

From: Mick Owens <[REDACTED]>
Sent: Thursday, 15 November 2018 2:50 PM
To: Fees
Subject: Submission on cost recovery

To Department of Water and Environmental Regulation
Dear Sir/Madam

In response to the cost recovery discussion paper I submit the following comments.
Please note this is in addition to email comments I have made on the fees for mining and PWS.

I am a water consultant and have had 30+ years' experience in regulating surface water and groundwater use. I am strongly opposed to fees in their current format and lack of detailed information.

My opposition to any fee is based on the following grounds.

Water

The proposed fees lack fairness. Your discussion paper mentions that a modern regulatory approach is that those who derive the benefits from regulation should pay and not the tax payers. You also state the governments direction on cost recovery based on the principles of cost and pricing government services guidelines.

I believe your proposal is unfair on the following grounds-

- Existing Licence holders are also taxpayers and will derive no extra benefit from paying a fee. In fact, the extra cost will be an impost to many business' that cannot pass on those extra costs through current market pressures.
- Has a cost benefit analysis been done on the actual extra benefit licensees would derive on paying a fee? This must be done before any future discussion.
- Who are the beneficiaries?
 - All farmers currently pay taxes and I believe these taxes should provide them with some service in terms of licence reassurance.
 - Will the revenue raised by the license fees be distributed to the department and return some increased service to license holders, or will it be distributed to central revenue?
 - The environment is a common asset for the whole community and as such a major beneficiary of the current water management regime. Why is the government requiring water users to pay for an assessment of environmental needs when all parties benefit from these flows? This is particularly relevant in this district where agricultural development is such a small portion of the total land area.
 - What is the amount of water allocated to the environment and what is the percentage of that amount compared to licensed allocation.
 - Farmers will also contribute to water resource management through measuring and metering prescriptions. Any proposed fee structure should take into account this private contribution.
 - What work has been done to describe the public and private contributions to cost recovery?

- It is not fair, in a market of providing food for WA, that some competitors are not licensed and will not pay a fee (eg. not all growers in proclaimed areas are licensed, for example Preston River, spring dams and growers in un-proclaimed areas).
- Fees should not be discussed until it is a fair playing field.
- It is not fair that there are domestic groundwater users, who are significant users of a resource, who derive a benefit, and pay no fees, because the department chose not to license them? (eg. domestic users around the state are exempt from licensing yet they can water their gardens more than scheme users).
- The current fee structure appears to recover a significant portion of costs. What reasonable assurances can the department give that they are not over-recovering costs, when other agendas like water reform intend to significantly stream line assessment processes of applications. (eg. 2013 securing Western Australia's water future- suggesting reduced processes.)
- Some farmers have multiple water licenses on their farms. It is not fair that they will have to pay double or triple costs.
- Why haven't different types of licenses and permits been combined into a single instrument, as which can be done under the current legislation. When you build a dam, you capture water, yet there are two approval processes in the department and another approval from the Shire.
- Fees should not be introduced until farmers have a combined approval process and licence.
- Why are there so many approval requirements to be met and is there any proposal for simplification if users are to pay? Currently users must seek a bed and banks permit, a license to take water, one or two different types of a clearing permits and local government development application – a one-stop shop is needed.

It appears the department has based its cost recovery on costs to carry out lengthy internal processes of assessing and renewing licenses based on their discretion. Charging a fee for a discretionary approach creates a non-transparent, variable process and unfair costs. It appears non-transparent because there have been told there has been no discussion on the processes and why they have not been streamlined. It appears variable because it is up-to a licensing officers' opinion of the proposal and relevant matters in accordance with clause 7.2 of the legislation, as there have been no published guidelines for the c7.2 processes. This approach means that departmental officers make discretionary choices as is currently being experienced in Manjimup by my clients and what farmers have told me.

The Department is choosing current processes and internal policies-

- by issuing licenses for only 10 years where, legislation allows for the creation of licence tenure greater than 10 years,
- by issuing licenses for only 10 years creates a renewal cost that is an unnecessary regulatory burden,
- by carrying out a renewal assessment process where the legislation has a presumption that licenses will be renewed unless there is a valid reason to refuse,
- to create policies/positions like automatic low flow bypass systems, or reduced take periods, where there are no apparent guidelines to assist the process,
- rather than following through on commitments (2007 Governments Response to the Blueprint for water reform and 2013 Securing Western Australia's water future)-
 - to increase licence tenure to 40 years

- to create statutory plans
 - to create simplified, risk-based assessment rather than full assessment of all applications
- The department can significantly reduce costs if it extended licence tenure thereby removing the renewal process.
- What is the breakdown in costs for groundwater, surface water, different areas and resource categories? How much for applications and renewals? What is the percentage of costs for renewals?

