PEEL VALLEY WATER WORKING GROUP

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The Honourable Mr Andrew Stoner
Deputy Premier.

Mr Sean O'Connell.

By way of Mr Kevin Anderson
Member of Tamworth
By safe hand

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
By way of email only.

Dear Sir,

RE: PEEL VALLLEY WATER PRICING

The Peel Valley Water Working Group was established by Mr Andrew Stoner in order to seek some resolution of the unsustainably high water pricing in the Valley. Enclosed below are a set of submission in response to the draft determination of the Australian Competition and Consumer Commission (ACCC).

Firstly, the working group would like to express it appreciation for the assistance in establishing this group and hope to continue to work with both your office and that of the Minister and our local Member, all of whom we again thank for their assistance.

Secondly, the following submissions are the group's initial submissions and focus heavily on the immediate pricing issue and provides several options for resolution, however does not provide detailed submissions into the requisite amendments to the Peel Water Sharing Plan that are and will remain a seminal issue in resolving water problems in this valley.

1. THE WORKING GROUP

The working group currently has the following members assisting:

1. Robert Jarratt (Chair)
2. Mr Kevin Anderson (Member for Tamworth)
3. Mr Colin Murray (the Mayor of Tamworth Regional Council)
4. Mr Russel Webb (The Deputy Mayor of Tamworth Regional Council)
5. Mr James Treloar (The immediate past Mayor of Tamworth Regional Council)

6. Mr Paul Bennet (General Manager of Tamworth Regional Council)
7. Mr Bruce Logan (The water officer of Tamworth Regional Council)
8. Mr Ildu Monticone (The President of Peel Water Users Association)
9. Mr Barry John (Executive of Peel Water Users Association)
10. Mr James Drury (Representing the Peel Water Users Association)
11. Mr Ian Coxhead
    (Chair of the Cockburn Water Users Association and member of Namoi Water board)
12. Mr Geoff Swain
    (Irrigator and Former member of Peel Water Users executive and former member of Namoi Water executive)
13. Mrs Jan Hahn.
14. Miss Angela Lyle (Supporting Mr Anderson and the group at large)
15. Sean O'Connell (as contact to the Honourable Mr Stoner)

2. THE LICENCING CRITERIA

Pursuant to the Water Sharing Plan of the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010 (NSW) (hereafter called the Peel Water Sharing Plan) the Office of Water has estimated the long-term average annual flow in the Peel Valley water source as 252,900 ML per year.[1] Of the water available the following Water Access Licences have been granted:

a. Domestic and Stock:[2]	
i. Peel regulated	299.3
ii. Peel Unregulated	562.1
iii. Peel Alluvium	240.9
iv. Peel Fractured Rock	4051.5
b. Local Water Utility (Town Water)[3]	
i. Peel Regulated River Source	16,400
ii. Upper Peel River Tributaries	5,600
iii. Peel Alluvium Water Source	530
iv. Peel Fractured Rock	100
c. Unregulated River [4]	
i. Chaffey Water Source	384.5
ii. Goonoo Goonoo Creek	1033.5
iii. Upper Peel Tributaries	3638
iv. Lower Peel Tributaries	2477
v. Cockburn Creek	4365
d. Aquifer Access Licences[5]	
i. Aquifer Access Licences	28354

[1] *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010 (NSW) Clause 17(b)*
[2] Ibid Clause 23.
[3] Ibid Clause 24
[4] Ibid Clause 25
[5] Ibid Clause 26

e. Aquifer (general security) Access Licence
   i. General Security Aquifer 32206

f. Regulated River Water
   i. High Security[6] 804
   ii. General Security[7] 30335

Whilst a considerable amount of licenced water in the valley is ground water, the environmental obligations of the valley require a long term sustainable, end of valley commitment to the environment of 240,255MG per year from the available water of 252,900 ML per year.[8] This environmental obligation equates to 95% of the long-term available water, leaving only 5% of all available surface water in the regulated system available for use by both the Tamworth Regional Council and the other Peel Valley Regulated Water users, including irrigators and the like.

The issue of the minimal long-term water availability is considered further in these submissions.

Furthermore, the Commonwealth Government has recently purchased a volume of water and whilst enquiries were made, the group has not been able to determine with certainty the actual quantity of water that has been purchased as environmental water. The adverse effect on the Peel Valley of this environmental water purchase is discussed later.

3. THE APPROACH IN REACHING THE SUBMISSIONS.

Initially all members met to discuss the various outcomes and possibilities that may be available to the working group to generate a fair and equitable water pricing structure. The points raised were reduced to list form and thereafter broadcast to the members for further comment and to apply further possible outcomes.

Additionally, two of the members of the working group attended a meeting of the Peel Water Users Association, and provided an update on the work being conducted and made open offers to all persons and or members of the Peel Water Users Association or otherwise, to make submissions. The meeting was also chaired by Mr Ildu Monticome and Mr Barry John, both of whom are on the working group and there were other members of the working group present.

Members of the working group have also been in continuing telephone communication with Namoi Water and members of the working group are members of Namoi Water and we wish to thank them for their assistance.

The chair of the group also had many meetings with individuals both personally and by way of telephone.

After several requests for further submissions from all parties of the working group, on 11 April 2014 an initial draft submission (version 1) was provided to the members of the working group for their comments. This initial version was provided in short form.

