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Introduction

This attachment has been prepared to provide WaterNSW's detailed response to the Aither and AtkinsRéalis draft expenditure review reports. It has been prepared in the following sections:

- Executive Summary
- WaterNSW overarching comment on the draft bulk water expenditure review reports
- WaterNSW comments on the Aither Greater Sydney draft report
- WaterNSW comments on the AtkinsRéalis Rural Valleys draft report.

Executive summary

In the draft reports, AtkinsRéalis and Aither collectively propose **capital expenditure reductions** across Rural Valleys and Greater Sydney over five years of between **37% (\$757 million)** and **70% (\$1,435 million)** and **operating expenditure reductions** of between **12% (\$132 million)** and **25% (\$272 million)**.

WaterNSW considers that the consultants' draft reports contain multiple factual and interpretive errors, leading to unsubstantiated reductions of between **\$900 million and \$1.7 billion** to our required bulk water expenditures over the 2025-30 determination period. The calculations supporting the reductions are not supported by evidence. We have asked for a copy of the supporting models and supporting assumptions which have not been provided to date.

We are concerned that the compressed review timeline compared to previous reviews (i.e. 9 months rather than 12 months) and available funding may have severely impacted the consultants' ability to provide the analysis necessary to support a sustainable level of investment to maintain service levels and deliver the outcomes our customers are seeking at an acceptable level of risk.

We are unsure as to how IPART can use these reports to support its determination where multiple consultants provided differing approaches to an upper and lower expenditure allowance, with no justification as to the up and lower bounds and little detailed analysis supporting their conclusions as to the prudence and efficiency of our submission.

Operating cost reductions lack substantiation

The consultants have provided no uplift to our future operating expenditure arising from changes in regulatory obligations, which is a 'step change' in IPART's BTS framework (a detailed assessment of which was provided as an attachment to our pricing proposal), when clearly there is a non-zero uplift in our costs.

The consultants also treat many regulatory and policy obligations as "optional" and have reduced required expenditure accordingly. The consultants seem to have ignored much of the analysis provided by WaterNSW or have disregarded the information in several cases.

Additionally, for most of the adjustments there is little transparency on the methodology and detail used to calculate these adjustments or to justify the proposed ranges.

Inconsistent application of principles/approaches and the 3Cs framework

There are several instances where the consultants take different approaches or apply differing principles to matters common to both of the bulk water reviews.

AtkinsRéalis adopts an approach for the lower bound of its opex finding to be based on the allowance contained in the 2022 Determination for 2024-25 (i.e. a decision almost four years ago made under a different regulatory regime). This approach, which is entirely inconsistent with the 3Cs framework, has not

been adopted by Aither. The adoption of FY24 by AtkinsRéalis would result in a higher (not lower) starting point for the Rural Valleys lower bound amount.

AtkinsRéalis seems to have dismissed the need to review the efficiency and prudence of the base, step changes and trend costs due to WaterNSW using the FY2023 as the base step as opposed to their position that FY2024 should have been used. Which year is used has no impact on the consultants' ability to review our expenditures. All that changes are the numbers that form the BST, with changes to existing expenditures remaining the same.

WaterNSW notes that the AtkinsRéalis and Aither draft findings differ significantly, and are far more extreme, than the draft findings from Stantec for the WAMC review. For instance, Stantec has largely accepted WaterNSW's proposed overhead costs, while the bulk water consultants have proposed large reductions. The large variation in outcomes does not provide confidence in the review process when three consultants review similar expenditures and produce vastly different results.

Capital expenditure reductions have not addressed Government policy requirements

Aither have **removed / deferred \$600 million of expenditure** for the Warragamba Dam Resilience Project, in favour of a \$6 million allowance to develop a strategic business case over the next five years. In doing so, the Aither report makes recommendations on dam safety without relying on any dam safety expertise, or a working knowledge of the NSW Dams Safety regulatory framework. The factual concerns relating to dam safety are set out below in section 2.3.3.

For Greater Sydney, the draft report makes a number of recommendations regarding dam safety, which if implemented would challenge WaterNSW in being able to meet its regulatory obligations (e.g. for Cataract Dam). The Aither draft finding potentially places government in a difficult position as it contradicts the directions of the Dams Safety regulator in NSW.

We note that both consultants recommend reductions to some projects and programs that were not raised or prosecuted during the interview or request for information (RFI) process. While this may be a function of a limited review process, it is not regulatory best practice.

Consultants removed projects our customers supported

AtkinsRéalis recommended the removal of projects that our customers supported during our detailed engagement process. In removing the costs of our proposed Water Insights Portal (\$7.8 million) the consultant stated the "*benefits around community engagement, community information and education and customer notification while desirable are not mandatory or core*".

This appears to ignore the outcomes of a 20-month customer engagement process that was designed to identify customer preferences. An arbitrary reduction runs counter to IPART's 3Cs framework that seeks to embed customer preferences in investment decisions. In addition, consultation and engagement with customers is a requirement under our Operating Licence.

Early engagement review did not appear to be incorporated

WaterNSW notes significant inconsistencies between the findings of IPART's 2023 system and process review conducted by FTI and the conclusions drawn in the expenditure reviews, particularly within the AtkinsRéalis Rural Valleys draft report.

We are concerned that the reports contain incorrect comments regarding our asset management and governance processes, which contradict the FTI findings. The FTI report found that our systems and processes were of a standard and maturity expected for similarly sized organisations.

We can see no evidence that the consultants have considered those prior findings, given the inconsistent advice and the re-prosecution of issues that were covered in the FTI review process. Having participated in good faith in IPART's systems and process review, WaterNSW sees little value during the current expenditure review process of having committed senior resources to the FTI process.

The consultants also appear to be either unaware of, or did not have sufficient time to engage with, the range of third-party reviews that WaterNSW is subject to on an ongoing basis. Each year WaterNSW is subject to operating licence audits initiated by IPART. These audits always consider our management systems as they are a key element of the operating licence as well as a key determinant of risk to be considered in any audit program.

In our recent operating licence audits these management systems have received positive audit outcomes that appear on face value to contradict the expenditure review findings. **Unable to calculate price outcomes for customers**

Both Aither and AtkinsRéalis have previously undertaken expenditure reviews on WaterNSW.

One of the notable differences in this review is that WaterNSW has not been provided with sufficient information to make a meaningful assessment of the proposed reductions. For instance, we have not been provided with a **valley-by-valley** assessment of the (Rural Valley) recommended expenditures that is required to understand potential pricing impacts. We note that this information has been provided in all prior Rural Valley reviews. Our customers have expressed a strong desire to understand potential pricing impacts in each valley, and the lack of this information in the draft report is likely to draw strong negative public criticism.

In recognising this, it is clear that the range of recommendations in the expenditure review reports and the supporting analysis provided are not sufficient to quantify the immediate price impact on customers or consider any whole of life costs / risks arising from the ranges provided.

While IPART will ultimately need to weigh these matters in determining how to use the recommended upper and lower bounds contained in the reports, we would have expected that the expenditure review consultants would have provided greater guidance to assist IPART in understanding the consequences of the options presented.

Draft reports have reputational risk

The reports seem to suggest that government has not been coordinated in its approach to policy and other projects, which we strongly reject. For example, Aither has incorrectly suggested that WaterNSW has not engaged with Government or Sydney Water on the Warragamba Climate Resilience Project, and that until we do, they imply that there is no justification for the project.

Aither also calls out the lack of community engagement, despite the evidence we provided that the project is part of a whole of government initiative under the Hawkesbury-Nepean Disaster Adaptation Plan work being led by the NSW Reconstruction Authority, and contained in the jointly developed LTCOP with Sydney Water (Attachment 24 of our submission). We suggest that these comments are corrected before the reports are made public. WaterNSW notes that this project, and many others, are complex and require extensive consultation with stakeholders, which we are committed to participating in.

Flawed digital benchmarking

WaterNSW does not support the benchmarking methodology used by AtkinsRéalis, which we consider is flawed and unsuitable for revenue-setting purposes. The benchmarking fails to account for WaterNSW's unique operating model as a bulk water provider covering metropolitan and rural services in addition to its role in delivering services to customers on behalf of the NSW Government (as it relates to WAMC). It also fails to consider increasing legislative requirements such as the Security of Critical Infrastructure Act and

the Privacy Act and new operating licence requirements, all of which require investment in systems and processes to protect sensitive data.

