

19 December 2019

Dr Paul Paterson
Chair, IPART
Level 15
2-24 Rawson Place
Sydney NSW 2000

Dear Dr Paterson

Terms of reference for a one-off pricing investigation regarding the services comprised in the expansion of the Sydney Desalination Plant

Under section 52(1) of the *Water Industry Competition Act 2006 (WIC Act)*, I hereby refer to IPART, for investigation and report, the determination of the pricing for Sydney Desalination Plant Pty Ltd's Expansion Services.¹

Background

Sydney Desalination Plant Pty Ltd is the licensed network operator of the Plant and related infrastructure. In May 2011, the then Minister for Finance and Services declared Sydney Desalination Plant Pty Ltd ("SDP") to be a monopoly supplier under section 51 of the WIC Act. IPART has since made two determinations of prices for the services in respect of which SDP was declared to be a monopoly supplier, under terms of reference issued in 2012. IPART made the current determination in 2017.

The 2017 Metropolitan Plan details the Government's Drought Response Strategy, which includes a broad suite of supply and demand management measures that can be deployed at pre-determined trigger levels as dam storages fall. In accordance with that Strategy, the Government has directed SDP to prepare preliminary plans explaining how it could expand the Plant's capacity to produce non-rainfall-dependent drinking water. These plans are to address the following Expansion Objectives:

- 1 the expansion of the Plant is a key element in protecting Sydney's water security by ensuring Drinking Water is delivered from the Expansion to a standard consistent with existing agreements between SDP on the one hand and the State or Sydney Water on the other (which includes SDP's licences under the WIC Act);
- 2 the expansion of the Plant should be undertaken as quickly as practicable and in a prudent and efficient manner to deliver at least an additional 250 megalitres of Drinking Water per day averaged over a twelve month period with the same levels of design reliability, robustness and availability as the existing Plant and to the standard set out in paragraph 1 above; and
- 3 the expansion of the Plant should provide for future flexibility in operating modes for the both the existing Plant and the expansion of the Plant.

¹ Attachment A to this letter explains defined terms used in these terms of reference.

Terms of reference

In issuing these terms of reference, it is my intention that IPART:

- conduct a discrete, one-off investigation in respect of **only the Expansion Services**.²
- would assess the efficient capital costs that would minimise the life cycle costs involved in expanding the capacity of the Plant, and set prices to recover these costs over the life of the expanded Plant, having regard to the Expansion Objectives. The efficient capital costs should include the efficient costs and expenses of preparing, negotiating, submitting and finalising plans for the expansion of the Plant in accordance with the requests by the State for that expansion.
- may make provision for a water usage charge that is to apply to any water produced from the expanded Plant and any other charge that may be required in relation to the Expansion Services; and
- ultimately replace, with a single determination, both the current 2017 determination and the determination which is the subject of these terms of reference pursuant to the 2012 Terms of Reference. These terms of reference are intended to expire once a determination has been made for the Expansion Services.

IPART will use its reasonable endeavours to publish its Draft Report on this investigation within six weeks from the provision of the following information by SDP to IPART:

- the initial tendered costs, project timelines and related information arising from its market procurement process; and
- any other information that IPART may reasonably request.

Timing

IPART will use its reasonable endeavours to publish its Final Report on this investigation within four weeks from the provision of the following information by SDP to IPART:

- the final tender costs, project timelines and related information arising from its market procurement process;
- the final contracted costs, with explanations for the variation between the tendered and final contracted costs; and
- any other information that IPART may reasonably request.

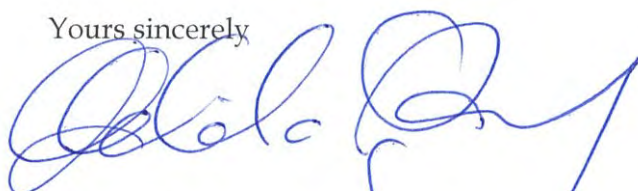
Matters which IPART must consider

In investigating the determination of prices for the Expansion Services, IPART is to:

² Section 13(6) of the *Independent Pricing and Regulatory Tribunal Act 1992*, which applies to IPART's pricing investigations under the WIC Act due to section 52(2) of the WIC Act, allows IPART to conduct a pricing investigation which is "limited to a particular part or category" of a monopoly service.

- a) have regard to all matters it is required by law to have regard to, including submissions made by SDP;
- b) have regard to the pricing principles set out in the 2012 Terms of Reference, but only to the extent that IPART considers they are relevant to the Expansion Services; and
- c) consider the inclusion of the efficient costs incurred by SDP for abatement under the existing determination, for any shutdown of the existing Plant required to construct and/or commission the expansion of the Plant; and
- d) any other matter IPART considers relevant.

Yours sincerely



The Hon. Melinda Jane Pavey MP
Minister for Water, Property and Housing

Attachment A

Defined terms used in these terms of reference

2012 Terms of Reference means the Terms of Reference for Referral of Sydney Desalination Plant Pty Limited to IPART under section 52 of the WIC Act dated 16 February 2012.

Declared Services means the services in respect of which Sydney Desalination Plant Pty Ltd was declared a monopoly supplier by order dated 2 May 2011 published in *Gazette* no. 44 of 6 May 2011.

Drinking Water means the treated seawater produced by the expansion of the Plant which satisfies the water quality specifications required under its regulatory approvals and its existing agreements with Sydney Water in respect of the Plant.

Expansion Services means that part of the Declared Services comprised in, or incidental to, the expansion of the Plant.

Plant means the Sydney Desalination Plant at Kurnell NSW.