metering charges to implement the NSW Government's metering reform policy. Water NSW's proposal applies to both the WAMC and Water NSW rural bulk water reviews"

Southern Valleys Metering Project

The Southern Basin Metering Project was put forward by the NSW Government as an early phase Sustainable Diversion Adjustment Mechanism Project (SDL) under the Murray Darling Basin Plan.

Budgetary failures associated with the original project design were transferred to irrigators through increases in Water NSW submission to IPART (2016/17). This transfer of risk and failure by a Government department onto the private sector through increase in pricing should be unacceptable. In previous IPART determination (2016/17), budgetary failure by Water NSW was passed on to customers. This issue was raised during a formal hearing, but not addressed.

In short, not only was original project poorly designed and the original budget inaccurate, there were numerous concerns with the roll out of the contract. Now the situation is to be repeated.

IPART should investigate the merits of proposed charges by Water NSW with the Southern Basin Metering projects and identify the appropriateness of irrigators paying for the budgetary failures of a Government department.

- Original program imposed mandatory Government owned new telemetry meters on customers.
- Meters were installed underground against the wishes of the customers, making compliance costs/checks expensive and requiring section of channels to be dug up with an excavator.

- By 2021, these meters (now deemed not compliant with NSW Government policies, due to one factor only, not a specific data logger.)
- In 2021 – Water NSW is proposing to further amend Southern Basin Metering requirements.
 - There should be no requirements to have new meters because of lack of data loggers. As fully telemetered meters, all data is retrievable remotely and accurately
 - NSW Southern Basin is also being treated differently from Northern Basin requirements where levels of standard are still to be of a lower standard than the Southern Basin. Despite differences in standards, NSW Southern Basin standards have to be even higher and thus telemetry system installed and owned by Government is now deemed inadequate.
 - There is no justifiable reason why a fully telemetered meter requires a further additional data logger
- When Water NSW advised NSW Murray customers that their existing metres were no longer meeting standards (less than 10 years) – most customers requested that meters installed in the Pilot Program remained in Government ownership
 - NSW Government has now stated that customers can convert back to private ownership but Water NSW and DPIE have refused to rectify customers requests that the meters be installed at surface levels (not below ground).
 - If the situation of underground meters is not rectified by the NSW Government (DPIE) or Water NSW, the official response is that if customers wish to convert back to private ownership, it is the customers that will pay or incur costs to rectify the Government's original mistake in relocating meters above ground.
 - Water NSW response 'THAT IT IS THE CUSTOMER CHOICE' to convert meters back to private ownership is not acceptable
- Issue:
 - a. NSW Metering standards are inconsistently applied between the Northern and Southern Basin. Some meters can remain in situ/and operational until they break down. When questioning Water NSW and DPIE. Meters can be repaired indefinitely.
 - b. Southern Basin customers in the Southern Basin Metering Program are now severely disadvantaged by:
 - i. Meters installed reading higher than original private meters in many cases. Water was classed then as Government owned water and effectively handed back to the Federal Government as 'water recovered' under the Basin Plan. Customers were not compensated for water acquired by Government under the Southern Basin Metering Program

Recommendation:

- *IPART raise with the NSW Government the appropriateness of the 'user pay principle' being applied when Government Departments have not done due diligence on projects*
- *Contractual errors or invalid policy changes should not be imposed on NSW Murray Valley General Security customers.*
- *Requirements for new technology for Data Logger to be installed on existing telemetered meters cannot be justified. Information can already be obtained in current telemetered systems under Government owned Southern Basin Meters installed under the Southern Basin Metering program*
- *MVPD states there is no justification for Water NSW applying meter fee increases*
- *MVPD argues that Water NSW 'opt out option' is both unfair and is reflective of avoidance measures by Water NSW original mistakes when locating meters below ground level.*

Miscellaneous Charges :

Environmental Gauging Stations/Other Environmental service charges

Full Cost recovery principle is not supported by irrigators as there are many other beneficiaries of a regulated Murray River.

In particular benefits accrue to towns , tourism and the environment.

Without river regulation, many environments in the Murray system would have significantly more periods of low sequence flows or extended periods of flow reminiscent of drought. The costs of providing this service however, falls largely to irrigators but benefits spread across broad cross section of communities.

Policies associated with the Basin Plan and within NSW itself (eg DPIE -W and/or Office of Environment and Heritage) now mean that irrigators have less productive water, higher associated costs and an increasing expectation of Governments to cost shift more policies on the environment to irrigators.

This is not supported by MVPD members.

Provisions for the environment occur in planned environmental water (ie Water Sharing Plans), Government held entitlements (Commonwealth and NSW) and the environment also benefits from baseline flows and provision of irrigation water.

Monitoring and gauging of environmental flows or benefits should not be a cost transferred to irrigators as largely many of the decisions on the environment, stem from Government policy.

Recommendation:

- *Murray Valley irrigators are not subject to cost increases associated with environmental gauging stations,*
- *Government should not incur costs associated with development and implementation of politically based policy on the environment*

Water NSW Regulated Asset Base

MVPD is concerned that other infrastructure assets may be included that may not be described as 'traditional regulated assets', ie any other infrastructure associated with the Murray Darling Basin Plan (SDL projects).

