

# Peel Valley Water Users Association Inc

*The only organisation that represents the Irrigation Industry in the Peel Valley*

PO Box 952, Tamworth NSW 2340

[peelvalleywaterusers@bigpond.com](mailto:peelvalleywaterusers@bigpond.com)

## 2014 REVIEW OF THE COMMONWEALTH WATER ACT 2007

We are grateful for the opportunity to contribute to the review of the Commonwealth *Water Act 2007*, and our comments focus on two separate elements within the Act:

1. The complete absence of consistency in water charges across the Murray Darling Basin, and
2. The illogical outcomes that are caused by the adoption of “valley based pricing”

Our comments on these two topics are outlined below:

### 1 The absence of consistency in water charges across the Murray Darling Basin

The Australian Competition and Consumer Commission has completed a review of State Water’s water charges for the period 2014-15 to 2016-17, and the table below contains the water usage charges that have been proposed by the ACCC:

Valley	Usage Charge \$ per ML 2016-17
Border	6.43
Gwydir	12.14
Namoi	19.63
Peel	55.13
Lachlan	18.62
Macquarie	14.52
Murray	2.40
Murrumbidgee	3.38
* Barwon	2.00
*Darling	2.00
* = not regulated by the ACCC	

Our comments on the figures contained in the table are:

- (a) The figures clearly demonstrate that there is no consistency whatsoever in the water charging regimes across the Murray Darling Basin.

The charging system is a completely confused mess, and it is inconceivable that the ACCC has allowed this inequitable and discriminatory pricing regime to continue.

If the Commonwealth Government regards the Murray Darling Basin as one entity, surely there should be one consistent charge across the entire Basin. And if the Commonwealth Government is genuinely responsible for managing the Murray Darling Basin, then the NSW State Government should not over-ride the Commonwealth Government in setting the charges that are applicable across the Basin.

- (b) The figures provided by the ACCC do not disclose the fact that the charge of \$55.13 in the Peel Valley only applies while the NSW Government continues to provide a subsidy to the Peel Valley. But the subsidy can be withdrawn at any time - upon a change in Government, or upon a change in a Minister's attitude. The usage charge in the Peel Valley will then increase to \$71.92 per ML in 2014-15, and \$87.02 per ML in 2016-17 (applying the ACCC's proposal of a 10% annual increase in the Peel Valley).

Given the instability of State Governments and State Ministers in NSW recently, it is highly inappropriate that the ACCC should determine a usage charge in the Peel Valley that is dependent on an ongoing subsidy from the NSW State Government.

- (c) What is also not disclosed by the ACCC is the fact that the charges for two major rivers in the Murray Darling Basin – the Darling River and the Barwon River – are not included in State Water's water charges, nor are they included in the ACCC's monitoring of water charges in the Murray Darling Basin. The water usage charge in those two rivers is around \$2.00/ML.

For some obscure reason, even though these two major rivers are wholly within the Murray Darling Basin, they are managed by the NSW Office of Water, and regulated by the Independent Pricing and Regulatory Tribunal.

It is absurd that neither the Darling River nor the Barwon River is considered as part of the Murray Darling Basin. It clearly demonstrates the folly of having two separate NSW Government agencies managing water in NSW, and having two separate regulators monitoring their activities.

- (d) Outside the Murray Darling Basin, State Water also sets charges in other regions such as the North Coast – where the usage charge in 2014-15 could be \$904.22 per ML and the South Coast where the usage charge in 2014-15 could be \$111.82 per ML. Because these areas are outside the Murray Darling Basin, the ACCC does not review these charges, and they will be reviewed by the Independent Pricing and Regulatory Tribunal in approximately 6 months from now.
- (e) Water usage charges in the Murray Darling Basin vary from \$2.00 per ML in the Barwon/Darling to \$55.13 in the Peel Valley (or \$87.02 per ML if the State Government withdraws the existing subsidy).

We believe that this range of prices is unrealistic, and we believe that the prices in the Peel Valley are inequitable, unfair, and discriminatory against the residents and businesses in the Tamworth region, and also the irrigators in the Peel Valley.