[6] Ibid Clause 28
[7] Ibid Clause 29
[8] Ibid Clause 17(b)

On 14 April 2014, a further version of these submissions were provided to the working group and this version was continually adapted to reach the current submission. On 16 April 2014, the final submissions were made available for final consideration and thereafter submitted.

Not all members of the working group have agreed with the recommendations at this stage and this is outlined below.

The group also wishes to expressly mention the fact that they have not provided a full set of submissions in relation to the amendments required to the Peel Water Sharing Plan and were of the opinion that this initial submission should be provided to assist in the determination of ACCC.

4. POINTS OF CONSIDERATION

The group considered many and varied options that may address the issue of the unsustainable water pricing in the Peel Valley. The following items were considered to be the seminal issues for consideration:

a. Postage Stamp Pricing

It was agreed by all members of the group that the preferred option to be adopted was to have all water entitlement and usage charges across the Murray-Darling basin be socialised such that all catergories of water users pay the identical price for both their entitlement charges and their usage charges (hereafter called postage stamp pricing).

b. Weighted Average Pricing

The group also considered applying a pricing criteria whereby the weighted average of all categories of water were determined by multiplying each water source's volumetric entitlement with the current and forecast prices and to thereafter divided the accumulated sum by the total amount of water. The group considered this to be the weighted average price of water for each category or classification of water within the scope of State Water, being utility water, high security water and general security regulated water.

The group were not able to determine all of the weighted average prices and as such were unable to generate any form of revenue analysis. Given the Peel Valley water prices are significantly higher than the average and the water source has only a comparatively small amount of water it was assumed that there would be a significant shortfall in the revenue raised compared to the revenue State Water are currently seeking to be funded.

As to the shortfall, the group suggests that if this were considered to be the most practical mechanism to address the issue of funding, that the NSW State Government provide assistance and provide a grant to accommodate the difference for the full three year period. We would further submit that the savings outlined below and the additional revenue previously generated be applied to the budget such as to reduce the amount of shortfall the Peel Valley would require.

The Peel Valley Water User's Association, did not support the weighted average prices for both the entitlement charges and the usages charges and recommended that the weighted average pricing only be applied to the usage charges. Their primary argument was that the Peel Valley was only able to access five per cent (5%) of the total water and

a maximum of twenty percent (20%) of the licenced water. The Peel Valley Water Users Association recommended that the weighted average pricing should be applied to the usage charge and the entitlement charge should remain the same as the 2013-2014 year.

c. **To Combine the Peel and the Namoi Water Sources.**

The amalgamation of the Peel and Namoi Valleys was an option that was brought forward for consideration. Enclosed as Annexure "A" are four spreadsheets that have applied the current water licencing and the draft ACCC charges for the Peel valley to the 2013/14 financial year until the 2016/17 financial year.

Further enclosed as Annexure "B" are four (4) spreadsheet that have applied the current water licencing for the Peel Valley and the draft ACCC pricing for the Namoi Valley. The net effect on the overall revenue generated from the data we have been able to correlate is as follows:

2014/2015	-$403,279.93
2015/2016	-$521,687.80
2016/2017	-$652,375.00
TOTAL SHORT	**-$1,577,343.06**

The next obvious question that was addressed, is essentially, were is this money coming from if the two valleys were combined and the answer is as expected that the water users of the two valleys would have to increase the current draft water prices of the Namoi such as to generate approximately a further $1,600,000 over a three year period or $530,000 a year.

Given the Namoi valley has considerably greater water use the burden of funding this additional money would fall heavily on the Namoi Water Users.

In addition to the primary issue, the group also considered the triple bottom line and determined that due to social and other economic circumstances a full amalgamation with the Namoi Valley at this stage was not economically or socially rational, however required further investigation and should not be totally dismissed.

5. **Applying Namoi Valley Prices to the Peel Valley.**

As outlined above, the working group have aimed to calculate the revenue that would be raised in the Peel Valley using the draft ACCC price determination (see Annexure A) along with the revenue that would be raised if the Namoi Valley ACCC draft price determinations were applied (see Annexure B). The net effect is approximately $1.57 million dollars over the three year pricing period.

It is the submission of the working group that, if postage stamp or weighted average pricing could not be applied that this would be the next preferred mechanism, in the short term to address the unsustainable pricing of the water in the Peel Valley.

Below, an outlined of several possible options of achieving this pricing model is discussed further.

6. **Applying State Water Charges to the Peel Alluvium (regulated) water users.**

Pursuant to the Peel Valley Water Sharing Plan[9] it is determined that 49% of the water extracted from the Peel Alluvium Water Source, originates from the Peel River. The group determined that it would be appropriate to investigate the result of the Peel Alluvium water users being subject to a State Water charge of some magnitude. The group considered, using the information that was available, the revenue generated from the Peel Alluvium ground water users being subject to 10%, 30% and 50% of the current draft ACCC State Water Charges.

