

27 April 2020

Dr Paul Paterson  
Chair  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop, Sydney NSW 1240



Dear Dr Paterson

## **Review of Prices for WaterNSW from July 2020 – Draft Determination**

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC broadly supports the Independent Pricing and Regulatory Tribunal's (IPART) draft determination for WaterNSW's prices from July 2020 and we are satisfied the adjusted allowances for capital and operational expenditure are likely to be efficient and facilitate responsible investment and operations over the period.

PIAC supports the introduction of dynamic wholesale water usage prices in principle. We contend, however, that in the interests of fairness and effectiveness they should be passed through to end consumers in an inclining block, without the volatility of dynamic retail prices. We are concerned the reallocation of demand risks and costs to bulk water customers, in conjunction with decisions being made in the Sydney Water draft determination, place an undue burden of risk and cost on households.

This submission will focus on issues IPART is seeking comment on, including the potential benefits and risks involved in the implementation of a dynamic wholesale water usage charge.

### **Issues for comment**

**Do you agree with our draft decision to share the efficient cost of recreational services between WaterNSW's water customers and the direct users of recreational services (or the NSW Government on behalf of the broader community)? Or do you consider there is merit in the direct users of recreational services (or the NSW Government on behalf of the broader community) funding 100% of the efficient costs of recreational services?**

PIAC supports an approach where the beneficiary of a service pays the costs related to its provision. Where a beneficiary is not easily identifiable for the purposes of cost recovery, an 'impactor pays' approach is appropriate. In this case the direct users of the recreational services receive a direct benefit from their provision, and should be responsible for costs related to their use. The community at large receives the indirect benefit of the general availability of these services. This benefit is indirect and not able to be attributed to the entire community in a way that would make recovery of costs from

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consumers appropriate. The indirect nature of community benefit means recovery of some costs in support of the general availability of the recreational services should be borne by the NSW Government. The example of National Parks is relevant in this case, where a proportion of the costs of making the facilities and services available to the community is borne by the government via the National Parks Service and the remainder is covered by the direct users through access charges. The NSW Government assuming 100% of costs related to recreational services would be an appropriate alternative.

### ***Recommendation 1***

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*PIAC recommends 100% of costs related to the provision of recreational services provided by WaterNSW be shared between the NSW Government and direct users of the facilities.*

### **Do you agree with our draft decision not to introduce the option for WaterNSW to enter into UPA's with Sydney Water and the three councils?**

PIAC agrees with IPART that the purpose of Unregulated Pricing Agreements (UPA's) is to help realise potential benefits for large end users by allowing suppliers to make agreements with them. As Sydney Water and the three councils are monopoly service providers, not large end-users, we do not consider it appropriate to extend UPA's to WaterNSW and support the draft decision not to do so.

### **Do you think we should consider excluding any voluntary supply (from SDP to Sydney Water) from the SDP exclusion factor, if such an agreement is possible, in future price reviews?**

PIAC understands the current arrangements are intended to manage the potential impact of water Sydney Water is required to purchase from Sydney Desalination Plant (SDP) under the conditions of the Metropolitan Water Plan 2017 (the Plan). The mechanism to adjust the usage price of water purchased from WaterNSW to respond to demand decreases, protects WaterNSW revenue but arguably is not efficient or in the long-term interests of NSW households, who are effectively assuming the risk of WaterNSW and the costs of SDP. This arrangement is not under consideration in this review, however it would not be appropriate to consider any further extension of the mechanism.

PIAC agrees it is unlikely any future agreement between SDP or Sydney Water will result in Sydney Water voluntarily purchasing water from SDP outside the terms specified in the Plan, particularly considering the significantly higher costs of water sourced from SDP. However, this assumes any voluntary agreement between SDP and Sydney Water outside the terms specified by the Plan would not allow Sydney Water to pass through the additional operational costs of the SDP on top of usage prices. PIAC would have serious concerns were Sydney Water to pursue an arrangement with SDP to voluntarily source bulk water and use existing pass through arrangements, with consumers bearing the costs.

Voluntary supply should be excluded from the SDP exclusion factor, and we recommend IPART consider re-examining the regulatory mechanisms governing Sydney Water and SDP. It is necessary to ensure any potential voluntary supply agreement between Sydney Water and SDP is rigorously cost-tested to ensure consumers do not pay any more than is necessary.

### ***Recommendation 2***

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*PIAC recommends the SDP exclusion factor not be extended to any potential voluntary supply arrangement between Sydney Water and SDP. This should be subject to assurance that any such voluntary agreement would not be able to use the SDP cost pass through and lead to consumers paying more.*

