



Australian Government

Commonwealth Environmental Water Office

Our Reference: 001422385

Ms Deborah Cope
WaterNSW Rural Bulk Water Price Review
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, NSW 1240

Dear Ms Cope,

IPART Review of Prices for WaterNSW Rural Bulk Water Services and Water Administration Ministerial Corporation Services from 1 July 2021

The Commonwealth Environmental Water Office (CEWO) makes the following submission in response to the *Independent Pricing and Regulatory Tribunal (IPART) Draft Review of Prices for WaterNSW Rural Bulk Water Services from 1 July 2021 to 30 June 2025* and the *Independent Pricing and Regulatory Tribunal (IPART) Draft Review of Prices for the Water Administration Ministerial Corporation from 1 July 2021 to 30 June 2025*. Due to the interlinked issues, the CEWO has provided one submission related to both price reviews.

The Commonwealth is a major client of Water NSW and the Water Administration Ministerial Corporation (WAMC). As at 28 February 2021, the Commonwealth environmental water holdings included 1,110 gigalitres (GL) of regulated entitlements and 459 GL of supplementary entitlements. From 2016-17 to 2019-20, the Commonwealth Environmental Water Holder (CEWH) paid over \$32 million in fees and charges within NSW. Consistent with the National Water Initiative Pricing Principles, the Commonwealth is committed to the promotion of tariff structures which send clear signals on the real cost of services provided by water authorities to their customers. Prices should be set by water authorities to promote the economically efficient and sustainable use of water resources; water infrastructure assets; and other government resources devoted to the management of water.

The Commonwealth's environmental water holdings are managed by the CEWH. The CEWH is a statutory position established under the *Water Act 2007* (the Water Act) to manage the holdings to protect and restore environmental assets in the Murray-Darling Basin, in accordance with the *Basin Plan 2012* (the Basin Plan), the Environmental Watering Plan and the Basin-wide environmental watering strategy.

The Commonwealth's environmental water holdings are actively managed by delivering water to environmental assets, carrying water over for use in future water years, or through trade (sale or purchase). As at 28 February 2021, the average annual yield of the Commonwealth's regulated and supplementary entitlements in NSW was 898 GL. These holdings are anticipated to continue to grow possibly until 2024.



Commonwealth environmental water has contributed towards achieving a range of environmental objectives in NSW, including:

- providing river flows that support good water quality for the environment and water users,
- connecting rivers to floodplains to maintain food chains and support fish movement,
- filling wetlands that support native fish, birds and other native animals, and
- supporting the recovery of the environment following recent droughts, and building resilience in preparation for future droughts.

The CEWO maintains a positive and productive working relationship with all NSW water management agencies, with the aim of maintaining healthy river systems and protecting and restoring environmental assets across the Basin catchments of NSW.

As the largest single entitlement holder in the Murray-Darling Basin, the CEWH will be paying significantly more on an annual basis for Water NSW and WAMC services under IPART's draft prices. It is clear there are extensive components of Water NSW's future program which are also yet to be accounted for in water prices. Considering IPART does not typically have the ability to consider affordability of water prices, it is imperative that water management agencies focus on achieving long-term efficiencies in how they provide their services to mitigate large price increases in future determination periods.

This submission provides input to a number of questions and draft decisions included by IPART in its draft price reviews published for comment on 16 March 2021.

Regulatory Settings

*To adopt a four-year determination period, from 1 July 2021 to 30 June 2025
To set maximum prices for Water NSW's services in each year of the determination period (a price cap).*

The CEWO supports the adoption of a four-year determination period and the approach of setting maximum prices for Water NSW's services. This approach provides certainty in understanding the ongoing financial impacts from the ownership and use of water in NSW.

Efficient Operating Expenditure

To set Water NSW's total operating expenditure allowance for the 2021 determination period at \$194.7 million

IPART's draft decision sets Water NSW's efficient operating expenditure allowance 28.6% (\$43.3 million) higher than the 2017 determination period. In part, this increase is due to Water NSW's previous overspend in the 2017 determination period of 38%. While the CEWO recognises that organisational expenditure can be impacted by external factors, the scale of overspend is significant. Atkins Review found that there is "limited evidence of efficiency and performance drive in Water NSW, limited ownership of determination performance and a lack of business/operational plans to demonstrate that the current levels of activity, expenditure, or

ways of working are the most efficient or effective". Water NSW should prioritise addressing the findings of the Atkins Review to ensure that there is increased performance and efficiency to help mitigate the need for significant increases in operating expenditure in the next determination period.