MVPD members do not support continual cost shifting of broader community assets and policy onto a shrinking irrigation sector. This is unsustainable!

Such financial cost risks are increased further by any current or future Government policy that requires a 'return on capital' for Water NSW regulated assets.

Transparency on assets:

Irrigation stakeholders have for some time requested access to a full Water NSW and MDBA asset list , including full pricing history on the capital assets.

It was former practice for a list of assets and cost shares to be made available at stakeholder discussions but this practice has been stopped.

MVPD argues that such information should be readily accessible. It is important that stakeholders have full transparency about core assets, likely lifespans, maintenance scenarios and future replacement scenarios.

List of questions for stakeholder feedback

Question 1 MDBA charges (80:20 fixed to variable) or (40:60) with a volatility allowance

Response: MVPD prefer a reduction in MDBA charges linked to 40:60 volatility allowance

Questions 1 - 8

- Proposed changes to Southern Basin Government owned meters (data logger upgrades) is not affordable or required, telemetry should be adequate and had data reading capacity
- No , Water NSW proposals will not result in consolidation of entitlements as properties layouts for direct river pumpers would not enable this to occur
- No, in the Southern Basin it will not result in downsizing their works to avoid the 100m meter threshold . Region already meets National Water Initiative metering standards

- Significant pricing and compliance risks to customer if they opt out of Southern Basin Pilot Project – Government owned meters were install underground, and Water NSW is not prepared to rectify mistake and ensure meters are above ground (required for compliance checks)
 - Option for other providers – Southern Basin underground meters must be re installed above ground at full cost to Water NSW. Therefore and only then can customers have choice in providers and/or options (stay with Government meters or opt out and seek alternative providers)
 - MVPD is concerned about inequitable application of metering standards between the Northern Basin and Southern Basin.
 - IPART needs to hold further and direct discussions with MVPD before this submission can make comment on regulated pricing
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PART 2: WATER ADMINISTRATION MANAGEMENT CHARGES (WAMC)

IPART Draft determination notes the following:

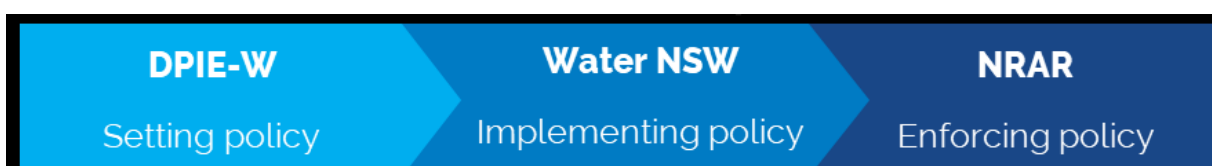
- WAMC is the entity responsible for water resource management in NSW. This includes, for example, developing plans for sharing water between users and the environment, administering water licences and allocations, and ensuring compliance with water laws and licences.
- The prices WAMC charges water users aim to recover a share of the costs incurred in providing its water management functions and monopoly services. The remaining share of these costs is funded by the NSW Government on behalf of the community. The prices include:
 - **Water management prices**, which aim to recover water users' share of the costs of WAMC's water planning, regulation, licensing, compliance, enforcement, customer service and other activities. They also aim to recover users' share of the funds NSW contributes to the cross-jurisdictional water management agencies, the Murray-Darling Basin Authority (MDBA) and the Border Rivers Commission (BRC).
 - **Consent transaction charges**, which are fee-for-service charges set to recover the administrative costs of issuing or amending water access licences, water allocation assignments and works approvals.

- **Miscellaneous charges**, including metering service charges, water take assessment charges, and testing and verification charges. These fee-for-service charges are set to recover the cost of maintaining and reading water meters, and of testing or verifying the accuracy of meters.

IPART also state: Under the new water management arrangements, WAMC's functions are delivered by two NSW Government agencies and a utility

- 1) the Department of Planning, Industry and Environment - Water (DPIE-W),
- 2) the Natural Resources Access Regulator (NRAR), and Water NSW.

IPART also note the following:



Full Cost Recovery:

Murray Valley Private Diverters (MVPD) does not support the following:

- An open-ended full cost recovery setting being applied to non-urban water customers by WAMC charges
- Non-urban water customers can effectively be charged for political policy that is subject to political machinations and has limitless boundaries
- There is limited capacity for customers to truly assess equity and relevance for charges incurred (under IPART determination)
- Full transparency is required for application of full cost recovery and or policy or operational charges
- DPIE-W policy failures are being borne by NSW Murray Valley customers (noting higher proportion on General Security)
- DPIE-W policy that is reducing reliability of NSW Murray General Security customers against the principles of the National Water Initiative and property rights conditions noted in the Water Act 2007
- The application of WAMC charges to NSW Murray Valley entitlement holders where non-compliance, non-licenses levels of take, (Northern basin Floodplain Harvesting) have and continue to bear no charges for their levels of take and policy related matters that relate to that form of 'take'

1.2.2 MDBA and BRC charges set separately at full cost recovery

MVPD refers IPART to comments on MDBA expressed in the Water NSW Bulk Water Pricing.