Despite acknowledging some of the limitations of benchmarking, AtkinsRéalis nonetheless uses it to justify reductions in WaterNSW's digital expenditure. Further, Aither appears to have extrapolated the AtkinsRéalis benchmarking in its assessment of expenditure for Greater Sydney—an approach that risks undermining critical service delivery and security obligations.

WaterNSW does not consider that the case has been made for the proposed reductions to the WAVE project, and we specifically consider the 'low' and 'very low' ex post adjustments to not be viable options as they ignore long-term enterprise-wide benefits and misinterpret benefits realisation.

Absence of risk assessments by the expenditure reviewers

Potential impacts to asset integrity and performance, customer outcomes, staffing levels, safety (staff, public and contractors) and incentives for future investment associated with significant proposed cuts warrant a much more fulsome review. In the absence of this risk assessment, WaterNSW suggests that the lower bound of the range in all cases should be given no weighting and not used as a basis to average upper/lower bounds due to the risks involved and the arbitrary nature of the reductions.

Transition period would be needed to implement the findings

If IPART reduces our proposed operating expenditures by the significant amounts suggested in the consultants' draft findings, it will result in material changes to our business practices to continue to meet our legislative obligations while also ensuring our financial sustainability.

While some reductions might be relatively straightforward to accommodate (for instance, WaterNSW may decide to not comply with an individual regulatory obligation should regulatory funding not be provided), it is likely that structural changes to our systems and processes would likely be required that may take several years to redesign and implement. For instance, our workforce plans, digital systems, customer outcomes and the extent of our regional presence for new programs would all need to be reviewed if insufficient funding is provided.

We therefore request that any material reductions to our proposed operating expenditures are phased in over the regulatory period (and no less than three years) to allow time for a structured and orderly transition to a new operating model.

The phasing should also consider WaterNSW's financial position and financial sustainability, in particular the impact of lower capitalised overheads on our profitability.

There is more work to be done in responding to the draft reports

In light of the limited review time and the number of factual and methodological issues identified, this response is not the end of the work we will do in providing feedback to IPART and we may provide additional advice.

1. Issues common to both expenditure review reports

1.1. Capital expenditure – Response to common issues

1.1.1. Program level recommendations contradict project findings

Program level adjustments were made with little to no regard for the specific projects sampled during the review. In Rural Valleys, only two 'renewal and replacement' projects were reviewed- both deemed prudent- yet broad 'top down' program reductions were applied based upon superficial and selective analysis of WaterNSW documentation.

Additionally, the consultant's recommendations lack valley-specific consideration. For example, the Oberon to Duckmaloi Pipeline project¹ was deemed necessary by the consultants but would be funded for only 17% of its delivery cost if it were the sole project undertaken in the Fish River scheme over five years. This is likely to result in unacceptable service levels for customers and safety outcomes for WaterNSW staff.

In Greater Sydney, a significant renewal program reduction exceeding \$100 million was recommended under the 'low' scenario, despite two renewal projects – both reviewed and assessed by the Consultants as prudent- receiving no recommended allowance under this approach. This conclusion was based on a high-level review of project benefit scoring without consideration of project cost, or the considerable risks imposed on customers by deferring all projects that do not mitigate 'high' risks or above.

These findings would impact our ability to maintain the bulk water infrastructure supplying Australia's largest city for the remainder of this decade. We are concerned that there has been a lack of rigour in the review given the important role of these projects.

1.1.2. Findings on policy-related projects have not addressed Government policy requirements

WaterNSW supports the careful examination of the prudence and efficiency of policy-related projects that form a significant portion of our proposed capital program. It is not clear whether the consultants or IPART have engaged with Government on the need for these projects and the timing to meet various policy and regulatory objectives. In any case, WaterNSW will continue to work closely with Government to ensure policy objectives are met in the most timely and efficient manner.

We suggest that the consultants' draft reports should not constrain IPART and Government in assessing the need for the projects and that excluding some or all of these investments may have this effect. Including the proposed policy projects (in particular Warragamba Dam Resilience) in the upper bound of proposed capital expenditures would provide this flexibility.

Whilst the consultants have not appeared to opine on **user shares** in the Rural Valleys or Greater Sydney reviews (they have in WAMC), by adopting a simple "in" or "out" approach to the upper and lower bound scenarios, the effect appears to be a proxy for giving IPART options on user shares. It would have been far preferable to adopt the approach used for the Warragamba E-Flows, where a clear statement on prudence and efficiency is made. That is, where the user is not determined to be the source of revenue, such a statement would provide WaterNSW with a prudence and efficiency determination from IPART that it can then use to potentially pursue other funding, in partnership with Government.

¹ Note that our proposal already rephased half of this project to post FY30 to mitigate impact to customer bills.

For Greater Sydney, the draft report makes a number of recommendations regarding dam safety which, if implemented, would challenge WaterNSW in being able to meet its regulatory obligations. The Aither draft finding potentially places government in a difficult position as it contradicts the directions of the Dams Safety regulator in NSW.

The report seems to ignore the considerable work undertaken by Government, WaterNSW and Sydney Water to develop the Greater Sydney Water Strategy and Long-Term Capital and Operating Plans (LTCOP). These plans and strategies support a long-term change to rainfall independent sources of supply, but recognise that the surface water supplies (particularly Warragamba) will need to continue to do the 'heavy lifting' in terms of Sydney's water supply for the foreseeable future.

1.1.2.1. Warragamba Dam Resilience

Aither have **removed / deferred \$600 million** of expenditure in favour of a \$6 million allowance (a 99% reduction) to develop a final business case over the next five years.

If the consultant's recommendation to exclude the expenditure for the project is adopted by IPART, WaterNSW considers a "reopener" or "pass through" provision be included in the final determination to enable WaterNSW to secure required (efficient) funding for the investment if the business case is supported by the NSW Government, and investment is required to commence over the next five years.

1.1.3. Lack of Understanding of our Regulatory Obligations

The report significantly misrepresents WaterNSW's legislative obligations, particularly regarding Dam Safety obligations under the *Dams Safety Act (2015)* and *Dams Safety Regulation (2019)*, and the *Fisheries Management ACT (1994)*. Given that a substantial proportion of Greater Sydney's proposed capex is driven by Dam Safety risk and compliance, the absence of a suitably qualified Dam Safety expert in the Consultant's review team.

The removal of a revenue allowance for the Warragamba Resilience project would prevent WaterNSW from taking any further action to progress work to demonstrate the risks are reduced So Far As Is Reasonably Practicable (SFAIRP), in a timely manner as is required under the regulatory framework. Similarly, in Rural Valleys, the consultants in their lower bound scenario appear to have concluded that the obligation for fishways would appear to not fall within the ambit of the National Water Initiative's Pricing Principles, however they do not state this.

The consultants should consider adopting the same approach for the Fishways program as they have for the Warragamba E-Flows program, and allow IPART to make a determination on the appropriate user cost shares based on an assessment of the likely range of prudent and efficient expenditure. WaterNSW contend that is not between 0% and 81% of the proposed allowance, as currently recommended.

Delays in fishway delivery in the current period were driven by challenges associated with escalating construction costs (beyond the revenue allowance determined), which WaterNSW has worked collaboratively with NSW Fisheries to address. The regulatory body has provided written support of our proposed phasing, ensuring that rural customers benefit from deferred capital expenditure while WaterNSW still meets its regulatory obligations.

As outlined in our pricing proposal to IPART, there are other mechanisms available to IPART to protect the users from the impacts of large capital investment on price rises, other than simply reducing the revenue allowance to meet regulatory obligations.

1.1.4. Consultants did not consider Customer Feedback

Given the emphasis on customer preferences within the 3Cs framework, it was notable that the Rural Valleys review and recommendations did not adequately consider customer feedback on key issues,

including proposed step changes and the allocation of costs between customers and government. WaterNSW responded to the top outcomes desired by customers providing options on services that would deliver on these outcomes.

The consultants did not incorporate customer feedback on any of the Rural Step changes. As part of our consultation process, WaterNSW sought customer input on the level of investment for numerous proposed step changes, including Land Management, CARM, and the Water Insights Portal. Customers were provided with investment options, including details on expected outcomes and the corresponding likely contribution to a customer's bill. The results of this consultation were made available to the consultant during the review process. However, these findings were not reflected in the consultant's recommendations, and in many cases, the consultant has recommended investment levels significantly lower than those supported by the majority of customers consulted.

