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Cost recovery responses

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COST RECOVERY *DISCUSSION PAPER*: SUBMISSION ON UNFAIR WATER TAX GRAB

Manjimup and Pemberton Landowners are self-supply water users in agriculture opposed to the introduction of fees of \$6,668 for renewal of a water licence and \$8,929 for a new water licence. We encourage disallowance by the Legislative Council of the enabling regulations for these high fees. Similar unfair water licence fees attempted by a Labor Government in 2007 and 2008 were disallowed by the Legislative Council. Our reasons now for disallowance include:

1. Mark McGowan promised in the 2017 Election campaign there would be no new taxes on West Australians (ABCTV, 21 February 2017). An elector observing Mark McGowan's statement on ABC TV would reasonably conclude that they or their business were not going to be subject to new or increased costs imposed by a McGowan Government. This 'water tax grab' is a broken promise. We won't be victims of a blatant political lie.
2. The proposed licence fees are grossly disproportionate to services provided. Renewal of a water licence is usually a 'rubber stamping' process. A \$6,668 renewal fee is absurd. The fee is more than the cost for service delivery and thus is a tax. The '*Discussion Paper on cost recovery for the Department of Water and Environmental Regulation*' is pathetically inadequate to justify a multi-million-dollar water tax grab. It is certainly not based on an independent analysis of efficient costs incurred in provision of services by the Department of Water and Environmental Regulation (DWER). In contrast, the relatively independent Economic Regulation Authority (ERA) conducted an '*Inquiry into water Resource Management and Planning Charges* from 2009 to 2011 and found the costs incurred by DWER were far greater than efficient costs. The 'Final Report' of the ERA in 2011 proposed a \$990 fee for renewal of a 5C water licence in a 'High Risk' resource. When adjusted for CPI the proposed \$990 fee would be \$1,178 in 2017, a 19% increase. In stark contrast, the \$6,668 licence renewal fee introduced by DWER for mining, and proposed for agriculture, is a 574% increase relative to the fee proposed by the ERA. Manjimup and Pemberton Landowners made four submissions to the ERA Inquiry, the final submission made by Manjimup and Pemberton Landowners accompanies this submission to DWER, for information. Converting the proposed \$6,668 licence renewal fee to a \$667 annual water licence renewal and fee is strongly opposed. That would decrease security of access to water for investment in agriculture. A 5C water licence should be perpetual, not annual.
3. Many family-based farmers using less than 100 megalitres of water to produce food and wine will pay the same \$6,668 licence renewal fee as the Ord Irrigation Cooperative licenced to use 246,300 megalitres from the Ord River. This is outrageously unfair. Repeating the flaws in the 2007 and 2008 failed water tax grab. Some examples for Manjimup and Pemberton:
 - a marron producer in Manjimup with a surface water licence for 13 megalitres would pay the same \$6,668 for a licence renewal as the Water Corporation licenced to use 53,800 megalitres from Serpentine Dam.
 - a Black Truffle producer in Manjimup with a water licence for 17 megalitres would pay the same \$6,668 for a licence renewal as a sandalwood producer licenced to use 20,000 megalitres from the Ord River.
 - a potato farmer in Manjimup with a water licence for 133 megalitres would pay the same \$6,668 for a licence renewal as the Ord Irrigation Cooperative licenced to use 246,300 megalitres from the Ord River.

- a caravan park operator in Manjimup with a surface water licence for 13 megalitres, accommodating fruit pickers, would pay the same \$6,668 for a licence renewal as the Water Corporation licenced to use 34,200 megalitres from Canning Dam.
- a grape grower and wine producer in Pemberton with a water licence for 20 megalitres would pay the same \$6,668 for a licence renewal as an irrigation cooperative licenced to use 11,000 megalitres from Logue Brook dam.

The DWER cost recovery paper presents some information on fees associated with water licensing in Queensland and New South Wales, with fee levels less than 10% of fees DWER propose for WA. There are no licence renewal fees in Queensland because water licences are perpetual (lifetime), as they should also be in WA. The fees cited for Victoria are associated with trading corporations, some of which also licence houseboats, caravan parks and clubrooms; they are not relevant benchmarks.

4. We have paid for our self-supply water dams and bores and it is objectionable that the Government is demanding thousands of dollars for us to use them.

For most surface water licence holders in Manjimup and Pemberton, their only interaction with the Department of Water is when making an application for a surface water licence. There is no obvious water management service provided; the licence holder manages the water on their property and accepts all risks associated with dam construction and maintenance. The McGowan Government is seeking to tax family based self-supply water food producers while favouring irrigation co-operatives. Over \$1.5 billion of public funds have been spent on the Ord River Irrigation District, \$364 million since 2009. Self-supply water food producers in Manjimup and Pemberton produce twice the value of produce from the subsidised Ord River Irrigation District. The Ord has been swamped with subsidies as major political parties compete for the seat of Kimberley. Again, we are not going to be meek victims of a water tax grab while Governments concurrently waste millions in discretionary funding of water for agriculture, for political reasons.