Whilst it is appreciated that the calculation model is not audited, nor has it incorporated the 20 year moving average of the ACCC modelling data, as this was not available at the time of submission, the calculations do provide an indication as to the results of applying a State Water charge to the Peel Alluvium Ground Water users.

a. **Applying 10% State Water Charges to Alluvium Water Users**

We enclose hereto as Annexure "C" a copy of four (4) spreadsheets which calculate the revenue generated from the application of a 10% charge to the Peel Alluvium water users and comparing this with the baseline calculations sheet the following revenue would be generated:

2014/2015	$47,609.06
2015/2016	$57,349.80
2016/2017	$63,062.60
TOTAL REVENUE	**$168,021.47**

Note: Sheet one applies to the 2013/2014 water year and in not applicable for the purposes of calculations.

b. **Applying 30% State Water Charges to the Alluvium Water Users**

We enclose hereto as Annexure "D" a copy of four (4) spreadsheets which calculate the revenue generated from the application of a 30% charge to the Peel Alluvium water users and comparing this with the baseline calculations sheet the following revenue would be generated:

2014/2015	$156,387.65
2015/2016	$172,105.21
2016/2017	$189,271.51
TOTAL REVENUE	**$517,764.37**

[9] Ibid Clause 53 (1)

Note: Sheet one applies to the 2013/2014 water year and in not applicable for the purposes of calculations.

c. **Applying 50% State Water Charges to the Alluvium Water Users**

We enclose hereto as Annexure "E" a copy of four (4) spreadsheets which calculate the revenue generated from the application of a 30% charge to the Peel Alluvium water users and comparing this with the baseline calculations sheet the following revenue would be generated:

2014/2015	$260,646.09
2015/2016	$286,842.02
2016/2017	$315,452.51
TOTAL REVENUE	**$862,940.62**

Note: Sheet one applies to the 2013/2014 water year and in not applicable for the purposes of calculations.

As to the 50% State Water charges, the majority of the members of the group were of the opinion that the 49% interdependency between the Peel River and the Peel Alluvium was somewhat exaggerated given their personal observations.

Furthermore, the majority of members were of the opinion that the application of the 50% State Water charge would not be fair and reasonable in the circumstances, given no State Water charges apply in the current draft ACCC determination. Additionally, all groundwater in the State is administered by the Office of Water as opposed to State Water.

7. AMENDENTS TO THE PEEL WATER SHARING PLAN

One of the seminal issues confronting the water users of the Peel Valley are the limitations that have been applied pursuant to the Peel Valley Water Sharing Plan.

Work on and community consultation on the above water sharing plan commenced in or about 2008, and worked through the process until the 2010 regulation (Regulation 134 of 2010) pursuant to the Water Management Act 2000 (NSW) was passed into legislation in about January 2011.

The Water Sharing Plan was drafted under the immense pressure of the Cap baseline conditions imposed by Schedule 1 of the Water Act 2007 (Cth) which placed a limitation on the total available water in the Peel Regulated Water Source and other sources that are not appropriate to these submissions. During the drafting of the plan it was determined, by application of the Peel IQQM computer model with system file W59, that the long-term annual extraction volume was 15,100ML. Furthermore, the Peel IQQM computer model was used to determine that that irrigation extractions over the 1991 to 1998 period were on average 7,600ML and the town water supply

extractions over the same period was 8,600ML with a total extraction of 16,200ML thereafter forming the base line for long-term extraction.[10]

This being the case, as the water sharing plan is now passed into legislation, we now consider the effects of clause 17(2)(b) which states:

> (b) the long-term average annual commitment of water as planned environmental water in:
>
> (i) the Peel Regulated River Water Source that results from the application of the environmental release rules from Chaffey Dam as specified in clause 31, the limitations on access to uncontrolled flows as specified in clause 62, the available water determination rules as specified in Division 2 of Part 7, the water allocation account management rules as specified in Part 9, and the resulting long-term average annual extraction limit as specified in Division 1 of Part 7,

Note: At the commencement of this Plan the long-term average annual commitment of water to the environment in the Peel Regulated River Water Source has been estimated to be 252,900 ML/year made using the Peel IQQM with system file W59. This equates to approximately 95% of the long-term average annual flow in this water source, calculated using the Peel IQQM with system file N100.

The determination of the Peel Regulated River Source indicates that from the 252,900 ML/year that are available in this regulated source that at the commencement of the plan there is an obligation to provide 95% of this water to the environment. Hence, from the Peel Regulated River Source, a long term maximum of 12,645 ML per annum is considered to be the cap.

Section 58 of the Water Management Act 2000 (NSW) states:

> **Priorities between different categories of licence**
>
> **58 Priorities between different categories of licence**

(1) For the purposes of this Act, the following priorities are to be observed in relation to access licences:

> *(a) local water utility access licences, major utility access licences and domestic and stock access licences have priority over all other access licences,*
> *(b) regulated river (high security) access licences have priority over all other access licences (other than those referred to in paragraph (a)),*
>
> *(c) access licences (other than those referred to in paragraphs (a), (b) and (d)) have priority between themselves as prescribed by the regulations,*
>
> *(d) supplementary water access licences have priority below all other licences.*

(2) If one access licence (the ***"higher priority licence"*** *) has priority over another access licence (the* ***"lower priority licence"*** *), then if the water allocations under them have to be diminished, the water allocations of the higher priority licence are to be diminished at a lesser rate than the water allocations of the lower priority licence.*

[10] See Notes at Clause 39 of *Water Sharing Plan for the Peel Valley Regulated, unregulated, alluvium and fractured rock water sources 2010 (NSW)*

(3) In relation to the water management area or water source to which it applies, a management plan may provide for different rules of priority to those established by subsection (1).