The department is also choosing to couple implementation of a modern water resource management with new legislation that has been recommended and supported for the last 11 years.

Why is the department continuing to wait for new legislation on these certain matters, when I am led to believe the current legislation can accommodate quite a few changes to improve processes and give a more secure tenure to licensees. The department has prescribed metering and exemptions yet has failed to move on licence tenure.

Investment in dams and horticulture is continually at risk because the Department and government have failed to deliver on past commitments to improve security. This must be resolved before any discussion is entered regarding fees.

Security of entitlement

- With the current state of insecurity in licence entitlements, I do not believe that fees are warranted. Without security of entitlement, fees are totally unjustifiable. I also believe the National Water Initiative requires all licenses to have security of entitlement.
- There must be a demonstration of the improved service to accompany any fees. What has been the KPIs that indicate what is being measured and how the service has improved for different categories, types and areas?

Fees based on the current risk matrix also appear unfair, disproportionate to the service provided, and not linked to real risks. How is this risk matrix determined? What are the risks that apply to the surface waters versus groundwaters? Are they really the same.

Relating fees to an absolute risk matrix creates unfair advantages.

- I presume fees are based on assessment and impacts thereby impacts should be an important risk factor.
- A 500ML dam proposal on a small creek immediately above a licensee has a large risk irrespective of the percentage allocated in an area, yet your matrix indicates this could be low if the whole area including other streams is not fully allocated.
- Conversely a 500ML dam proposal with no impacts downstream but in a >100% allocated resource is deemed to be high risk.
- A risk matrix that uses purely allocation limits to a linear stream system that has both temporal and spatial risks appears disproportionate.
- A 500ML dam proposal in a <30% allocated resource would cost \$7,834. However, a 501ML dam would cost \$13,057. That's \$5,223 difference for 1ML.
 - Similarly 2x 500mL dams 100m apart on a same stretch of river can incur a cost difference of \$5,223 if they are located in arbitrary different allocation areas.

- Why should a single farmer with be classed in the same fee structure as the Ord River Scheme taking hundreds of gigalitres.
- The c7.2 assessment process should afford protection to current users. So, when multiple dams go in above a current users you would assess their impacts on current users. Yet when you approve those dams the level of renewal risk can go from low to high or costs go up \$2,667 for nothing that a current user has done. This is not fair.
- Licensing choosing to include another property on their licence to rotate or change crops, or if they choose to change the licensee from a single name to a company name your matrix suggests they could pay up to \$7,345 for a simple administrative amendment. This is not fair.
- The department published a notice in the paper declaring in December 2017 that no further licences will be issued in some sub-catchments of the Warren Donnelly river systems because it has reached an allocation limit.
- Similarly, the Warren Donnelly allocation plan also sets limits and proposes licensing policies that would refuse applications. This would seem that the assessment process would not be time consuming. So why does it cost so much.

A more realistic risk matrix must be developed with better understanding of how surface water systems and use operate before any fees are based on a matrix.

Water and Vegetation

The Warren Donnelly agricultural areas are an island of development in a sea of national parks and state forest – agriculture occupies 15% of the Manjimup Shire.

- Why are the surface water resources and clearing so intensely managed in the agricultural catchments for environmental reasons when the bulk of the Shire is in State hands?
- Irrigators use a small proportion of water with minimal clearing in these areas, and in many cases do not even capture the water released from their own properties by the clearing of that land. The Warren Donnelly allocation plan indicates that in most years there is more runoff from cleared land than the same proportion of forested land.
- I am aware there are 2 clearing permit processes in this district that is confusing and overly bureaucratic and takes lengthy approval processes to resolve.
- Clearing principles and processes do not seem to take into consideration the amount of vegetated area of the Shire.

I believe there needs to be local statutory plans in place that recognise the amount of vegetation and the little impact and stream line approval processes before any fee considerations are discussed.

For your consideration and response to my questions please

Mick Owens