



National Farmers' Federation

Submission to the

National Water Initiative Water Pricing Principles

4 December 2009



Member Organisations



**Corporate
Agricultural Group**



**Pastoralists'
Association of West
Darling**



**WOOLPRODUCERS
AUSTRALIA**

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1. The National Farmers' Federation

The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly agriculture across Australia.

The NFF's membership comprises of all Australia's major agricultural commodities. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF.

Each of these state farm organisations and commodity council's deal with state-based 'grass roots' issues or commodity specific issues, respectively, while the NFF represents the agreed imperatives of all at the national and international level.

2. Introduction

The NFF welcomes the opportunity to make a submission on the National Water Initiative Water Pricing Principles – Consultation Regulation Impact Statement and Draft Principles (the “Pricing Principles Paper”). The NFF notes its previous submission in October 2008 on the draft COAG Pricing Principles and that this submission builds on the further development of the pricing principles.

The NFF will confine its comments on these principles to those dealing with rural water, specifically recovering capital expenditure and recovering the costs of water planning and management.

The NFF also draws the attention of COAG to its submissions to the ACCC Water Charges Rules which can be located on either the NFF website (<http://www.nff.org.au/policy/submissions.html>) or the ACCC website (for infrastructure charge rules see <http://www.accc.gov.au/content/index.phtml/itemId/862706> and for water planning and management, see <http://www.accc.gov.au/content/index.phtml/itemId/862712>).

The NFF notes that this consultation arises from a review of inconsistencies, in practice, between jurisdictions and to seek to enact changes to resolve those inconsistencies that are impeding the achievement of NWI outcomes.

The NFF also notes the recently released NWI Biennial Assessment on water reform, and specifically the water pricing assessment. In this respect, the NWC notes:

“Jurisdictions have made some pricing reforms over the past two years, and substantial progress has been made towards the development of NWI national pricing principles. These pricing principles have not yet been adopted and.....it is time they were.”

And:

“Progress ...for water planning and management...has been very limited. Further progress is needed in Queensland, Western Australia, Victoria and South Australia and nationally...While the Water Act 2007 gives the Minister powers to develop water charge rules for water planning and management....it is difficult to apply these rules in the way envisaged in the NWI Agreement.”

Specifically in relation to the National Water Commission's recommendation, the following relate to these pricing principles:

Recommendation 8.2: The Commission recommends that NWI parties move quickly to endorse the draft national NWI pricing principles at Ministerial Council level and implement those principles as soon as practical.

Recommendation 8.9: The Commission recommends that draft NWI pricing principles for water planning and management be agreed and implemented quickly so that jurisdictions can advance NWI commitments to recover water planning and management costs. Recognising that the Water Act 2007 gives insufficient power to the Minister to progress water planning and management charge rules in the Murray-Darling Basin as envisaged in the NWI, the Commission recommends that once agreed, the NWI pricing principles for water planning and management be implemented within the MDB.

In addition to the above, the NFF notes recommendations 8.4 and 8.5 relating to urban and recycled water.

NFF concurs with the Pricing Principles Paper in that the jurisdictions have interpreted and applied the NWI pricing arrangements quite widely¹. This has resulted in a number of jurisdictions also contravening the COAG principle of competitive neutrality as the result has been inconsistent arrangements and cost recovery and hence consequential impacts to water trade and markets.

However, NFF would contend the statement regarding untimely and insufficient infrastructure investment as this outcome predates the NWI by a significant time frame. This is backed up by various state pricing regulator statements and the inclusion of legacy costs and "lines in the sand".

For rural water, state Governments have funded the capital and operating expenses required to bring irrigation infrastructure up to current standards. This has applied to both state water delivery businesses (e.g. dam maintenance) and government irrigation schemes transferred to irrigators (e.g. Murray Irrigation).

For urban water systems, the lack of investment in dam capacity since the early to mid part of last century along with significant population increases in capital cities has resulted in significant impacts through water restrictions and other arrangements.

The NFF would also note that any costs sought to be recovered from entitlement holders, ought to be prudent, efficient and relevant.

3. Capital Expenditure

Constraints to policy

NFF notes that the Pricing Principles Paper states that there are no multi-jurisdictional constraints to establishing pricing principles for capital expenditure ("capex").

Options

¹ Consultation Regulation Impact Statement, page 5

NFF does not support the status quo, particularly as there are significant differences in the approach taken to recovery capex.

NFF notes that most rural water service providers have achieved lower bound pricing and or have transparent Community Service Obligations (CSO) in place as required by the NWI. NFF also supports the “line in the sand” approach to deal with legacy issues.

NFF notes that the two main approaches to capex recovery are Regulatory Asset Base (the NWI supported approach) and annuity and the Pricing Principles Paper notes some of the advantages and disadvantages of these approaches. In addition to these, NFF notes that the annuity approach is “lumpy” when projected over a 30 year or more period and that capex projections beyond the first five years is difficult.

Furthermore, NFF notes that the annuity approach uses entitlement contributions to fund capex. However, in practice there is seldom reconciliation between the capex claimed at a determination and that which is implemented. Often entitlement holders could be paying for a capex specific asset one determination after another with an ever increasing cost as time goes on.

Impact of Options

NFF notes the discussion and has nothing further to add than otherwise expressed above.

4. Water Planning and Management

Issues

The Pricing Principles Paper notes that water planning and management can be undertaken by a range of government agencies and other organisations. In some instances, these agencies and organisations have sought to recover their costs through state regulators, particularly where government agencies are critically affected by state treasury constraints and the need to be more efficient in delivering services.