(4) If a management plan so provides for different rules of priority, those different rules are taken to have been established by this section.

It is noted that the Tamworth Regional Council has allocation in the Peel Regulated River Source of 16,400ML (technically shares or units) and that the High Security and General Security Peel Regulated Licence holders have 30,335 ML (or share components).

Pursuant to the clause 39 of the Peel Water Sharing Plan the long-term extraction of utility (or town water) is 8,600ML per year, this only leaves an annual extraction limit for the Peel Regulated River Source of 4,045ML per year. As Tamworth Regional Council's current water use has reduced, due to seasonal conditions and water savings measures, some of their water has been made available to the Peel Regulated Water Users and to generate a current long term extraction limit of 6,100 MGL per annum.

The next issue associated with the Peel Valley Water Sharing Plan relates to an associated purchase of water from irrigators by the Commonwealth as part of a water savings initiative. Whilst the group has not been provided the actual volumetric entitlement that was purchased in this valley, we have been given an indicative figure of 1,126ML, being licence 90 AL832010.

If we now apply the 1,100ML to the long term extraction cap available (as outlined in the Water Sharing Plan, then the Peel Regulated irrigators will only have 5,000ML available as a long term extraction limit. Furthermore, as the city of Tamworth continues to grow, the water demands of their 16,400ML licences will also continue to grow, until such time as the Council will no longer be in a position to support the Peel Regulated water users and the industry will be closed due to lack of water. The irony of this current situation, is that, after the augmentation of Chaffey Dam, there is a realistic time in the very near future that Chaffey Dam will hold 100,000 ML of water and Peel regulated irrigators will not have any access to this water, due to cap limitations and the requirements of the Tamworth Regional Council to take priority pursuant to section 58 of the Act.

8. SOLUTIONS TO THE WATER SHARING PLAN

As indicated at the commencement of these submission, the working group has not had sufficient time to review the entire Water Sharing Plan nor time to provide a full and frank assessment of the amendments required. The group are committed to initially aim to provide some short time stability and equity in the pricing of water in the Peel Valley and then to thereafter address methodically the various concerns associated with the implementation and effect of the Peel Water Sharing Plan and long term pricing equity.

In the interim, the group would like to make the following submissions in order to address the concerns associated with the Water Sharing Plan as follows:

a. That the Peel IQQM computer model with system file W59 be totally re-evaluated. In order to re-evaluate this modelling that the actual model be provided to the working group such that they may engage in their own

research and if appropriate to engage the services of their own experts to assist in their analysis.

b. Clause 31 of the Plan makes provision for environmental water to be held in Chaffey Dam. Currently the cost of this environmental component is borne by the water users of the Peel River Regulated Source. The environmental water is there to serve the entire community and as such the costs of this environmental water should be socialised by having the relative state and federal governments make good payments for all costs incurred associated with same.

c. That the water purchased by the Commonwealth Government, unless allocated to Peel Regulated River users, not be considered as Peel Regulated River entitlement use, rather:

    i. That this water be initially considered to constitute the environmental water outlined in clause 31 of the Water sharing plan, whereby this water would not be available for environmental purposes until such time as a minimum of 50,000 ML is present in Chaffey Dam; and
    ii. That as the water owned by the Commonwealth satisfies the requirements of clause 31 that all costs and expenses associated with any of this environmental water in the Peel Regulated River Water Source be allocated to the Commonwealth Government directly.

Of further importance to the Peel Water Sharing Plan is the fact that as there is very limited long term water extraction, as opposed to the quantity of water access licences granted, resulting in the costs of recovery of the State Water charges being concentrated on the very few that actually use the 5% of the water. With 47,539 ML of water allocated being limited by a long-term extraction limit in the regulated peel of 12,645ML, including Tamworth Regional Council, the cost that must be recovered to meet the State Water revenue provisions are limited further.

If the Peel Water Sharing plan could be revisited, along with the augmentation of Chaffey Dam to 100,00MGL this would provide a mechanism to dilute the costs of water to the individual water users, including Council. The mechanism for the increase in the cap will take time and as such the working group will require additional time to address these issues.

9. SUBMISSION AND SOLUTIONSs

The Group considered the information provided above and thereafter made the following submissions:

1. **Postage Stamp Pricing.**

The group unanimously support the option that postage stamp pricing should be adopted throughout the state and indeed the Murray Darling basin as a whole.

The group is aware of the limitations placed on the application of postage stamp pricing pursuant to the Water 2007 (Cth) and in particular the adoption of the National Water Initiative in Schedule 2 of this Act. Whilst the group acknowledges the policy criteria associated with the reluctance to adopt postage stamp pricing, a review of Schedule 2 and the National Water Initiative Pricing Principles (both of which are enclosed herewith as Annexure "H") does not provide clear and unambiguous prohibition of postage stamp price and postage stamp pricing is clear articulated in the Principles when considering urban water tarrifs.

Having stated this, the group are of the united opinion that the bulk water charges should be socialised across the entire basin as to remove any limitation and restraint of trade of water users in the Peel Valley Water Source. Furthermore, the effect of the Commonwealth Water legislation provides a considerably greater burden on the water users and entitlement holders in the Peel Valley compared to water users in other valleys.