It is an atrocity that the ACCC can approve such a diverse range of water usage charges in the one river system. The ACCC claims on their website to “promote competition and fair trading” – but what is the meaning of “promoting competition” and “fair trading” that the ACCC is following?

In our opinion, the charging outcome for the Peel Valley is “perverse” within the meaning of the Water Act as described in Schedule 2, Part 2 Clause 2 (e). We also believe that the architects of the Water Act prohibited the charging of “perverse” prices to prevent the very sort of charges that have been established by State Water and approved by the ACCC.

**The crux of the problem with the inequitable water charges in the Murray Darling Basin is that the Water Act does not define what constitutes “a perverse outcome”.**

**We therefore recommend that a definition of what constitutes a perverse outcome must be included in the revised Act.**

**It is untenable that State Water and the ACCC both continue to adopt a charging system that produces technically illegal outcomes, because they are clearly “perverse” – yet they are able to escape prosecution for an obvious breach of the Act – simply because there is no definition of the vital terminology in the Act.**

## 2 The illogical outcomes that are caused by the adoption of “valley based pricing”

It is not clear to us why “valley based pricing” has been adopted as the basis on which water usage charges are levied in NSW. We have been advised that “valley based pricing” was introduced as part of the National Water Initiative, and brought into legislation through the Commonwealth Water Act 2007.

The outcomes that are produced by “valley based pricing” are illogical and unfair. These flawed outcomes should be examined as part of the review of the Commonwealth Water Act 2007. For example:

- (a) The extractions from the Peel River by Tamworth Regional Council and the irrigators amount to less than 5% of the annual average end of stream flow. That means that 95% of the water in the Peel River flows out of the Peel River into the Namoi River.

As a result of valley based pricing, the customers in the Peel Valley pay the whole charges of operating the valley for a benefit of just 5% of the available water. This is an incongruous outcome, and it needs to be properly re-evaluated.

- (b) Because the Peel Valley releases 95% of its water to other downstream valleys, there should be a discount in the water charges in the Peel Valley. However, the exact opposite applies. The following table shows the actual usage charges for water as it passes from one valley into the next in the Murray Darling Basin system. The charges in the Peel Valley are the highest in the entire Murray Darling Basin.

Originating Valley	Destination Valley	Usage charge in originating valley (\$/ML) in 2016-17
Peel	Namoi	55.13 (or 87.02)
Namoi	Barwon	19.63
Barwon	Darling	2.00
Darling	Murray	2.00
Murray	Ocean	2.49

This table clearly demonstrates the inequitable outcomes that are caused by valley-based pricing. If a pricing policy produces such inequitable outcomes, then the policy is obviously wrong. The review of the Water Act should ensure that valley based pricing is abandoned as a pricing policy, in favour of an alternative policy that produces a fair and equitable outcome.

- (c) It is agreed by State Water, and the current regulator (the ACCC), and the previous regulator (IPART) that - *“In some valleys full cost recovery could not be achieved without substantial increases in tariffs that would have damaging impacts on users. In some instances (e.g. ...the Peel), the Tribunal considers that cost reflectivity will never be achieved”*. But in spite of acknowledging that full cost recovery will never be achieved in the Peel Valley, both State Water and the regulators continue to significantly ratchet up the water charges in the Peel Valley at every review of water charges. Not only is the Peel Valley charged the highest water usage charges in the entire Murray Darling Basin, but the percentage increase in the Peel Valley is also the highest in the Murray Darling Basin (the charges are actually decreasing in three other valleys over the review period). Obviously, whilst State Water and the regulators are both fully aware of the “damaging impacts” that their decisions will have on water users, neither of them care about the known “damaging impacts” that their decisions have on the water users in the Peel Valley. This is totally contrary to all principles of justice and fairness.

**It is recommended that “valley based pricing” is abandoned because it clearly produces unfair and discriminatory outcomes. In its place, a standard water usage charge across the whole Murray Darling Basin should be introduced. A weighted average usage charge for the entire Murray Darling Basin is recommended, because it is the fairest system to all users, and State Water would not be subject to any reduction in revenue.**