The NFF would not support that water planning and management charges become the “solution” to funding constraints. In other words, water planning and management charges should not be used as an excuse for cost shifting from the various government departments to irrigators. There must be a clear and transparent linkage between the service cost and water extraction. Where this cannot be shown, then these claims ought to be rejected by state pricing regulators.

Constraints to policy

NFF notes that the Pricing Principles Paper states that there is no Minister-endorsed definition of water planning and management potentially leading to a broad range of activities being covered by a broad range of parties. The pricing principles therefore, should go a long way towards resolving this issue. Importantly, endorsement by Ministers and urgent implementation is then needed.

Options

NFF does not support the status quo. This is an area where NFF has been consistently and constantly critical (see ACCC submissions on water charges) and has called for changes to the

Water Act 2007 to allow a consistent approach within, and to a lesser extent, outside the Murray-Darling Basin.

NFF notes the ACCC position that water planning and management costs for activities are likely to vary considerably across the Basin. NFF would state that this is fine, providing the relevant, prudent and efficient costs are being recovered.

NFF notes the comment in the Pricing Principles Paper that where it is not practical to differential water planning and management costs by water source, or the jurisdiction can demonstrate that these costs do not vary significantly, or it is excessive costly to determine these costs at a catchment or valley or region level, then a broader charge may be applied.

NFF does not accept this as a reasonable approach. There are methods to apportion costs between smaller scales based on, for example, staff time or other allocation methods. NFF certainly does not support that the costs of making the determination at a finer scale should be the reason for a broader charge. In any event, it would be prudent to leave such a decision to the state regulator to assess on a case by case basis.

NFF rejects the alternative approaches whereby jurisdictions apply a common definition of identify their own. Not only would not be transparent, but approaches to date have failed as can be seen by the COAG assessment of the vast differences in approaches.

Impact of Options

NFF notes the premise that the NWI Pricing Principles has the potential to lead to under recovery with the effect of subsidising entitlement holders. NFF would contend that in some states, there is no recovery at present. Any improvement would assist the process and NFF would envisage that it may take several determinations to reach a landing zone on the activities for which costs are to be recovered. There is no expectation that this would be right the first time. Importantly, the consultation process that usually takes place for determinations, allows participants (stakeholders and those seeking to have their costs recovered) to provide their views on the types of costs along with the quantum and timing of the costs to be recovered.

An issue that is important is the urge to recover costs from entitlement holders for a range of non-diversion impacts. This can include a wide range of non-entitlement holder impactors and non-irrigator users of the system that cannot have costs recovered from them (e.g. fishers, boating, recreational users etc). It is very easy for some to attempt to charge those that can be charge because they have an account for the impacts of others.

NFF does not support the alternative principles approach and suggest some care for the NWI pricing principles approach to cover the above concerns.

5. Implementation & Review

NFF notes the proposed two stage approach (development of the NWI pricing principles followed by to whom and when the principles will apply). NFF notes that the NWI pricing principles will be forwarded to the NRM Ministerial Council for decision.

NFF also notes that there is a review of all COAG Ministerial Councils and seeks clarification of the effect of this review (due early 2010) on the decision of the NRM Ministerial Council of these pricing principles.

NFF notes that jurisdictions are yet to agree on the arrangements and agreement for stage 2.

NFF is also seeking clarification on whether these pricing principles will apply to the Murray-Darling Basin, including the development of ACCC water charge rules (specifically for water planning and management). NFF suggests that there is an urgent need to amend the Water Act 2007 to enable charges not currently levied to have the ACCC charge rules apply.

6. Principles

In general, the NFF supports the NWI pricing principles (attachment A to Pricing Principles Paper). One observation however, is that there ought to be COAG oversight in the actual implementation of these pricing principles to ensure that a consistent approach is in reality applied.

Furthermore, NFF would recommend adoption across all jurisdictions to ensure competitive neutrality and minimise the potential for negative impacts to water trade and markets.

NFF would also recommend that independent state based regulators implement the changes at the next determination of water charges and that an open dialogue between these regulators occurs to ensure a consistent approach is applied for determinations.

Specifically, NFF rejects that if Governments agreed not to apply these principles in a particular case, the reasons would be tabled in parliament. This would be a very poor outcome and moreover, a lack of resources cannot and should not be used as an excuse to avoid implementation.

NFF supports a review of the Water Act 2007 and NWI pricing principles in 2010 to ensure consistency.

7. Murray-Darling Basin Authority Costs

One area that has not yet been addressed is the consistent approach to the recovery of Murray-Darling Basin Authority costs. NSW fully passes these costs through (without the application of a pricing determination), Victoria partially passes these costs through and South Australia does not pass any through.

There are two issues – the pass through of costs and the application of a pricing determination to these costs. The ACCC must be required to undertake a determination of the Authorities costs. Once this is established, the jurisdictions must fully pass through those costs applied the entitlement holders.

The alternative is to require state based regulators to make a determination on those costs borne by the Government from the Authority. NFF understands that this may require an amendment to the regulator's governing legislation to take effect.

This is a major deficit in the southern Basin and is leading to inefficient water trading and markets, along with contravention of competitive neutrality.

8. Conclusion

The NFF encourages jurisdictions to finally get water pricing right. The Pricing Principles Paper provides an opportunity to ensure a consistent approach for capex and water planning and management is applied to all jurisdictions. NFF urges jurisdictions to put these in place sooner rather than later. NFF also urges jurisdictions to agree to changes to the Water Act 2007 to enable the application of water charges to all water regardless of whether these are currently levied or not.

Moreover, NFF also urges jurisdictions to commence the application of a determination for MDB Authority costs to ensure that entitlement holders bear only the prudent efficient and relevant costs attributable to irrigators and to avoid unintended and perverse outcomes in an active water market.

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