Section 99 of the Australian Constitution clearly enunciates that the Commonwealth is not entitled to draft legislation that will give preference to any State or any part of any State. Given the pricing of water in the Peel valley is significantly and substantially higher this limits the ability of this part of the State and as such gives preference to other parts of the State and other States.

Section 99 of the Australian Constitution states:

> *The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.*

The application of State Water fees under the provisions of Commonwealth legislation clearly and unambiguously provides a preference in relation to revenue to other water sources outside the Peel valley. Given this we are of the opinion that the application of the National Water Initiative, whereby price and revenue disparities occur is unconstitutional.

Given the Commonwealth cannot legislate to provide a revenue advantage to either a State or part thereof, the only practical solution to impose Commonwealth charges is to impose postage stamp or identical pricing for all categories of water irrespective of the location within the Murray Darling valley.

Again the application of Postage Stamp pricing is the significantly the most preferred option considered by the group.

2. **Weighted Average Pricing.**

The second most favourable pricing mechanism supported by the working group was to have the weighted average pricing applied and to seek funding for the shortfall in revenue raised. As the group were not able to ascertain the exact figures for the weighted average pricing, we were unable to generate any indicative spreadsheets as to the quantum of funding that would be required.

This option again will place the Peel Valley in a level playing field with other water users in the Murray Darling basin, as the prices to be applied would be derived from the actual prices applied to the other valleys. This would also remove any issue of bias towards or against the Peel Valley given the origin of the price calculations.

In addition, the group would like to have the savings addressed below applied to the valley and the additional revenue raised in the last two years contributed to this budget.

3. **Merging with the Namoi Valley.**

Pursuant to the Water Act 2007 (Cth) the Peel Valley is determined to be one of several water sources in the greater Namoi Valley.

Furthermore, the ACCC has previously determined that the amalgamation of the Peel and Namoi Valleys totally, for the purposes of Available Water Determination and the recovery of State Water revenue requirements, was not fair and equitable in the circumstances. The working group did, as part of its examination of possible outcomes, consider the effect of a total merger or amalgamation and it was considered on the information to hand that a total merger would not be the best outcome at this stage, yet warranted further consideration.

The working group applied the triple bottom line approach to the possible merge of the two valleys and as a group agreed there was insufficient information at this time to articulate an informed point of view.

One issue that was raised related to the total volume of water in both valleys and the comparatively small amount of available water that was available in the Peel compared to the Namoi. The group, as indicated above and as enclosed as Annexure "A & B", conducted a basic costing on the merger of the two water sources and the resultant shortfall was approximately $1,500,000. Given the disparity in volumes of allocation between the two valleys it was suggested that this $1,500,000 would primarily be paid, by an increase in the total State Water charges over the combined valley and this would result in the current Namoi Valley waters users being required to make a considerable cross-subsidisation to the Peel.

Another issue raised in relation to the merger, relates to the access of water from the Peel to the Namoi and furthermore, the loss of control over the Peel Valley if the entire valley were incorporated into the Namoi Valley.

The full merger with Namoi Valley was therefore considered to be less than favourable, however worthy of further investigation.

A merger between the Peel and the Namoi Valley was strongly rejected by the Peel Valley Water Users Group.

4. **Adopting Namoi Valley Pricing in the Peel Valley for the Next 3 years.**

There was much debate of the benefit of adopting the Namoi Pricing costs for utility and high security along with general security entitlement charges and for the ongoing usages fees.

Again the primary concern for the adoption of the Namoi Pricing determinations, is the significant negative effect this would have on Peel General Security Regulated Water Source water users.

In order to determine the actual individual impact on each and every licence holder, cost analysis was conducted and is enclosed herewith as Annexure "F".

The cost analysis reviewed each and every licence for the next three years on the basis of zero percent (0%) allocation and increased in ten percent (10%) increments to 100% allocation. The analysis thereafter conducted the same analysis, using the Namoi prices and finally generated an analysis sheet that compared the difference in the different Available Water Determination (AWD) scenarios, along with an average cost over the three year period.

The results demonstrate that at zero percent (0%) AWD an adoption of the Namoi pricing criteria would cost the entitlement holders in the Peel Valley an additional $134,000 (approximately). When the AWD was increased to ten percent (10%) the increase in revenue to be generated was approximately $42,000.

Again, if the Peel Valley were to adopt the prices determined for the Namoi, as outlined above there would be a revenue shortfall of approximately $1,500,000 over the three year forecast period.

Given the above, an adoption of the Namoi pricing resulted in an adverse outcome for general security entitlement holders of about $134,000 plus a short fall in revenue of about $1,500,000 and as such we aimed to address these issues as follows:

a. Reduction in Environmental Planning and Protection

We enclose herewith as Annexure "G' correspondence from State Water dated 17 January 2014 and correspondence from State Water dated 19 February 2014 and we note that, pursuant to the later we have not been provided the updated Capital Expenditure Costs nor have we been provided the Operating Expenditure Costs, however worked with the remaining items outlined and the enclosed documents to the earlier letter.

The group considered it important to consider the fact that the Peel Valley consumes less than one percent (1%) of the water consumed in the Murray Valley, yet has a burden of substantially higher costing structure for may components of its budget.

If we initially consider the costs for the Environmental Planning and Protection for the three forecast years for the Peel Valley as follows:

2014 - 2015	$30,000
2015 – 2016	$382,000
2016 – 2017	$204,000

The costs that have been applied to the Peel Valley, which remain unexplained, are horrendous, to say the least and in contrast show no resemblance to any type of rational comparison.