Efficient Capital Expenditure

To set the efficient level of Water NSW's capital expenditure for the 2021 determination period at \$290.9 million

IPART has made a draft decision to set Water NSW's efficient capital expenditure allowance at \$290.9 million over the next determination period. This is \$126.8 million (77.3%) higher than the allowance set in 2017. The CEWO recognises that capital expenditure is a core component of Water NSW's costs and it is fair that efficient costs are recovered from water users. The CEWO is concerned that funding uncertainty remains on future components of Water NSW's program of capital expenditure. The CEWO notes that the efficient capital expenditure for the Lachlan valley is significantly higher than in other valleys. The CEWO seeks a more detailed explanation of the efficient costs for this valley.

It has been outlined by IPART and Water NSW that costs for new water infrastructure projects (drought projects) will not be passed on to water users. The 2019 announcement for planning and delivery of new and augmented dams includes that a \$1 billion water infrastructure package will be funded through a 50:50 mix of NSW government and Commonwealth government funding for the Wyangala and Dungowan Dam projects. From the information provided by Water NSW, there appears to be remaining uncertainty on funding for these projects including that a formal funding agreement has not been put in place. The CEWO seeks confirmation that water users will not be passed any costs related to pre-construction or construction works for identified water infrastructure projects including if these projects do not proceed.

There will be significant long-term maintenance and operation costs from these projects that water users will be required to contribute to but it is unclear that there will be a substantial improvement in water security from these new costs. For example, Water NSW has estimated that the raising of Wyangala Dam will provide an additional 21 GL in General Security allocation annually. Considering the significant long-term costs that will occur across the life of the dam, the estimated increase in GS allocation is unlikely to provide a significant benefit to water users. This is before considering the costs that may arise to mitigate the impacts on the immediate and downstream environment from the construction of new dam infrastructure.

Water users in NSW are experiencing large increases under the prices put forward in IPART's draft review. Under the Water Charge Rules, IPART cannot consider affordability in setting the prices for Murray-Darling Basin valleys. The limitations placed on IPART will leave water users exposed to significant price rises in the future if required to cover the long-term costs of maintaining a much larger portfolio of assets. It is critical that NSW government considers the long-term implications from its dam infrastructure program on the affordability of water across the Murray-Darling Basin and communicates this to its stakeholders particularly in those valleys where large-scale infrastructure projects are planned.

Fish passage offset program

Information provided by Water NSW indicates that fish passage offsets required by NSW regulation for dam safety upgrades are still in their preliminary stages. From the public forum discussion convened by IPART on 30 March 2021, Water NSW and DPI Fisheries are unable to agree the best way forward for the implementation of the program. Previous delays have also been partially attributed to a lack of agreement between different NSW agencies. IPART's draft decision to not include the costs for the fish passage offset program in water prices for the next determination period should not be used as a justification in any further delays for NSW to meet its regulatory obligations.

There have been considerable costs both financially and environmentally from the delays in the fish passage offset program. The incremental cost increases should arguably fall to NSW government as the responsible state body. Considering this, the CEWO does not support IPART's draft decision for water users to ultimately accept 80% (up from a previous split of 50/50 between water user and government) of the cost as proposed in the rural bulk water price review. If Water NSW had delivered on the fish passage offset program in a timely manner, the cost would have been considerably lower with the financial implications for water users substantially less.

Delays have had a negative impact on environmental water holders who have not been able to maximise the benefits of their allocations to improve fish outcomes in NSW. This undermines the purpose of water recovery that has occurred under the Basin Plan. The CEWO implores Water NSW and DPI Fisheries to work together to find solutions to making progression on the fish passage offset program as quickly as possible.

The CEWO notes that under IPART's draft decision to pass on 80% of the cost to water users, environmental water holder entitlements will pay a significant portion of the additional costs that have been incurred due to delays in the fish passage offset program. This is despite environmental water flows contributing to improved outcomes for fish rather than being an "impactor" whose activities are associated with a decline in fish populations.