➤ Please refer to (Part 1) of this submission – [see concerns on MDBA charges](#)

Additional comment:

- MVPD acknowledges the River Murray Agreement and role of the Murray River in application of MDBA fees and charges however:
 - MDBA charges are still being disproportionately applied to NSW Murray Valley customers
 - NSW Government has reduced its contributions of MDBA pass through costs and then applied their share to NSW Murray Valley non urban water entitlement holders.

Recommendation:

- *NSW Murrumbidgee customers should pay additional share of MDBA charges to ensure levels of equity. The Murray River and Murrumbidgee both have shared infrastructure resources downstream, both are required to meet a proportion of South Australia's minimum entitlement flow of 1850GL , both are subject to Water Act 2007 Market and Trade conditions , and therefore this has implication for shared policy costs.*
- *Arguments that NSW controls the Murrumbidgee River and the Murray River is subject to a tri-state agreement are also not valid when MDBA fees under WAMC are applied.*
- *There is insufficient transparency around DPIE-W charges for both valleys*
- *Under a tri-state Agreement, South Australia contributions are non- transparent and Governments continue to pay on behalf of water users*
- *South Australians water management policy (metering, usage and reporting) also differs from NSW Murray. South Australian water users can report usage at the end of their season (currently under review but will still not be on 'real time basis)*
- *South Australian water users can make preferential decisions for 'trade' and capitalise on 'end of water season' opportunities.*
- *Differences between policy standards in both the Northern Basin and /or South Australia can create adverse impacts on those who are subject to more stringent policies (eg Southern Basin General Security)*

1.5 The user share of WAMC's efficient costs has increased

IPART determination states: In sharing WAMC's efficient costs between water users and the NSW Government, we have used the updated cost share ratios determined in our 2019 review of rural water cost shares.^{iv} The user share is 78.4%, which represents a contribution of \$218.3 million over the 4-year 2021 determination period.

MVPD does not support the current ratios between water users and the NSW Government:

- NSW Murray Valley customers are having an inequitable share applied as 'user pays', cost ratio formulas are effectively applying costs on behalf of the broader community to Murray Valley non urban water entitlement holders
- Current cost share ratios should be reviewed

1.6 Because WAMC's prices do not recover full costs, NSW Government will need to contribute \$134 million

2.5.2 We have factored Nimmie-Caira costs into prices for WAMC's monopoly services

IPART draft determination notes the following in relation to the Sustainable Diversion Limits Adjustment Mechanism.

More broadly, MVPD wishes to make IPART aware that under the Murray Darling Basin Plan's Sustainable Diversion Adjustment Mechanism, the NSW Government has determined the following;

- NSW Murray is to wear the lions share of the projects listed as Sustainable Diversion Adjustment Mechanism Projects (SDL Projects)
- SDL projects help NSW deliver its share of the downstream target to South Australia of 971GL. NSW share of this is 458GL but the majority of impacts of achieving and/or delivering these projects has been apportioned to NSW Murray with a smaller negative proportion applying to NSW Lower Darling.
- Both the NSW Lower Darling project (Menindee lakes) and the balance of 'real' water recovery offset SDL projects, are to negatively affect NSW Murray Valley customers

Recommendation:

- IPART reviews DPIE -W policies to ensure the following:

- NSW Murray Valley customers do not incur disproportionately higher fees/charges as a result of the inequitable application through SDL projects of achieving NSW share of the 971GL downstream target to SA (ie 458GL)
- That NSW Murray Valley customers do not incur higher management, consultation and/or infrastructure costs associated with the above decision

Unregulated River charges:

- MVPD members with unregulated licenses are concerned about the proposed fee increases for their entitlements
- MVPD is aware that there are circumstances in which an unregulated license holder, is prevented from obtaining access to their water entitlements , a decision resulting from policy to block supply access. This means a customer can have an asset on which is paying high, and now increasing charges on, but has no capacity to either trade or use the entitlement

Recommendation:

- Investigate circumstances in how such events can occur, and why charging is increasing on a service that is denied by DPIE-W

NRAR: enforcing policy

- MVPD rejects the current socialisation of NRAR costs onto all entitlement holders in the Murray Darling Basin
- NSW Murray Valley has been the highest regulated system, full metering, monitoring and compliance levels have been high compared to the Northern Basin
- The Mathews Inquiry recommendations, resulting in the establishment of NRAR has now disproportionately applied compliance costs in the Northern Basin to water users in the Southern Basin
- Note: compliance costs for Southern Basin users have been paid in various forms since fully metering was required
- MVPD supports clear separation of NRAR activities based services in the Northern and Southern Basin
- MVPD does not support NRAR charges being applied to license holders in the NSW Murray Valley for compliance services being implemented in the Northern Basin Floodplain Harvesting Program