AtkinsRéalis' recommendation to remove the Water Insights Portal (\$7.8M) is a clear example of this failure to account for customer priorities. The Water Working Group's Final Report found that 87% of customers supported investment in this platform, highlighting the need for better communication, improved access to information, and digital enhancements. The removal of this investment would not only increase operational costs by forcing manual processes, but also undermine public confidence in water management. Note that similar levels of support were received for other initiatives, including Land Management and CARM.

Some consultant findings also applied a 'beneficiary pays' model to cost shares, recommending the exclusion of projects such as fishways on the basis they do not directly contribute to "delivering water to customers". This approach was taken without reference to the outcomes of our Customer Engagement process, which indicated broad support for a greater government contribution to environmental projects.

WaterNSW supports consideration of increased government contributions; however, the wholesale exclusion of a program from the forward investment plan is not appropriate, and does not align with the 'impactor pays' principle mandated by IPART. Forecast prudent and efficient expenditure for environmental programs, including Fishways and Cold Water Pollution mitigation, should be included in the program, with final cost-share determinations resting with IPART.

1.1.5. Early engagement review did not appear to be incorporated

WaterNSW notes significant inconsistencies between the findings of IPART's recent system and process review and the conclusions drawn in the expenditure reviews, particularly within the AtkinsRéalis Rural Valleys draft report

In late 2023, IPART engaged FTI to assess WaterNSW's governance systems and processes, specifically how investment decisions are made and managed.

The review concluded that WaterNSW's systems and processes align with the expected standards and maturity for similar organisations. These findings were informed by consultant's extensive experience across the water, energy and infrastructure sectors in the Australian and global contexts.

At the time, IPART indicated that the outcomes of the FTI review would inform its pricing proposal assessment, particularly given the constrained review timeframe of 9 months compared to the previous 12-month process.

However, the expenditure review does not appear to have considered these findings. Instead, the consultants have re-examined and re-prosecuted issues that were already addressed in the FTI review, leading to inconsistent conclusions.

The consultants also appear to be either unaware of, or did not have sufficient time to engage with, the range of third-party reviews that WaterNSW is subject to on an ongoing basis. Each year WaterNSW is subject to operating licence audits initiated by IPART. These audits always consider our management

systems as they are a key element of the operating licence as well as a key determinant of risk to be considered in any audit program. In our recent operating licence audits these management systems have received positive audit outcomes that appear on face value to contradict the expenditure review findings. WaterNSW remains committed to transparency and regulatory engagement, but is concerned that the expenditure review has not adequately accounted for the outcomes of the prior process. The lack of alignment raises questions about the need for the early FTI review and the value of committing senior resources to a process whose findings do not appear to have been meaningfully incorporated.

1.2. Operating Expenditure

This section has been prepared in response to several issues in the Operating Cost review sections of both draft reports.

There are several reductions proposed to future operating expenditures that lack substantiation. Examples include:

- The consultants treat many regulatory obligations as “optional” and have reduced required expenditure accordingly. For instance, WaterNSW is required to pay land tax and has Operating Licence obligations it must meet. Funding is required to meet these obligations until such time as the obligations are amended.
- The lower range recommended would result in less revenue than what we receive today, to deliver greater services and functions imposed under our new Operating Licence and a raft of legislative instruments.
- There is considerable verbiage on the treatment of whether a cost is a base year adjustment or a step change. WaterNSW contends that if these adjustments are treated accurately, there is no impact to future revenues and prices in categorising these differently between a base adjustment and a step change.
- A similar approach occurs to the choice of base year (i.e. FY23 or FY24). It is our contention that if the appropriate adjustments are made to the base year, the future operating expenditures are largely unaffected. Neither AtkinsRéalis nor Aither have attempted to work through the required adjustments.
- AtkinsRéalis has provided no uplift to our future operating expenditure arising from changes in regulatory obligations (a detailed assessment of which was provided as an attachment to our pricing proposal), when clearly there is a non-zero uplift in our costs. Based on the extent of the reductions, we expected more substantiation to justify such significant and far-reaching reductions.

We have also not been provided with the relevant tables and analysis to support the material cost reductions (for instance, Aither indicates that it adopted the AtkinsRéalis’ draft findings for proposed digital expenditure, but this information is not in the AtkinsRéalis draft report and therefore we are not able to reconcile the findings).

1.2.1. Base Year Assumption

As noted above, the consultants focus on whether a cost is a base-year adjustment or a step change, when if treated accurately there is no impact to future revenues and prices. A similar approach occurs to the choice of base year (i.e. FY23 or FY24). It is our contention that if the appropriate adjustments are made to the base year, the future operating expenditures are largely unaffected.

Neither AtkinsRéalis nor Aither have attempted to work through the required adjustments and select FY24 as the preferred base year noting it is lower than FY23 (several adjustments would be required to FY24 to ensure it too is normalised to ensure it's appropriate to assess future investment).

AtkinsRéalis states the following in its draft report:

We consider FY24 to be an upper estimate of base opex given the scale of justified variance. For the lower range of base opex, we consider that IPART's 2021 Determination allowance, adjusted for well justified variance, is a reasonable starting point. (Page 11).

WaterNSW considers that:

- FY24 is not a representative base year, and cannot be used without adjustment. For instance, it was one of our highest years ever in terms of capital expenditure (and therefore capitalised overheads), which artificially reduces opex in FY24. Failure to adjust for this and other factors would materially and systemically provide insufficient revenues to recover our efficient costs.
- The use of the 2021 Determination for the lower bound is not a reasonable starting point as it relies on forecasts from four years ago that were made under a different regulatory framework and did not account for legislative changes and the impact of the global pandemic, among other required adjustments.

WaterNSW does not accept the consultants' criticism that WaterNSW's use of FY23 as the base year instead of FY24 is misaligned to IPART's Handbook. According to the Handbook, baseline opex should represent WaterNSW's efficient recurrent controllable opex in the penultimate year of the current determination period, which WaterNSW understands to be FY24. The Handbook also states that the base year should have a complete 12 months of data, to provide the most accurate reflection of the business's expenditure. Based on this guidance within the Handbook, WaterNSW has **adopted FY23 as its baseline due to it having audited accounts**.

WaterNSW has provided detailed information on baseline adjustments between FY23 and FY25 to IPART and the consultants to justify the forward-looking changes in how WaterNSW operates its business based on the IPART Handbook's methodology as reflected in the Statement of Corporate Intent and Financial Plan process.

At a principal level, WaterNSW considers that conceptually robust approach to the base trend and step adjustments using FY24 as the base year must result in the same FY25 forecast as using the appropriate base trend and step adjustments using FY23 as the base year (noting that different base year variations would need to be accounted for).

Therefore, and as noted below, we consider that if the necessary adjustments are made to the choice of base year, whether that is FY23 or FY24, there would be a negligible impact to the proposed operating expenditure forecasts for the FY26-30 period.

We also note WaterNSW engaged and informed IPART in early 2024 of our intent to use the FY23 as the base year and the reasoning for this, and no material concerns were raised.

1.2.2. Inconsistent application of principles / approaches and the 3Cs framework

There are several instances where the consultants take different approaches or apply differing principles to matters common to both bulk water reviews.

In the current context it is unclear how WaterNSW can interpret the findings and reconcile the outcomes of two consultant's reports (three when the WAMC draft report is included) from different consultants where the findings are inconsistent. This difficulty is compounded by the consultants' working files and spreadsheets not being made available to WaterNSW to assist in understanding the quantum and nature of the proposed findings. Examples include:

1.2.2.1. Base year

- **Different lower range base year starting points for operating expenditure:** Aither selected FY24 for the base year, while AtkinsRéalis selected FY25 from the 2022 Determination, noting the inconsistent treatment results in a lower bound in both cases.

1.2.2.2. Base year adjustments

- **Regulatory submission costs adjustment:** Aither removed this from the base year and recommended adjusting it in the step adjustment, while AtkinsRéalis adjusted the base year to the average of the proposed amounts.

1.2.2.3. Trends and escalation

- **Trend adjustments:** Aither recommended allowances for labour and insurance trends, whereas AtkinsRéalis did not despite evidence provided by WaterNSW and referenced by Aither.
- **Base year cost escalation:** Aither itemised components for escalation, while AtkinsRéalis used 3%.
- **Base year efficiency:** Aither recommended 1% to be applied to FY24 (Saas as opex), while AtkinsRéalis applied the inflated efficiency set to be achieved in FY25 under the current determination totally ignoring the supporting step and trend justifications.
- **Labour** - AtkinsRéalis rejected a trend adjustment for labour, while Aither recommended 0.75% for upper range.
- **Land tax** - AtkinsRéalis recommended 5.9% real increase for land tax, while Aither recommended 5.7% real increase for upper range, and no increase for the lower range.
- **Efficiencies** - Aither recommended 1-1.2% efficiencies and AtkinsRéalis applied our proposed efficiencies.