5. The water programs in the Department of Water and Environmental Regulation employ 447 staff and cost \$87 million, but don't supply a drop of water to anyone. Don't expect us to pay for a bloated Department that isn't properly administering the *Rights in Water and Irrigation Act*.

Fundamental resources are land, water and air. The State Government supports a Western Australian Planning Commission and a statutory framework for land use planning at peak and local levels. It is hard to imagine land use planning without such a statutory framework and proper administration of it. For water, in Western Australia which is mainly dry terrain and with a drying climate, the statutory provisions for water resource planning are ignored by the Minister and Department charged with administration of the applicable legislation for water resources. The effect of this maladministration is denial of procedural fairness for parties subject to the *Rights in Water and Irrigation Act 1914*, *Water Agencies (Powers) Act (1984)*, *Water Services Act (2012)* and other water related acts and subsidiary regulations, with consequential economic, social and environmental harm.

Since 2007 the State Government has been foreshadowing a *Water Resources Management Bill* which will amalgamate six Acts relating to water. Successive Governments have failed to deliver the Bill, so it must either be of low priority or too complex to achieve. In any event, awaiting pending legislation for over a decade is no excuse for maladministration of current legislation.

The maladministration of water resource legislation means the administrative operations are feral to rogue in nature and are causing economic harm to agriculture and misery to farming families. DWER are not operating with the integrity expected of a public service agency. Unless and until applicable legislation is properly administered, stakeholders should not be expected to fund DWER.

6. None of the water allocation plans in WA are statutory Water Resources Management Plans provided for in the *Rights in Water and Irrigation Act* (Division 3D - Plans for management of water resources). Thus, related water licences don't provide security of water access for food and wine producers.

In 2013 the Department of Water in a '*Position paper - Reforming Water Resource Management*' (page 17) admitted "*Administrative allocation plans provide less security to licence holders as the plans may be changed with administrative, rather than legislative due process. Decisions made based on an administrative plan are not as certain as those based on a statutory plan, and there may be additional costs to water users and the government if those administratively based decisions are appealed.*".

Despite this admission by DWER, they have made no attempt to remedy using the applicable *Rights in Water and Irrigation Act* (Division 3D - Plans for management of water resources) and *Water Agencies (Powers) Act* (1984). We oppose absurdly high water licence fees for water licences that are “....not as certain as those based on a statutory plan...”.

7. We don't know what the 11 year pending *Water Resources Management Bill* contains that may increase the 'red tape' and costs for self-supply water users. Will it extend licensing to run-off and spring-fed dams, and water intercepted by tree plantations, further increasing the water tax grab?

It is irrational and improper that these high water licence fees are being applied before the *Water Resources Management Bill* - redefining Crown water resources and the extent of regulation, and determining the scope of potential fees and charges - is either public, debated or enacted by State Parliament. Highly relevant matters for us include: will the *Water Resources Management Act* extend licensing from in-stream dams to include dams capturing springs and overland flow or runoff; will the *Act* include a requirement for a water licence for water accessed by tree plantations; will the requirement for a water licence for tree plantations apply to both existing and new tree plantations if the same approach is to apply to both existing and new dams on springs and capturing runoff; will the *Act* enable perpetual water licences to be issued; will the *Act* require mandatory metering of all users and introduce water metering charges; will the *Act* provide the opportunity for development and administration of Statutory Water Resource Management Plans by self-supply water users in the water resource region; will introduction of the the *Act* extend water licensing state-wide beyond the proclaimed Warren and Donnelly catchments (Manjimup and Pemberton areas) to include Bridgetown, Nannup, Frankland, Boyup Brook, Denmark, Mount Barker, Albany, Williams, Kojonup and many other farming areas that are not proclaimed areas? Outcomes on these matters raise vital equity considerations related to anti-competitive costs imposed by Government. Why should we in Manjimup and Pemberton pay water licence fees and charges related to orchards, vegetables, grapevines, aquaculture and other production, when similar operations in areas mentioned above are not subject to such fees because those catchments are not proclaimed? There is no rationale for this, especially as water is more abundant here and perhaps a greater need for 'management' of scarcer water in those other catchments. The Government has given a higher priority to imposing new fees and charges on self-supply water users than application of the *Rights in Water and Irrigation Act 1914*, and reform of legislation. On this matter alone, the imposition of water licence fees should be halted until these matters are resolved by State Parliament and the *Water Resources Management Act* is enacted.