MDBA & BRC price structures and costs

IPART requests feedback on whether stakeholders in the Murray, Murrumbidgee and Border valleys would prefer MDBA and BRC charges to have:

- a. The current 80:20 fixed variable, or*
- b. A 40:60 fixed to variable ratio and the cost of a risk transfer product to compensate Water NSW for its increased revenue volatility risk.*

As a general principle, the CEWO does not have a strong preference on price structures but recognises the benefits to water agencies from cost recovery closely matching the costs incurred by the organisation providing its services. As MDBA has noted previously that its cost structure is essentially fixed, the CEWO supports IPART maintaining the 80:20 price structure as it is "relatively reflective of the underlying cost structure". The CEWO recommends that Water NSW continue to consult with its customers in the Murray, Murrumbidgee and Border valleys on their preferences for pricing structures.

Should Water NSW have a longer-term objective of providing options for customers to enter into individual pricing arrangements within and across valleys, the market impacts of having different entitlement holders within the same market operating on different tariff structures for the same tradeable products (i.e., entitlements and allocations) should be considered.

The CEWO supports IPART's draft decision to shift \$13.1 million of Salt Interception Schemes (SIS) costs from Water NSW rural bulk water to WAMC's water management charges based upon the impactor pays principle. Salinity is a basin-wide issue with complex interlinking factors that occur across different valleys. Water users in a small number of valleys should not be expected to cover the costs for Basin-wide environmental problems. The CEWO has discussed the SIS and the net benefits that environmental water allocations have for salinity levels across the Murray-Darling Basin in its submission on the WAMC charges further below.

Water Sales and Take Forecasting

To accept Water NSW's proposed water entitlements and usage forecast for regulated rivers

The CEWO recognises that forecasting future water sales and use is difficult due to external factors outside the control of water agencies. Water NSW has proposed forecasting both water sales and use based upon 20-year historical averages that are updated with contemporary information as time passes. IPART highlights that it is important that forecasts are as accurate as possible so that prices can recover water utilities costs efficiently but also notes that over a four-year period the probability of predicting water sales annually to within more than 10% is less than 1%. This demonstrates the importance of continuing investigations into how to incorporate the best available data and science to improve the accuracy of sales and use forecasting.

Although IPART's work during the review process to incorporate the impacts of climate change on water sales and use has been so far inconclusive, the CEWO strongly encourages IPART, Water NSW and other relevant water agencies to continue to investigate methods to more accurately forecast water availability, sales and use under different climate scenarios. Commonwealth agencies such as the CSIRO and Bureau of Meteorology are carrying out work to assist with building a better understanding of the impacts of climate change including on the agricultural industry. The CEWO recommend that Water NSW work closely with these agencies to identify any emerging information that can be incorporated into their forecasting to improve predictions for water sales and use into the future.

Other and miscellaneous charges

To set the environmental gauging station (EGS) charge at \$12,456.83 per year

The Commonwealth is committed to the promotion of cost recovery principles in the application of tariffs, and the principle that those costs should reflect the services provided to the customer. As with all other entitlement holders, the fees and charges payable by the Commonwealth contributes to funding the entire network of hydrometric gauging stations managed by Water NSW, including those not directly used to account for the delivery of Commonwealth environmental water.

It is unclear how the EGS charge fits with the impactor pays principle. As with the need for SIS, the need for environmental water flows is due to the negative impacts of high

consumptive use in our river systems. It is also unclear how the triggers that IPART has listed for the requirement to pay the EGS charge will result in a fair apportionment of the incremental cost. There are a range of reporting requirements for state agencies under the Murray-Darling Basin Plan. If held environmental water delivery were to cease, it is likely that Water NSW would still require these gauging stations to monitor instream flows for all customers and to support their broader statutory reporting requirements as well any new obligations under the National Framework for Non-urban Metering.

Non-Urban Metering Reform

Do you consider the indicative scheme proposed costs are affordable and what are the impacts of proposed bill increases on licence holders?

The affordability of the additional costs from NSW government's non-urban metering reform will vary according to the financial situation of different entitlement holders. It is clear that increases in metering charges for all water users who require this service will be significant (for example in the Murray, where the metering cost increase is 157%) in addition to already significant price increases across both rural bulk water and WAMC charges. Affordability for costs for non-urban metering reform should not be considered in isolation. Consideration on this issue should include the impacts of other price increases that are likely to occur from Water NSW's extensive program of work over the next determination period and beyond.

Will Water NSW's proposal for metering result in a consolidation of entitlements and fewer licence holders?