1.2.2.4. Upper and Lower Bounds

- AtkinsRéalis adopts an approach for the **lower bound** of its opex finding to be based on the allowance contained in the **2022 Determination** for 2024-25 (i.e. a decision almost four years ago made under a different regulatory regime). This approach, which is entirely inconsistent with the 3Cs framework, has not been adopted by Aither.

1.2.2.5. Treatment of SAAS costs

- Upper and lower range of base year starting point:
 - For the upper range Aither selected FY24 (Saas as opex), while AtkinsRéalis selected FY24 (Saas as capex).
 - For the lower range Aither selected FY24 (Saas as opex), whereas AtkinsRéalis selected FY25 allowance (as it was determined in 2021). The basis for selecting the FY25 allowance as a base year is not understood and we contend that this approach is inconsistent with the base trend step methodology. WaterNSW was required to identify step increases to a base year of actual results as required by IPART and not the 2022 determination FY25 allowance which appears to have been picked arbitrarily by AtkinsRéalis (e.g. being lower than the actual results and despite the fact that the forecast was developed in FY20 and has not been updated for business / regulatory changes since FY20).

- The 2021 FY25 Determination allowance is \$7 million p.a. lower than our FY24 actual results with Saas treated as capex. We refer IPART to the table below (much lower than the FY25 Determination allowance as current period top-down compounding efficiencies have an increasing and cumulative effect in the last year of the current period e.g. FY25). In addition, there has been no interrogation by AtkinsRéalis as to whether the \$7 million reduction is justified or sustainable over the FY30 period on a per annum basis.
- This is notwithstanding AtkinsRéalis also passing on our proposed efficiencies in the future period of \$5.4 million p.a., which were developed using our actual performance over the current period, compounding the level of efficiency proposed by AtkinsRéalis' in the FY30 period. This is unrealistic and unsustainable for WaterNSW to achieve (viz: -\$7 million p.a. and -\$5.4 million p.a. of efficiencies over 5 years compared to our actual results).
- Consistent treatment of Saas expenditure as either capex or opex across all determinations is required. Our proposal was for IPART to consider the FY24 figures with Saas treated as capex as our reported FY24 actual expenditure and financial statements in June with the Accounting Standards., shown below:

2023-24 (\$millions, \$2024-25)	Allowance	Actuals (Saas as Capex)
Greater Sydney	\$108.5	\$100.3
Rural Valleys	\$60.2	\$66.9
WAMC	\$22.2	\$19.0
Total	\$190.9	\$186.3

In discussions with the consultants, it also seems that there may be differing approaches across the water industry as to the approach to accounting for Digital/SaaS costs. We would welcome guidance from IPART as to the approach to be applied.

1.2.3. Comments regarding WaterNSW financial analysis

AtkinsRéalis make a comment that they were:

"surprised by the fact that the business has not been able to provide detailed assessment and understanding of historical variance in opex, given that this is the kind of thing we would expect a well-managed business to have assessed at the time and have had plans in place to manage overspend. This lack of detailed variance analysis limits our confidence in the drivers for historical expenditure performance and overspend".

Our view is we provided substantial analysis outlining the drivers for the variances.

AtkinsRéalis draft findings suggest that WaterNSW works in a steady state environment where the business operates in line with the allowances and underlying activities that formed the allowance submission in the current determination period. This does not recognise that the regulator provides a funding *envelope*, which WaterNSW looks to operate within during the regulatory period. The opex and capex activities for our current determination were developed in 2020. However, assumptions changed significantly due to broader water sector reforms in NSW, compounded by the effects of floods, bushfires that diverted resources for asset repairs and necessitated increased water monitoring and operations and the global pandemic.

The extreme weather events also had an impact on our capital program due to our ability to access assets. In addition, we also had a material change to our operating model and number of new regulations to meet (i.e. Security of Critical Infrastructure Act, Privacy Act and Modern Slavery Act, Land Management, IPART's 3Cs framework and WHS obligations).

There was also a need to:

- Redirect resources to improve operating licence compliance and in meeting increased customer demands for water data.
- Address the Covid 19 pandemic and significant macroeconomic matters such as inflation and interest rate increases, along with wage growth.

The above examples are not exhaustive, and we would also highlight that we received no allowance to meet the 3Cs framework and improvement recommendations from IPART with respect to the current determination. These costs were in the vicinity of \$20 million and we worked hard to reprioritise within our revenue allowances.

All the above contributed to a major shift to our cost base and the allocation of costs between opex and capex and the allocation of costs across determinations.

We believe the analysis provided was reasonable and balanced and that AtkinsRéalis comment is naive to expect any entity should to look to reconcile actual outcomes to assumptions developed in 2020, when in reality the regulator provides an overall revenue allowance. The allowance does not and should not require an entity to invest resources in a detailed line by line synopsis of what has changed from 2020, given the magnitude of change.

1.2.4. Prudent operating costs

The consultants treat many regulatory obligations as “optional” and have reduced required expenditure accordingly. For instance, WaterNSW is required to pay land tax and has Operating Licence obligations it must meet. A sufficient revenue allowance is required to meet these obligations. Any concerns that obligations may vary in the future can be adequately and appropriately addressed via pass through events if and when they arise.

The lower range recommended would result in less revenue than what we receive today, to deliver greater services and functions imposed under our new Operating Licence and a raft of legislative instruments. It also puts at risk the current level of services we provide our customers and our ability to meet existing legislative and regulatory requirements.

To implement the dramatic operating cost reductions that would arise if the lower range were adopted, almost immediately from July 2025, is unrealistic. WaterNSW would need a transition period to implement the changes, without further diminishing already lowered levels of service, and to avoid further regulatory non-compliance.

We therefore request that any material reductions to our proposed operating expenditures are phased in over the regulatory period (and no less than three years) to allow time for a structured and orderly transition to a new operating model.

1.2.5. Base Trend Step

WaterNSW strongly refutes AtkinsRéalis’ statement that WaterNSW has not applied the Base-Trend-Step (BTS) approach in line with IPART’s 3Cs framework. The 3Cs framework supports a flexible, proposal driven approach. WaterNSW interpreted this as an opportunity to deliver on the pricing proposal that promotes the long-term interests of customers with the best outcome. WaterNSW made every possible effort to ensure that it complies with the IPART Handbook using a well-evidenced (but flexible) approach in its interpretation. This allows for clear accountability and transparency of the information provided to IPART and customers.

1.2.6. Baseline adjustments

The consultant has stated that only three of the twenty baseline adjustments applied by WaterNSW meet the intent of IPART's Handbook. We do not agree and suggest that the consultant has applied an incorrect interpretation of what could be classified as step changes or a trend component.

IPART's Handbook has defined that a 'trend' component consists of predictable changes in expenditure over time due to known factors such as demand growth or inflation and a 'step change' refers to changes in expenditure caused by new requirements or new processes. To align with this definition, WaterNSW has separated the price impacts (inflationary pressures) from the changes in business processes or new requirements placed on the business by regulators and the NSW Government, which the IPART handbook clearly recognises as step changes.

For instance, to comply with this definition and to provide greater clarity, we have separated the change in employee headcount driven from new regulatory obligations (which we recognise as a step change) while reflecting wage price inflation as a trend. Additionally, the consultant has attempted to categorise all changes of digital opex as step changes. This approach ignores significant trends in software licensing costs and increased data storage volumes and costs.

Regardless of the choice of base year and classification of baseline adjustments between trend component and step changes, WaterNSW **expects that the consultant should arrive at substantially the same opex forecasts**. Differences in views as to whether or not a forecast is a base, step or trend should not dictate whether or not the forecast is efficient or prudent. The consultant has produced vastly different assessments without strong justification of its classification and rationale and seems to have impacted their assessment of our expenditures. This suggests that the consultants' approach lacks robustness.

