

6 November 2017

Dr Peter Boxall  
Independent Pricing and Regulatory Tribunal (IPART)  
PO Box K35  
Haymarket Post Shop NSW 1240

Dear Dr Boxall

### **Review of Asset Disposals Policy**

Thank you for the opportunity to provide Sydney Desalination Plant Pty Limited's (SDP's) views on IPART's 2017 review of its Assets Disposals Policy (the Policy). SDP commends IPART for taking the initiative to conduct this review.

SDP agrees with the key principles that IPART considers should guide this review, namely:<sup>1</sup>

1. Only prudent and efficient costs should be included the Regulatory Asset Base (RAB).
2. The right incentives are in place for utilities to dispose of assets that are not needed to provide regulated services.

IPART has sought submissions on its preliminary views on a number of aspects of its Policy review, as set out in its Information Paper. In keeping with the key principles outlined above, the Information Paper proposes refinements to the existing policy.

SDP considers that IPART's current Policy is, on the whole, working well. SDP has however identified a small number of important areas in which we seek improvement to IPART's Policy.

The Attachment sets out SDP's views on matters which are of concern to SDP. Importantly SDP's comments relate to assets which were established as part of the initial Regulatory Asset Base (RAB). These comments do not relate to "line in the sand" assets as the latter is not relevant to SDP's regulatory framework.

SDP looks forward to working constructively with IPART during this review.

Please direct any correspondence regarding our submission to Justin De Lorenzo, Chief Financial Officer [REDACTED] or [REDACTED].

Yours sincerely,

[REDACTED]

Keith Davies  
Chief Executive Officer  
Sydney Desalination Plant

Attachment: SDP's Response

<sup>1</sup> IPART Asset disposals policy consultation Paper, 25 September 2017, p.1 (Information Paper)

## Attachment – SDP Response to IPART’s Review of Asset Disposals Policy

SDP’s response to IPART’s review of the Policy relates to assets which are post “line in the sand assets”. “Line in the sand assets” are not applicable to SDP as its asset base was established as part of the initial RAB at SDP’s first IPART determination in 2012.

In terms of post line in the sand assets SDP supports the current IPART Assets Disposal Policy. SDP believes, however, that the Policy can be improved with two proposed changes:

### **1. The Treatment of Significant and Non Significant Assets**

The treatment of the disposal of non-significant assets is less commercially advantageous than the treatment of asset disposals for significant assets. In the case of the disposal of significant assets the regulatory asset value of the asset being disposed of is deducted from the RAB. The utility owner can therefore recover asset sale costs, remediation costs and tax liabilities from the sales proceeds where the sales proceeds are higher than the sum of the RAB value of the asset and the aggregated value of these costs and liabilities (collectively referred to as “costs”). In addition the utility would be entitled to keep any profit made from the asset disposal. This framework creates the right incentives for the utility to dispose of assets that are not needed to provide regulated services where the sale proceeds exceed all the costs. Creating the “right incentives” for utility owners is one of IPART’s stated objectives in its review of the Asset Disposal policy.

For the disposal of non-significant assets, the current Policy requires the utility owner to deduct the full sale value from the RAB and it is not stated in the current Policy whether the utility is entitled to recover its sales costs, remediation costs and tax liabilities and make a profit. All of these costs and liabilities and profit are legitimate amounts the utility would want to recover in a commercial sale of its asset. Without the ability to recover these costs and make a profit a utility would never have a commercial incentive to sell a surplus asset and in fact it would be the utility’s interest to leave the relevant asset in the RAB and earn a regulated return on the asset until its RAB value was exhausted.

In order to avoid a framework which disincentivises the sale of non-significant assets relative to significant assets, IPART should dispense with the idea of two classes of asset ie not distinguish between significant or non-significant assets. Instead where an asset of any value is identifiable in the RAB, the RAB value of that asset should be deducted from the RAB at the point in time that it is sold.

In the case where the RAB value of the asset being disposed of cannot be determined then the utility should be allowed to deduct from the RAB a best estimate of asset value using one of the options set out in the current Policy and reproduced by IPART on page 20 of its *Assets Disposals Policy Consultation Information paper, 25 September 2017*. These options for valuing the asset include using an indexed tax value, an indexed book value or tracking actual capex adjusted for depreciation and indexation.

## **2. Compulsory Acquisition of Land and/or Easements**

There are cases where governments (Federal, State or Local or another organisation which has been granted a government approved compulsory acquisition order) compulsorily acquire a utility’s assets at a value determined by that government and a value which is outside of the control of the utility to negotiate. The value paid to the utility by the government body making the compulsory acquisition may be above or below the asset’s RAB value. The compulsory acquisition may be driven by for example the building of new road or rail infrastructure or for other reasons.

Whilst it is impossible to build a hard and fast rule for every type of compulsory acquisition it is appropriate to build into the Policy a case by case assessment process for IPART for all compulsory acquisitions. The Policy should reflect a principle that ensures that the utility that is the subject of the compulsory acquisition order is in no worse financial position (measured on a Net Present Value basis) after the compulsory acquisition than it was before the compulsory acquisition. Further the utility should not profit from any windfall gains for example in the event that the compulsory acquisition financial compensation far exceeds the RAB value of the asset. In determining what constitutes a “no worse financial position” the utility should be allowed to recover its selling costs, asset remediation costs, future regulatory return on the asset and any associated tax liabilities.

The principle proposed by SDP in this case is fair to both customers and the utility.

**Attachment – SDP Response to IPART's Review of Asset Disposals Policy**