If the Murray Valley were to be compared and contrast, the same Environmental Planning and Protection costs are as follows:

2014 – 2015	$267,000
2015 – 2016	$273,000
2016 – 2017	$259,000

It is noted that the Murray Valley has 2,328,190 ML of general security entitlements and 261,000ML of high security entitlements whilst the Peel Valley has approximately 30,335ML of general security entitlements (with a long term Cap of 6,200ML available) and utility or Council entitlements of 16,400ML.

In consideration of the additional fees that State Water wish to recover and the timing of the massive increases in pricing, it was considered by the group that the only fair and reasonable costing structure of this charge would be for the Peel Valley to continue to make payment of the $30,000 per year or $90,000 for the three year pricing period.

Furthermore, we again wish to raise the issue that on a long term basis 95% of all water in the Peel Valley passes through the valley and this is considered environmental water, and it is inequitable, given the above considerations with the erroneous nature of our Water Sharing Plan to seek to pass the costs for 95% of the water onto the small few that have entitlements to utilities part of the remaining 5%.

It was agreed that the difference between the Environmental Planning and Protection budget requested and the ongoing support of $30,000 per year should be socialised across the community generally or should be appropriately apportioned to the Office of Environment and Heritage.

The net savings to the Valley for this fair and reasonable reassignment of the above charges is $526,000.

b. The removal of the Hydrometric Monitoring charges.

The Peel Valleys have been provided a cost basis for the hydrometrical monitoring, however the same cost burden is not imposed on the Murray basis and as such the Peel Valley Working Group believe this cost must be removed from the budget.

The removal of the Hydrometric Monitoring charges, will save the Peel valley water users $637,000 over the three year pricing period.

c. The reduction of the cost of Water Quality Monitoring.

The State Water budget for the Peel Valley has a current allocation for Water Quality Monitoring of $151,000 over the three year period, whilst the Murray River water source has a budgeted cost of $62,000. Again the group wishes to emphasis that the Peel has a twenty year estimate of 11,094ML whilst the Murray has an estimate of 1,440,831 ML, yet is budgeted to make water quality payments significantly less than the Peel Valley.

The Peel Working Group suggested that the Peel Valley should pay not more than the Murray valley being $62,000, yielding a net saving of $89,000.

d. The reduction of the cost of corrective maintenance.

As with the cost of Water Quality Monitoring, the cost of the Corrective maintenance in the Peel Valley is disproportionate to the same cost in the Murray Valley and requires a reduction.

Again the working group determined that it would be fair and reasonable for the Peel to be required to make payment no greater than the Murray Valley being $140,000 over the three year pricing period being a saving of $126,000.

e. The reduction in the cost of Dam Safety Compliance.

Again, as outlined above, the cost associated with the Dam Safety Compliance is disproportionately high when considering the same costs for the Murray Valley when the Peel Valley uses 0.77% of the Murray Valley. The dam safety costs in the Peel however currently budgeted for 218% costs for the compliance of less than one percent of the Murray's Water.

The Working Group considered that it would be appropriate for the Peel valley to only be required to make a payment no greater than that budgeted for the Murray being $279,000 over the three (3) year period being a saving of $328,000 over this period.

f. Reduction in the insurance costs of the Peel Valley.

The same issue outlined above are appropriate when considering the cost of insurance allocated to the Peel valley. A valley that uses less a one percent (1%) of the Murray Valley has insurance cost almost triple the Murray and the group considered this to be far from being an equitable outcome.

Given the above, the Group considered the appropriate level of expenditure for insurance would be $20,000 per year, providing a saving of $120,000 over the budget period.

g. The reduction in the number of staff allocated to the Peel Valley Budget.

We note that inclusive in the Peel Valley budget is a provision for an average of 4.4 full time employees and that two footnotes are enclosed, which state:

1. Based on an average salaries/wages per full time employees of $199,200 (including on costs)
2. Includes regulated, non-regulated and indirect staff.

The primary consideration in relation to the above is the fact that State Water are aiming to on charge regulated river users, with costs that are clearly costs for the unregulated water users.

The seminal difference is essentially, IPART and the Office of Water are responsible for the calculations and generation of all costs associated with the unregulated river water users and not State Water. State Water under the Commonwealth agreement and the Water Act 2007 (Cth) are tasked with the administration of regulated, either high security or otherwise, and from this water administration they are able to impose both entitlement and usage charges.

In the Peel Valley there is a total of 131,380.8 ML of entitlements, including domestic and stock and basic rights entitlements, of which 47,539 ML of entitlements are associated with the Peel Valley Regulated Water Source, of which State Water administers and has authority to charge.

Whilst the total percentage of entitlement to be charged by State water is thirty six percent (36%) of the total water entitlement, the Tamworth Regional Council uses on a long term average 4,700ML of utility water and the remainder of the General Security Entitlement holders use on average 6,200ML of water, being approximately 10,901 ML of water. It is further noted that the State Water budgetary figures agree with the long term extraction, as they had adopted a 20 year moving average at 11,094 ML per year.

If you were to thereafter apply the 11,094 ML per year over the entire entitlement the actual percentage of water administered by State Water as opposed to the Office of Water is eight percent (8%).