Additional errors identified include:

- Non-recurring adjustments for FY24 need to be incorporated. A high-level review identifies that one-off insurance recovery revenues, for example, were used to artificially reduce the FY24 base opex. These amounts need to be reversed as they are not indicative of future expected operating expenditure.
- The current operating model adjustments proposed by Aither and AtkinsRéalis are fundamentally flawed, leading to inaccurate and unsustainable cost estimations. Aither's approach relies on an arbitrary midpoint calculation, lacking any factual basis. AtkinsRéalis, fails to provide a viable alternative.
- Our proposed new operating model offers a demonstrably accurate and defensible solution. It is based on the actual, existing FTEs for our direct core business. This directly reflects our efficient operational reality, unlike the arbitrary estimations employed by the consultants.
- Furthermore, we've identified transfers of costs which have increased direct core salary costs but are offset in lower overheads. This is a positive outcome aligned to IPART's stated desire of increasing direct attribution into activities ensuring accurate cost allocation. Removing this adjustment is both illogical and actively works contrary to IPART's request and accounting principles.

If our salary budget decreases due to denied or reduced base adjustments, we will need to adjust our vacancy budget (that is in overheads for the organisation). This will result in higher overhead costs.

1.2.7. Step adjustments

1.2.7.1. Land management

In section 3.4.4.2 of its report, AtkinsRéalis accepts that activities are required to reduce bushfire and biosecurity hazards, and states that it is not clear what the precise standards, regulations or similar are not being complying with and how the proposed activities will ensure compliance. It included the costs as proposed by WaterNSW in the upper range and removed it from the lower range.

WaterNSW disagrees with the lower range recommendation, on the basis that the proposed step change is incremental to current levels of expenditure and has been developed to target activities to ensure compliance with specific regulations it is currently not complying with, as set out in WaterNSW's regulatory proposal and supporting documents.

WaterNSW also received customer support for the proposed level of expenditure in the forecast period – refer to outcomes from the 2025-30 Water Working Group Meeting 3 – November 2023.

1.2.7.2. Crane safety – Rural Valleys

AtkinsRéalis stated in 3.4.4.2 of its report that there is a reasonable case for stepping up inspection and maintenance activities on some of WaterNSW's highest health and safety risk assets. However, it considers that there is a reasonable case for assuming that the net increase in costs is lower than estimated. This is because the step change is not based on current actual costs, and it would be surprising if much or all of the proposed training is not already being provided (as per WaterNSW's asset class strategy). It included the full proposed step change in the 'upper' range and removed the training element and 50% of the maintenance activities in the 'lower' range.

WaterNSW disagrees with the lower range recommendation. The basis for the lower range adjustment to training and maintenance activities by AtkinsRéalis is not clear. The proposed crane safety step change for the rural valleys is incremental to the base year and has been assessed against current actual costs.

1.2.7.3. Crane Safety – Greater Sydney

In section 3.5.2 of its report, Aither stated that given the recommendation to move to 2023-24 (FY24) as the base year, it could not see whether the proposed step changes are incremental to the base year.

WaterNSW consider that Aither's recommendation is in error as proposed step changes in costs for crane safety are incremental to either the adjusted base year in 2022-23 or from 2023-24.

1.2.7.4. Electrical Safety – Greater Sydney

In section 3.5.2 of its report, Aither does not disagree for the need for additional expenditure in electrical safety, though it has not seen a detailed breakdown of the cost estimate for this step change. It has included costs in the upper bound though not accepted costs in its lower bound recommendation.

WaterNSW considers that the lower bound recommendation is in error on the basis that it has a detailed cost breakdown for the required step change. WaterNSW notes that a detailed breakdown of the electrical safety costs have been provided in the following file – "Copy of ESI Stage 1 Phase 2 3 Cost Estimation by Valley for IPART Submission".

1.2.7.5. Electrical safety – Rural Valleys

In section 3.4.4.2 of its report, AtkinsRéalis accepts the basis for the proposed step change for the electrical safety improvement program. However, when using FY24 as the base year, AtkinsRéalis considers that the program constitutes a negative step change relative to higher program spend in FY24.

In its 'low' range and 'very low' range opex recommendations, included in table 3-22 and 3-23, AtkinsRéalis uses the FY25 current determination allowance as the base year, compared with FY24 actual expenditure in the recommended 'Upper' range. It then applies the same negative step change adjustment to each scenario.

WaterNSW notes that this approach is an error of fact. There were no electrical safety program costs included in the FY25 determination allowance. WaterNSW considers that the 'low' and 'very low' range opex recommendations should therefore include a step change of \$2.2 million over the regulatory period, as proposed by WaterNSW.

1.2.7.6. Opex from new capex - New hydrometric sites O&M

In section 3.4.4.4 of its report, AtkinsRéalis only allowed for the additional costs in the upper range, as it was not made clear to AtkinsRéalis that WaterNSW's customers are the appropriate people to pay for these activities.

WaterNSW disagrees with the lower bound recommendation as these assets deliver ongoing surface water management services on regulated rivers. This objective and verifiable facts should lead the reviews to the clear understanding that WaterNSW's customers are the appropriate people to pay for these activities assuming the continuity of IPART approach to impactor pays.

1.2.7.7. Grant Expiry: Water Delivery Programs due to grants expiring

In section 3.4.5 of its report, AtkinsRéalis considers that to maintain the same level of expenditure suggests that the intention is to continue the model development as opposed to simple operation and maintenance of it. AtkinsRéalis has allowed some expenditure for the maintenance of the system in the lower range and the full amount in the upper range.

WaterNSW disagrees with the lower range recommendation as the current level of expenditure is required for ongoing model updating and development, not just operations and maintenance of the model. WaterNSW also received customer support for maintaining the current level of expenditure in the forecast period – refer to outcomes from the 2025-30 Water Working Group Meeting 3 – November 2023, which shows that 83% of customers supported the continuing to maintain and update the CARM software system to operate the rivers. This information has been provided to the reviewers.

1.2.7.8. Labour Wage Price Index Trends

We do not agree with the AtkinsRéalis assertion that WaterNSW has not made a case for justifying 'real' (i.e. above CPI) increases in labour costs. We have sourced expert forecasts from Deloitte Access Economics to justify our wage price growth assumption in conjunction with recent EBA negotiation experience. By contrast the consult has applied an arbitrary 10-year historical lookback, which we believe is not a robust method of anticipating the future trend of NSW Government or Water Sector employees covered under EBAs.

The Reserve Bank of Australia provides even further justification for our position stating that prior to and during the pandemic, many state governments imposed annual caps on the maximum allowable wage increases for public sector workers. These caps were introduced to reduce state and territory budget deficits and ensure public sector employees were receiving wage increases consistent with the private

sector. Since 2022, governments have raised or abolished the wage caps resulting in essential workers receiving large pay increases under recently negotiated EBAs. This has led to an increase in public sector wages growth over the past year. Although public sector WPI growth appears to be past its peak, it is expected to remain strong over the period ahead.²

The consultant has not evidenced its understanding of the labour force dynamics in Australia and has rejected the evidence put forward by WaterNSW. This calls into question the consultants' understanding of labour costs and the drivers of EBA negotiations in Australia (noting that 90% of WaterNSW workforce is currently on an EBA).

1.2.8. Trend adjustments

1.2.8.1. Insurance

AtkinsRéalis rejected a trend adjustment for insurance, while Aither recommended a 5.34% real increase for the upper bound. The refusal to allow any real increase in insurance cost over a 5-year period is not justified by AtkinsRéalis. In fact, in the chart cited by AtkinsRéalis, we note that premium increases of 20% to 50% are cited in FY21/22 and the limitations of relying on this chart are not made clear in the report, particularly when weighted against the strong evidence provided for the proposed increase (i.e. actual forecast costs from iCare). Refer commentary above on insurance costs.

Furthermore, the Australian context has not been considered and neither has consideration been made to the fact that WaterNSW lodged claims with iCare for recent flood events. AtkinsRéalis also fails to consider how the insurer would be increasing premiums to recoup significant recoveries received by Water NSW over the last 5 years. These recoveries are in excess of \$55 million.

1.2.8.2. Lease capex

AtkinsRéalis rejected treating property leases qualified under AASB16 as capex, noting that the negative step change (i.e. reduction of opex) was not reversed by AtkinsRéalis and the property lease opex is not in the base year opex. This means property leases will not be funded at all in the Rural Valleys determination under the AtkinsRéalis' recommendation. Aither did not comment on this matter. Presumably, Aither accepted our proposal to treat property leases as capex under the Greater Sydney Determination. This is also consistent with the proposed treatment of lease costs under the AER Framework.³

- a) We note that a \$13.5 million opex reversal for lease payments from FY26 to FY30 shown below was budgeted to a corporate overhead project; the negative adjustments were allocated to each of the IPART determinations and non-core.