Water users are facing significant price increases in the 2021 determination. If there are savings on non-urban metering reform to be found through water users consolidating entitlements, then it is likely that water users will look to implement these changes. Any scheme that increases charges based upon a per entitlement basis will encourage the consolidation of entitlements. This is likely to result in a smaller pool of licence holders from which to cost recover for Water NSW's proposal and an increase in the per entitlement cost to recover.

Should scheme management charges for non-urban metering reform apply on a per licence basis (as proposed by Water NSW)?

A per licence approach to the implementation of the non-urban metering reform will encourage water users to consolidate entitlements. This approach will also socialise costs across those entitlement holders who hold multiple licences resulting in them carrying an unbalanced share of the costs. The CEWO is supportive of IPART's preliminary position that the primary impactor are water users who require meters. Further consideration should be given to Option 4 which looks to socialise costs by individual meter type. This could be coupled with a \$/licence volume or variable fee approach to help mitigate price impacts on smaller users.

Do you consider Water NSW's proposal will effectively achieve the Government's policy objectives for metering reform?

It is not clear that that metering requirements are practical and can be implemented effectively while maintaining affordability for water users. Water NSW has a significant program of work that it will be required to carry out in the next determination period such as achieving progress with the fishway program. The CEWO is concerned that this program of work including the non-urban metering reform will mean that Water NSW does not achieve the NSW government's policy objectives.

What are potential impacts on the implementation of metering reform if Water NSW's proposal does not meet the metering policy objectives?

If metering reform is not implemented in a practical and effective manner, then it is likely that the reform will stall. As with delays to the rollout of the fish passage offset program, this has the capacity to damage trust in the community in the management of water resources as well as losing the current momentum for improving water metering. The findings from the Matthews Report highlight the serious issues which need to be addressed through the non-urban metering reform. These issues are unlikely to be rectified without the support of the community and commitment to improving metering and monitoring across the Murray-Darling Basin.

Water Administration Ministerial Corporation Price Review

Efficient Operating Expenditure

To set WAMC's total operating expenditure allowance for the 2021 determination period at \$208.8 million

The CEWO notes that IPART has set the allowance for WAMC's operating expenditure at 2.2% higher than the forecast levels of expenditure used to set prices in 2016 and that there has been a reduction in compliance cost allowance by 62% mainly for funding the Natural Resources Access Regulator (NRAR). The CEWO considers that IPART's draft decision to recommend NRAR seeking funding directly from the NSW government to recover costs from compliance and enforcement is appropriate. It is clear compliance and enforcement measures have not been effectively implemented in NSW in recent years. Responsibility for this sits with the NSW government and it should bear the initial costs for the need for rapid improvements before water users are expected to contribute to these costs.

Salt Interception Schemes

The CEWO notes that MDBA and BRC costs are considerably higher than in the previous determination in part due to the shift of SIS costs of \$13.1 million from Water NSW rural bulk water to WAMC charges. The CEWO acknowledges that the issue of salinity is a basin-wide problem caused by historical irrigation practices and that it is appropriate that valleys other than the Murray and Murrumbidgee help to bear the cost for its management.

IPART's draft review outlines that it has "ringfenced" groundwater licence holders from paying for the SIS as irrigation is the impactor and these licences are "unlikely to contribute to the problem". The CEWO notes that other entitlement owner types such as environmental water holders help pay for SIS even though their licences are typically utilised in ways which assist with salinity levels and do not contribute to its cause.

One of the Commonwealth Environmental Water Holder's key objectives is the transportation of salt to the end of the Murray-Darling Basin system and exportation through the Murray mouth. Commonwealth environmental water also provides dilution benefits throughout the entirety of the Murray-Darling Basin. Between 2017-18 to 2019-20, Commonwealth environmental water was responsible for exporting 1.65 million tonnes of salt through the Murray mouth and into the Southern Ocean. Commonwealth environmental water is making a significant contribution to mitigating salinity issues caused by the negative impacts of agricultural practice and has a net benefit throughout the system.

Thank you for the opportunity to provide a submission on IPART's draft review. If clarification or further information is needed with respect to this submission, please contact me on [REDACTED]

Yours sincerely

[REDACTED]
Mr Michael Wrathall
Assistant Secretary
Wetlands, Policy and Northern Water Use Branch
Commonwealth Environmental Water Office

23 April 2021