In order to be fair and reasonable and to seek an equitable compromise, the working group suggested adopting a cost structure for two (2) full time staff, being forty five percent (45%) of the current State Water budget.

If we again apply the reduction of two point four (2.4) staff over the three year pricing period, it generates a saving of $858,240.

The total saving found in the State Water forecast budget for the pricing period is outlined as follows:

Description	Amount
Environmental Planning and Protection reduction	$526,000
Hydrometric Monitoring Charge reduction	$637,000
Water Quality Monitoring Charge reduction	$89,000
Corrective Maintenance reduction	$126,000
Dam Safety Compliance reduction	$328,000
Insurance Cost reduction	$120,000
TOTAL SAVINGS	$1,826,000

In seeking the above reductions in budgetary costs, the Group wishes to make reference to clause 2 of Schedule 2 of the Water Act 2007 (Cth) which states:

2 Water charging objectives

*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.

Initially, which the group sought a full break down of all revenue and budgetary line items from State Water, the only information provided was that attached hereto as Annexure "G", which are far from "*transparent*" in any regards whatsoever and as such one key water charging objective has not been delivered.[11]

Secondly, pursuant to clause 2(e) of the above Act, one of the five (5) water charging objectives is "to avoid perverse or unintended pricing outcomes.

The outcomes, as they are currently manifest in the State Water budgets are clearly perverse, when the cost structure of the Murray and other valleys are compared and contrasted. Further, given the effect of both the National Water Initiative and the above legislation, the entitlement holders of the Peel Valley have a real and genuine Legitimate Expectation.

h. Addressing the negative effect on the Namoi Price parity in the Peel.

i. Peel additional Water Usage Charge Credits.

Again we review the State Water budget for the Peel Valley, which forms Attachment 1 of the correspondence from State Water dated 17 January 2014, the final paragraph states:

> *State Water's forecast consumption demand for the Peel Valley is 11,094 per year. This forecast is based on a 20 year moving average of modelled (1992-93 to 1994-95) and actual extractions (1995-96 to 2011-12)*

Hence we would suggest that it is unequivocal that the water for the 2012-2013 and the 2013-2014 (the current water year) had a costing structure, not under the current regime that would generate revenue for State Water based on the 11,094 ML per year.

In the 2012 – 2013 and 2013 -2014 water years, the Peel Valley regulated general security water users have used approximately 12,200ML in both years, and additionally, the Tamworth Regional Council has utilised approximately 4,700ML per year for both water years. The net effect is that the Peel Valley has paid usage fees on 16,900ML per

[11] See Water Act 2007 (Cth) Schedule 2. Clause 2(d)

year as opposed to 11,094 ML and no account has been made of this increased revenue as the Peel moves into the Commonwealth pricing regime.

The total difference for the last two years in revenue is 11,612 ML (5,806ML in 2012 - 2013 and 5,806ML in the 2013 – 2014) being additional revenue of $483,175.32 raised in the preceding two water years.

The Group determined that this additional revenue should be isolated and deposited into a forward trust fund to remove any burden that may be placed on entitlement holder in the Peel with the adoption of Namoi pricing.

ii. Secondary Subsidisation from 2013- 2014 Water Year.

It is noted that the break-even point for the regulated general security entitlement holders is approximately eighteen percent (18%) and as outlined above, an allocation of zero percent (0%) would result in the entitlement holders being burdened with a potential cost increase of approximately $134,000 or a total of $402,000 over the three year pricing period.

The group would therefore seek to have the additional revenue raised, as outlined above being $483,175.32 to be held on the trust (The forward trust fund) for the Peel Valley entitlement holders and applied as follows:

A. That in the event that throughout an entire water year there was zero percent (0%) AWD, that State Water apply the sum $134,000 from the Forward Trust fund to the following years General Security Regulated River entitlement charges, such that the General Security Regulated River entitlement charges will be decreased valley wide by $134,000; and

B. That in the event that throughout an entire water year there was greater than zero percent (0%) yet no greater than ten percent (10%) AWD that State Water apply the sum of $42,000 from the Forward Trust Fund; and

C. That in the event that the Forward Trust fund has monies remaining at the conclusion of the 2016 -2017 financial year that State Water Account for such funds be applied to the payment of General Security Peel Regulated River entitlement charges for the next year.

Further to this argument, it was noted that the reduction in the budgetary burdens, was greater than the actual cost associated with the implementation of the Namoi water pricing in the Peel and as such there is an additional amount of $250,000 being saved if the recommendations are adopted. Given this the group suggests, that in the event that the full $483,175.32 is not allocated to the future trust fund, that the additional savings be considered also, such as to generate sufficient funds, to make good sufficient funds to offset any adverse impact on the entitlement holders of the Peel in zero or low available water determinations.

Finally, it is suggested that in the circumstances that the entire $402,000 was not made available, that at least one half of the funding being $201,000 be allocated, and agreement be sought from the Tamworth Regional Council to make payment of any short

fall, in the only, that there was insufficient funds to make good a possible payment in years two and or three. It must be emphasised that at this stage no agreement has been reached with Council, however the Group does note that the Tamworth Regional Council will benefit from the adoption of the Namoi prices in the Peel to the extent of more than $1,000,000 and as such were confident that the Council would provide a commitment to the maximum exposure of $201,000 or $67,000 per year.