	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	Total FY26 - FY30
\$million	\$2024-25	\$2024-25	\$2024-25	\$2024-25	\$2024-25	\$2024-25	\$2024-25
Reversal of lease payments (AASB 16)	-\$2.7	-\$2.7	-\$2.7	-\$2.7	-\$2.7	-\$2.7	-\$13.6

² Source: [Developments in Wages Growth Across Pay-setting Methods](https://www.rba.gov.au/publications/bulletin/2024/oct/developments-in-wages-growth-across-pay-setting-methods.html), Reserve Bank of Australia, 17 October 2024 (<https://www.rba.gov.au/publications/bulletin/2024/oct/developments-in-wages-growth-across-pay-setting-methods.html>)

³ Page 33

https://www.endeavourenergy.com.au/___data/assets/pdf_file/0021/73470/endeavour_energy_revised_proposal_november_2023.pdf, where Endeavour Energy stated that *The AER accepted our methodology for determining opening and closing RAB values in its draft decision and updated our Proposal for the latest inflation inputs. The AER also accepted our proposed addition of two asset classes (short-term and long-term leases) to reflect changes to AASB16, which requires the present value of future lease payments to be capitalised*

- b) After the \$13.6 million of opex was reversed across all determinations, to compensate, \$12.5 million for lease expenditure was added to the RAB from the start of the next determination period using the following determination splits (salary totex %):

\$million	2025-26	2026-27	2027-28	2028-29	2029-30
Project Desc	\$2024-25	\$2024-25	\$2024-25	\$2024-25	\$2024-25
Greater Sydney	\$4.6				
Rural Valleys	\$5.8				
WAMC	\$2.1				
Total	\$12.5				

- c) We seek consistent treatment across all determinations for lease expenditure. If the proposed lease capex treatment is to be removed, the reduction in opex should be added back at \$2.7 million p.a. for all determinations (for the AtkinsRéalis report, the Rural Valley component of the \$2.7 million p.a. would have to be added back to the Rural Valley opex using the overhead allocator, or else the Rural Valley lease expenditure will not be funded at all).
- d) Similar to Digital/SaaS costs, IPART should provide guidance as to how to account for lease costs for regulatory purposes, noting under the accounting standards these costs are expensed.

1.2.8.3. Greater Sydney CSO

In the Aither Report, it is stated that WaterNSW will receive a CSO for land management for the amounts specified below. This is factually incorrect. The \$1.1 million p.a. adjustment was made as a result of an IPART recommendation that Government should fund 50% of the prudent and efficient cost of recreational land management. We would like to clarify that these amounts are not guaranteed to be recovered as a CSO as we require a declaration that they are prudent and efficient. We recommend that Aither adjust the description of this step change to reflect the above comments and provide a recommendation as to whether they believe the amounts identified (\$1.1 million p.a.) are prudent and efficient to be funded by the Government using the 50:50 cost split between users and government.

The table from the Aither report is shown below for reference:

Community Service Order (CSO) or Grant Expiry

WaterNSW identified that it will receive a Community Service Order payment from the Government relating to land management that will reduce the operating expenditure required to be recovered from Greater Sydney customers.

Table 15 Proposed Community Service Order (CSO) or Grant Expiry step change (\$2024-25)

OPEX steps	2025-26	2026-27	2027-28	2028-29	2029-30
CSO / Grant expiry	(1,082,647)	(1,083,376)	(1,085,890)	(1,088,410)	(1,090,985)

1.2.8.4. Opex from Capex

This line item included the cost of regulatory obligations under the Sustainable Diversion Limit Adjustment Mechanism (SDLAM). AtkinsRéalis rejects the step change in the lower range because *"it has not been made fully clear to us that WaterNSW's customers are the appropriate people to pay for these activities (in*

terms of the benefits they gain and to what to what extend they value from them) especially given their link to the Murray-Darling Basin Plan' (emphasis added). We recommend that AtkinsRéalis reconsider its comments. The Australian Context and Regulatory Framework has not been considered.

Whether or not the original capital investment is made under a Commonwealth or State program is irrelevant. The fact that as a consequence of that investment WaterNSW now has (or expects to have) new assets to maintain and manage, then the pricing principles of the National Water Initiative (NWI) prevail. The lower range should therefore, at a bare minimum, allow WaterNSW to recover its efficient costs in maintaining this infrastructure.

These comments also apply to AtkinsRéalis' rejection of proposed step changes under the new hydrometric sites O&M line item, which was initiated by the SDLAM program. We note that it is IPART's role to consider the impactors for the expenditure.

1.2.8.5. Rural Valley Land Management Cost

In the lower range, AtkinsRéalis rejected step increases in Rural Valley Land Management Cost on the basis that there was some residual allowance in the FY23 and FY24 actual expenditure. However, the lower range base year was set using the 2021 FY25 Determination allowance. There has been no analysis as to whether Land Management Cost are contained within the 2021 FY25 Determination allowance and hence the finding that there is some residual allowance for land management under the lower range of expenditure is unfounded. The same arguments apply to the Rural Valley Electricity Safety finding from AtkinsRéalis, explained further below.

1.2.8.6. Rural Valley Electrical safety improvements

Recognising that the upper range accepts our proposal for this step increase from FY23 or negative step adjustment from FY24, the same negative step adjustment should not have been applied to FY25 allowance for the lower range. Our current determination does not include an allowance for this item in FY25. The table reference is shown below:

Table 3-14 – WaterNSW's projected electrical safety improvement costs (\$FY25M)

FY ending:	Actuals		Proposed					Total
	2023	2024	2026	2027	2028	2029	2030	
Actuals	0.1	1.4						
Proposed spend			1.0	0.8	0.3	0.1	0.1	2.2
Step compared to FY23			0.9	0.7	0.2	0.0	0.0	1.8
Step compared to FY24			-0.4	-0.6	-1.1	-1.3	-1.3	-4.6

1.2.9. A flawed approach to providing alternative opex forecasts

1.2.9.1. Lower bound approach using FY22 determination

It is not clear why AtkinsRéalis' considered its lower bound approach using the allowance set by IPART for the FY22 determination appropriate, relevant or useful. This approach, which is entirely inconsistent with the 3Cs framework, has not been adopted by Aither. There is no justification for the AtkinsRéalis approach based on the IPART Handbook and we would still anticipate the need to adjust this base for:

- Increased regulatory and legislative obligations like operating licences, cyber security, privacy and WHS Changes to the economic environment including financial markets, 'real' cost increases and consumer behaviour,
- Customer expectations through the engagement process and through the current determination e.g., increase in data requirements,
- Changes to climate challenges like emission targets or policy decisions.

WaterNSW believes that the AtkinsRéalis approach is not practical because there are likely to be a significant number of changes leading to baseline adjustments from the FY22 determination and the underlying business environment has changed substantially.

Finally, the Scope of Works for AtkinsRéalis stated that it will be essential for the consultant to interrogate the base component of cost, because the cost in the base feed into the financial incentive mechanism. Drawing on the points above, it does not appear that AtkinsRéalis has met this component of the brief which is central to IPART's framework.

1.2.9.2. Upper bound approach of using FY24 as the baseline

It is unclear what steps the consultants have undertaken to evaluate whether their FY24 value represents controllable and recurrent operating expenditure. The consultants have not provided their models and templates which has made it challenging, if not impossible, for WaterNSW to validate their findings given our sole source of information is their written documents.

WaterNSW did request for this to be provided. However, based on our understanding we believe the consultant has not given any consideration to specific adjustments that need to be added back into the base adjustment. For instance, \$2.2 million in insurance recoveries were recognised in FY24 due to the floods of the prior year. This results in a non-recurrent understatement of opex for FY24 of \$2.2 million. This would seem to be an obvious adjustment as part of IPART's framework.

The consultant has provided alternative steps and trends assumptions without robust justification (e.g., refer above comments on labour costs and refer to comments provided in relation to Labour Wage Price Index Trends above).

1.3. Customer considerations

The consultants have stated that considering the scale of increase (and consequent impact on customers) WaterNSW has provided surprisingly little formal documentation such as business cases demonstrating decision-making logic, efficiency and consideration of the impacts and benefits to customers.

We believe this is misleading given that the scale of customer engagement and consultation through forums in the 20-month lead up to producing our pricing proposal, the role of Government in justifying or directing the policy and regulatory driven expenditure and the substantial evidence base available to the Expenditure Reviewers. Considering the majority of the proposed adjustments and steps are driven by regulatory change and obligations, there was very little scope for customers and WaterNSW to propose alternative approaches, albeit our pricing proposal did outline three alternative approaches for IPART to consider.