8. The Minister for Water refuses to appoint a Water Resources Council for WA and local Water Resources Management Committees to enable peak and local stakeholder input to water resource planning and management, and any fees. The Minister and Department ignore these provisions of the *Water Agencies (Powers) Act* and the *Rights in Water and Irrigation Act*. This is arrogant denial of procedural fairness on matters that affect farming families using self-supply water, including water licensing.

Denial of procedural fairness causing serious commercial harm and anxiety amongst farming families as we claim would be less likely if the State Government applied the well-structured provisions for statutory water resource management plans set out in Part III, Division 3D 'Plans for management of water resources' of the *Rights in Water and Irrigation Act 1914*. There is a legislative 'trifecta' available to enable statutory water resource management plans, being:

- Part III, Division 3D 'Plans for management of water resources' of the *Rights in Water and Irrigation Act 1914*. Empowers the Minister to initiate plans and provides for mandatory consultation with Water Resource Management Committees and the Water Resources Council on new plans and changes to plans.
- Provision for Water Resource Management Committees, provided for at section 26GK of the *Rights in Water and Irrigation Act 1914*, to plan for and manage water allocations in defined areas. The Minister can delegate all of his/her responsibilities to such Committees.
- A Water Resources Council for the State under Part IIA of the *Water Agencies (Powers) Act* (1984) to provide peak level advice to the Minister for Water. The Water Resources Council replaced the former Waters and Rivers Commission.

9. The Labor Government is attacking the agriculture and mining fabric of regional Western Australia by a tax on rain water; but ignores the 177,000 garden bores in Perth using between 88,000 and 120,000 megalitres of water. This is unacceptable city electoral bias. In a digital age, the 177,000 garden bores could be licensed, and owners pay fees; if we must.

Manjimup and Pemberton Landowners do not wish Government 'red tape' and associated fees and charges on anyone, but the gross anomaly between 'red tape', fees and charges for self-supply water users in agriculture and no licensing of Perth garden bores must be addressed.

The ERA in its Final Report in 2011 changed their mind on fees and charges for the 177,000 garden bores in Perth using 120,000 megalitres of water, weakly saying the bores reduce the demand for piped scheme water and the water from bores would generally not be used otherwise, at page 11:

"After considering the feedback from stakeholders, the Authority believes that there are benefits associated with garden bores, as they reduce the demand for water from the IWSS and the water from garden bores would generally not be used otherwise. Furthermore, there may be some difficulty in identifying the bore owners and the administrative costs of licensing bores would likely outweigh any revenues from charging bore owners."

The same rationale can be applied to self-supply water users in agriculture with their own dams and bores; they don't demand water piped from Government irrigation scheme dams as at Harvey and the Ord River, and the water in private dams would otherwise flow into the ocean and not be used. Efficient growers/producers in Manjimup and Pemberton didn't ask the State Government to dam Lefroy Brook, Manjimup Brook, Wilgarup River, Smith Brook and East Brook to then pipe the water to their properties as occurred at Harvey/Collie and the Ord. They made their own investment in water infrastructure and are now to be penalised for that.

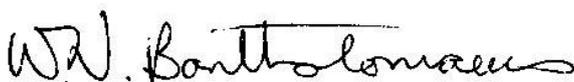
The unregulated 177,000 garden bores in Perth are destroying the urban wetlands and now the Black Swans and other water birds take refuge on the farm dams in the South-West that are targeted for a water tax grab. When it comes to a test, the DWER and the ERA don't care about water for the environment.

The ERA said there may be difficulty identifying bore owners and administrative costs of licensing may exceed revenue. Such challenges didn't deter the Minister for Fisheries from introducing a \$30 Recreational Fishing from Boat Licence in March 2010, applying to over 150,000 fishers. It would be far more difficult to identify occasional fishers than fixed bores at homes, and the petty \$30 didn't concern administration at the Department of Fisheries.

It should be noted that in addition to the 177,000 garden bores in Perth, there are hundreds of ground water licences held by Local and State Governments for parks. These must not be exempted if we in agriculture are to pay high water licence fees.

10. Manjimup and Pemberton Landowners are not averse to paying any water licence fees. Fees for a Driver's Licence are a tested benchmark for Government service; being \$89.15 for a New Applicant Fee and \$149.50 for Licence Renewal for five years. These benchmark fees could be applied to water licensing, which we have advocated since 2007. Mark McGowan and the Labor Party could put this level of fees for water licensing transparently at the next State Election. That would be fair.

Yours sincerely



Neil Bartholomaeus

Convener

Manjimup and Pemberton Landowners

(accompanying: MPL Submission to ERA 2009)