This was the Group's fourth best option, however again we wish to ensure that we clearly articulate that the Peel Valley Water Users Association did not support this option.

5. Application of Peel Entitlement Charges and Namoi Usage charges.

Another option the Group considered was the adoption of the Peel Entitlement charges with the Namoi usage charges. The costs of the adoption of the Namoi usage prices and the Peel Entitlement charges was approximately $1,317,820.86.

As outlined above the Group has identified savings in excess of $1,800,000 and as such considers this adoption of this pricing structure would be the next available option or the fifth best option the Group considered.

6. Application of Namoi Prices Save as for Peel Regulated Entitlement charges.

During the discussions in relation to the increase in entitlement charges an adoption of the Namoi Pricing structure would deliver, the constant and seminal issues were, the small amount of water that is available in the valley and the fact that only twenty percent (20%) of the allocated water is available for consumption by the Water Users and hence an increase in entitlement charges in low water years may provide a perverse outcome.

When we reviewed the reduction in revenue raised by adopting the Namoi prices for everything other than the entitlement charges of the Peel Regulated River Users the cost of the implementation was estimated at approximately $2,000,000 over the three year period or:

2014 – 2015	$552,224.78
2015 – 2016	$663,048.90
2016 – 2017	$785,545.98
TOTAL	$2,000,829.66

As this was considered the Groups third preferred option it aimed to again establish the cost savings and aim to substantiate a self-funded model. If the savings of approximately $1,800,000 were applied to the budget for the Peel valley, plus some of the additional funds raised in the last two years allocated to payment of the budget, then the additional costs of adopting the Namoi Prices for all charges but the Peel Regulated River Entitlement charges would be fully funded.

If all of the Group's recommendations are not adopted, we suggest that the NSW Government be required to make a payment to meet any shortfall, save as for a Local

Government commitment. In relation to the Local Government commitment, we suggest the NSW Government seek meetings with the Tamworth Regional Council in order to establish if any commitment could be provided by the Council to fund any short fall in the implementation.

The Group were of the opinion that Council should be required to make a commitment of great than $67,000 per year.

This option was the third most preferred option and is supported by all members of the working group. It is however supported by the Peel Valley Water Users Association with a caveat, that whilst they consent that this is, at the moment, the best solution available, other than postage stamp pricing or weighted average pricing, it does not address the long term inequity of pricing in the Peel Valley.

7. **Current Water Prices and the application of the reductions and subsidies to reduce the current water price or less for the next three years**

The Group's next preferred option was for the huge reductions in budgetary impositions on the Peel Valley should be applied to the current draft price determinations and that the reductions firstly be applied to the usage fees of the Peel Valley and then in a reduction of the entitlement fees for all entitlement holders in the valley equally.

8. **2013 – 2014 Prices to remain for the next three years.**

The final option reviewed by the working Group was that the above savings were to be applied and if they were not applied that the NSW Government make good any payment shortfall, such as to keep the entitlement and usage prices at the 2014 – 2014 levels for the next three (3) years.

9. **Applying State Water Charges to the Peel Alluvium Ground Water users.**

The application of funds had support from approximately half of the group, however it was determined that as State Water did not currently have any jurisdiction over ground water any implementation of a State Water entitlement and usage charge would take considerable consultation and investigation.
The Group therefore considered that it was not appropriate to seek to apply charges to ground water users at this stage, however this issue was worthy of further investigation at a later stage.

The Peel Valley Water Users Group wished it to be noted that they did not in any way support this application.

10. **No Commitment to the New Water Metering Program.**

The Working Group would finally like to indicate that they do not support the current model of the new water metering program and suggests to the irrigators in this valley to oppose its implementation in its current form.

10. SUMMARY

In conclusion the working party provide the following submissions:

a. That Postage Stamp Pricing be applied across the entire Murray Darling Basin, such that all categories or classifications of water are charged equally irrespective of the location the water is provided; and

b. That on the condition that Postage Stamp Pricing is not available that the Peel Valley be charged the weighted average price for both entitlement and usage fees (note the Peel valley Water Users Association do not agree with the use of weighted average for entitlement charges); and

c. That in the event that the weighted average pricing cannot be applied to the Peel Valley that Namoi draft ACCC prices be applied to the Peel save as for general security regulated entitlement charges. That the savings to the budget for he Peel be adopted and that such savings be applied to the costs of implementation of the prices (this model was accepted by all on the Group and has the support of all members of the group); and

d. That in the event that the Namoi prices, save as for the Peel general security regulated entitlement charges could not be adopted, that the Namoi Prices for both entitlement and usage be adopted, with a subsidy to be paid for entitlement charges in years of zero and ten percent allocations. (this was not supported by the Peel Valley Water Users Association); and

e. That in the event that the Namoi Prices for entitlement and usage fees were not applied, that the savings outlined by applied to the current determination such as to reduce the fees and charges to below the fees and charges for the 2013 – 2014 years; and

f. That in the event that none of the above is adopted, that the fees and charges of 2013 – 2014 remain in place for the remainder of the three pricing years and the NSW State Government make good any shortfall in funding by way of grants or subsidies.

g. The Working Group opposes any forced application of the new water metering program.

We thank you for taking the time to review our recommendations and submissions.

Yours sincerely,
Peel Valley Water Working Group

Robert James Jarratt
Chair