Failure to comply with these changes would expose the business to regulatory compliance risks and in the case of safety driven regulation, exposing our workers and community to increased risk of harm.

In some instances, we believe the consultant has overstepped their remit in attempting to assess what is fair for customers, rather than applying the lens of what is prudent and efficient expenditure (noting in other cases the consultants have ignored customer preferences completely).

As discussed below in relation to rural valley capex, these lines of consideration begin to err towards issues such as cost shares which are appropriately outside the scope for an expenditure review and a matter for IPART to opine on if appropriate.

1.4. Absence of Risk Assessments

WaterNSW observes that the risks associated with capital expenditure reductions across Rural Valleys and Greater Sydney of between 37% and 70% and operating expenditure reductions of between 12% and 25% are extensive, but have only been given cursory attention by the consultants. Potential impacts to asset integrity and performance, customer outcomes, staffing levels and incentives for future investment associated with significant proposed cuts warranted a much more fulsome review.

In the absence of this risk assessment, WaterNSW suggests that the lower bound of the range in all cases should be given no weighting and not used as a basis to average upper/lower bounds due to the risks involved and the arbitrary nature of the reductions.

While customers would experience lower price increases with the draft findings, we suggest the reductions have been made to manage to a pricing outcome rather than undertaking a robust assessment of the short to medium term risks, and long-term impact on customers associated with the reductions.

1.5. Capitalised overheads need to be reallocated

A key challenge for this review is to ensure that the allocation of corporate overheads based on our Cost Allocation Method (CAM) and the application of our capitalisation policy do not result in windfall gains or losses for customers or WaterNSW. The complex nature of allocating and capitalising costs is a required element in setting regulated revenues for each determination to ensure there is no cross subsidy between the four determinations.

The Aither recommended \$600 million reduction to the Warragamba Dam Resilience project will have a material impact on the level of overhead that would need to be reallocated to opex. The overhead allocated to this project totals \$54.4 million. This will have a significant impact not only to the overheads applied to Greater Sydney but also to Rural Valleys, WAMC and the Broken Hill Pipeline business segments, as higher opex flows through to each determination via the application of our CAM.

Unfortunately, simple "rules of thumb" are not likely to accurately calculate the impact on opex from a lower capex program. We suggest that once IPART has landed on a small number of realistic scenarios for capex and opex for the draft determination, WaterNSW is asked to recalculate the overhead and capitalisation allocations across Rural Valleys, Greater Sydney and WAMC. This is likely to be the most accurate way to ensure a "no surprises" approach to assess the pricing impacts of expenditure reductions prior to the draft determinations.

2. WaterNSW comments on the Aither draft report (Greater Sydney)

2.1. Digital Expenditure [Greater Sydney]

2.1.1. Aither's adoption of the AtkinsRéalis report

WaterNSW has concerns with Aither's approach in the Greater Sydney Determination for digital expenditure as it adopts a flawed methodology from AtkinsRéalis without considering the fundamental differences between regions. Further, WaterNSW is concerned that this methodology does not align to principles under the IPART Handbook for promoting customer value and ensuring the business achieves equitable and efficient cost recovery.⁴

Aither has extrapolated AtkinsRéalis' methodology for digital expenditure in the Rural Valleys and has applied it to Greater Sydney - two vastly distinct operating environments.⁵ Our concerns with the AtkinsRéalis approach to digital expenditures, in addition the key differences between the Determinations (making extrapolation between the AtkinsRéalis and Aither reviews impractical) are discussed in [Section 3.1](#) of this response.

2.3. Capital Expenditure – Greater Sydney

This section of the WaterNSW response focusses on the review of capital expenditure conducted by Aither in relation to the FY26-30 Greater Sydney program proposed by WaterNSW.

Our response is structured to provide a summary of the overarching themes identified by WaterNSW in reviewing the Aither report, followed by commentary specific to individual sections of the report.

2.3.1. Overarching Themes for Greater Sydney capital expenditure

After reviewing Aither's draft report, WaterNSW has identified several overarching themes that we consider negatively influence the findings in the assessment.

1. There is a **misalignment between our understanding of the intended approach for defining high and low scenarios (outlined in Section 1.2.1) and how these scenarios have ultimately been calculated in the review**. This lack of consistency and transparency makes it difficult to understand the basis for the values presented and raises concerns about the validity of the assessment.
2. The report **misrepresents WaterNSW's legal obligations**, particularly in relation to dam safety obligations under the *Dams Safety Act (2015)* and the *Dams Safety Regulation (2019)*, which are regulated by Dams Safety NSW. This mischaracterisation could lead to inappropriate conclusions regarding required expenditure.
3. The proposed **top-down methodology** used to adjust the Greater Sydney renewals program is **overly simplistic** and presents a **high-risk** approach. Such an approach fails to consider critical factors such as asset condition, service reliability, and regulatory compliance, which are fundamental to capital planning.

⁴ IPART, Water Regulation Handbook, July 2023, Table 4.1, page 36 and page 2.

⁵ Aither, Review of WaterNSW's forecast capital and operating expenditure for 2025-30 for Greater Sydney, 5 March 2025, Page 26.

The following sections of the WaterNSW response:

- **Explain** the concerns associated with each overarching theme in more detail; and
- **Demonstrate** how these themes have directly impacted the findings within specific sections of the Aither review.

2.3.2. High / Low scenario methodology

Section 1.2 of the Aither report provides a clear understanding of the requirement to provide an upper and lower bound range, including when the reviewer may find a range is not appropriate. The information also includes the guideline for how the Upper and Lower ranges were to be developed by the reviewer.

The report notes that the following guidelines will apply (from page 3, Section 1.2.1):

Upper range bound

Represent the efficient expenditure that may be required to deliver the in-scope activities at the proposed service levels under the existing regulatory, policy and legislative framework. The starting point for the upper range bound, where appropriate, would be the forecast expenditure from the pricing proposal with adjustments made for unregulated activities, uncertain projects or costs associated with participating government policy development. The intent of these adjustments is to ensure that the focus is on in-scope activities directly related to the regulated service.

The upper range bound is to also include efficiency adjustments where appropriate to account for duplication, operational inefficiencies and excessive service provision and ensure that assumptions are realistic and aligned with market conditions.

Lower range bound

This reflects the estimated minimum expenditure required to deliver essential services while seeking to balance affordability with service quality. This may include the consideration of deferring non-essential activities alternative assumptions where appropriate.

The report also notes that *'The consultants are required to present this range and offer clear guidance on the factors that should inform IPART's decision within the range' (Pg 2).*

There appears to be a disconnect between the definition provided in the guidance, the actual methodology used to determine the upper and lower bounds and the supporting guidance provided by the reviewer on the factors that have contributed to the proposed range.

The lack of clear guidance on the factors influencing the proposed range values makes it inherently difficult for WaterNSW to assess the validity of the findings and, in turn, will likely challenge IPART's ability to make an informed assessment. Furthermore, the lower-bound scenarios often do not align with the report's own definition of a *'minimum expenditure required to deliver essential services while seeking to balance affordability with service quality'*. Specific examples of the misalignment in the low expenditure scenarios include:

- Warragamba Resilience – excluded from both an upper and lower range despite clear climate change and dam safety drivers for the project.
- Warragamba E-Flows – Proposed lower bound of (\$0 with no apparent justification linked to the stated guidelines or factors considered by the reviewer to reach this position.
- Cataract Dam Safety – only provides a low expenditure scenario, based upon a misrepresentation of WaterNSW Dam Safety obligations, a flawed risk analysis suggesting ongoing use of temporary controls provided without the input of dam safety expertise as part of the review process.

- Warragamba Pipeline Renewals – the low expenditure scenario does not appear to align with the guidance. The consultant identifies the (high) level of risk associated with deferral of the proposed works and indicates that customer bill impact would be minimal. In our view, this contradicts the stated intent of the lower range, which is to represent the '*minimum expenditure required to deliver essential services while seeking to balance affordability with service quality*'.

2.3.3. Dam Safety – Legislative Obligations

IPART has engaged two separate consultants to review WaterNSW Greater Sydney and Rural pricing proposal expenditures. Based on the draft reports provided, it is evident that the consultants have differing levels of understanding regarding dam owners' responsibilities and obligations under the *NSW Dams Safety Regulation 2019* (the Regulation). This discrepancy is a significant concern for WaterNSW, particularly in relation to Greater Sydney.

A fundamental legislated principle for dam owners is the requirement to reduce dam safety risks "**So Far As Is Reasonably Practicable**" (SFAIRP). WaterNSW is concerned that IPART's Greater Sydney consultant has not adequately understood the assessment and management of risks within the current dams safety regulatory framework and the critical importance of the SFAIRP principle. The *Dams Safety Regulation 2019* no longer refers to risk appetite or acceptable risk thresholds; instead, it mandates that all risks be managed to SFAIRP.

The Dams Safety Regulation clearly places the dam owner as being responsible (and hence liable) for the decisions on assessing reasonableness and implementation of control measures.

WaterNSW is concerned that the Aither reviewer has overlooked key elements, leading to findings that could result in insufficient revenue allowance to progress the requisite work to demonstrate SFAIRP, resulting in non-compliance with NSW Dams Safety regulations.

Given that approximately 50% of WaterNSW's FY26-30 Greater Sydney pricing submission expenditure relates to dam safety compliance activities, the absence of dam safety subject matter expertise in the review process represents a critical oversight.

2.3.3.1. WaterNSW Dam Safety Risk Management Approach

WaterNSW has a robust, well-structured and defensible Dam Safety Management System (DSMS) including risk management framework as required in the Regulation. The DSMS is audited annually by the Dam Safety Regulator (Dam Safety NSW), as well as being subject to scrutiny as part of annual ISO55001 and Operating Licence Audits.

WaterNSW's dam safety risk management framework is founded on five core processes, namely identify, analyse, evaluate, treat and monitor dam safety risks. These processes are aligned to the requirements set out in the Regulation and its supporting methodologies and follow industry practices as set out on the ANCOLD Guidelines.

IPART's review of WaterNSW Systems and Processes in November 2023 also noted that WaterNSW dam safety risk management approach is "*appropriate and fit for purpose for a utility managing a significant portfolio of large dams.*"⁶

WaterNSW's has a considered and prudent approach to assessing, evaluating and where appropriate, treating risks. Key considerations for the expenditure review are outlined below.

⁶ WaterNSW Systems and Processes Review, IPART, December 2023.

- WaterNSW's Dam Safety Risk Management Framework aligns with the regulations and is independently audited. It complements industry recognised practices and ensures that dam safety risks are eliminate or reduced So Far As Is Reasonably Practicable⁷.
- WaterNSW Dam Safety Risk Management Framework including the SFAIRP methodologies have been independently peer reviewed by a specialist group of national and international dam safety practitioners. These methodologies also underwent an industry review process at the ANCOLD conference in 2022, as previously communicated during the submission review process and RFI19-C⁸.
- Contrary to the assertions of the Expenditure Reviewers, WaterNSW **does not** enforce a zero-risk policy. Instead, the Board adopted risk appetite targets a portfolio-wide risk criteria of fewer than three dams exceeding the safety threshold.

2.3.4. Renewals Program - Methodology

As part of its review, Aither has provided findings on a substantial renewals program consisting of 172 projects with a proposed expenditure of \$270.4 million. Given the scale of the program and the limited timeframe for review, it appears that Aither has adopted an overly simplistic top-down methodology for the renewal program. In WaterNSW's view, this approach compromises the validity of the findings presented in the report.

*Aither's assessment of a sample of individual renewals projects acknowledges that 'No major red flags were noted in these assessments. As with other completed options assessments the urgency of the work was not fully demonstrated however **on the whole the expenditure was deemed to be prudent and efficient.** (Pg 21)*

Despite this conclusion Aither has proposed a scenario (low) that would result in a substantial **42% reduction** in the proposed renewal program.

This draft finding, based on an overly simplistic methodology, would force WaterNSW to defer projects that provide important benefits and service continuity to customers. Given the five-year determination period, these benefits will only increase over time, while the risks associated with deferring projects will escalate accordingly. It is difficult for WaterNSW to accept that such a critical renewal program could be significantly reduced based on the rationale outlined in the Aither report, noting in particular that WaterNSW has already phased, based on project level prioritisation, the Greater Sydney Renewals program in our pricing submission by deferring \$344 million to the FY31-35 period.

2.3.5. Warragamba Dam Resilience Stage A (Section 2.5.1 of the Aither Report)

The draft consultant report contains several factual errors, or misinterpretations of the content provided during the review process in relation to the Warragamba Dam Resilience project. To address these inconsistencies, WaterNSW provides the following responses to key statements or conclusions made in the draft report.

- WaterNSW has a structured dam safety risk management framework, including a SFAIRP framework, that aligns with and considers factors published in the *Dam Safety NSW Guidance Note*.

⁷ Clause 14(6) of the Dam Safety Regulation 2019.

⁸ RFI19-C – Refer Day 2 (26 Nov 2024) – Review of Capex Expenditure Processes (Slides 29 –42).

- WaterNSW actively participates in the full range of government processes and interagency policy setting forums for this project. These were described in detail in our pricing proposal and attachments.
- Our level of project development is in alignment with the requirements of a project at SBC stage.
- A clear statement from the Review Panel within the Report was *The Review Team were impressed by the experience and capability of the Project Team and of their advisors, and it was clear the Team had support from the Agency Executive. We were impressed, particularly, with the quality of the dam risk assessment, and the supporting technical and analytical work, done to date ...*
- The dam failure risk is current and will continue to exist until any risk reduction measures are in place (i.e. end of construction). During the construction period the dam failure risk will exist plus the risk associated with construction activities
- WaterNSW note the advice from its dam safety risk consultant, from its Dam Expert Review Panel and correspondence from the Dams Safety Regulator, all confirm the need for the risk treatment. The statement that this project is not required for compliance is factually incorrect.
- The level of studies for the SBC were appropriate – the finding of the Gate 1 review was a MEDIUM rating. Further work to include additional criteria on the long list of options is being undertaken in parallel to updating the risk assessments for the dam to consider the potential climate change pathways. This work is consistent with, and appropriate for, the transition between SBC and FBC phases and in accordance with the findings within the Gate 1 review.
- We note the statement "." *WaterNSW advised DSNSW in September 2024 that WaterNSW can continue to manage this risk using interim measures until a permanent solution is implemented* is incorrect. It must be read in conjunction with the implementation program communicated to DSNSW In the September 2024 correspondence.
- We note that interim measures are short term measures that focus heavily on resilience and reliability of procedures and existing controls.

2.3.6. Warragamba E-Flows (Section 2.5.2 of the Aither Report)

Aither's analysis acknowledges the prudence, sound environmental objectives and appropriate cost detail associated with the Warragamba E-Flows project as per the below extract from page 13 of the report:

Figure 1 - Extract from page 13 of the Draft Report

Findings

The project is well developed and has clearly articulated drivers, benefits and costings. Overall, the prudence, efficiency and alignment of the project to IPART's 3Cs have been shown in the documents provided, and although there are opportunities to improve some aspects of the project it generally appears sound. This includes:

1. The project is driven by sound environmental objectives and is supported by broader government policy and public sentiment.
2. The project documentation has undergone review by INSW at Gate 1 and 2 stages, with the recommendations accepted and implemented by WaterNSW.
3. Costing associated with construction, including scheduling impacts, appears reasonable and of an appropriate level of detail.
4. A performance monitoring program has been developed to ensure the realisation of benefits.
5. It is reasonable to assume that further delays to undertaking the project may result in further escalation of costs (as has occurred in recent years), without additional benefit, though this is not explicitly described or quantified in the documentation.

The favourable findings highlight the project's alignment with government policy, public sentiment and the rigorous assessment process, including Infrastructure NSW's Gate 1 and 2 reviews. Additionally, the analysis recognises the potential cost escalations associated with further delays.

However, the treatment by the consultants of E-flows provides an example of the disconnect between the consultant's guidance on determining the lower and upper bound scenarios.

Despite the findings on Warragamba E-flows above, the recommended lower bound scenario of \$0 (refer Figure 2) - a **\$301 million reduction** - lacks clear justification. The consultants fail to explain how deferring the project aligns with "*balancing affordability and service quality*". It does not clarify whether the project has been deemed a "*non-essential service*" or if "*alternative assumptions*" have been applied. In fact, the basis provided by the reviewer for the lower bound recommendation appears to reinforce the need to proceed with the project rather than defer it.

WaterNSW considers this inconsistent with the intent of establishing a reasonable upper and lower range, as outlined in Section 1.2 of the Aither report. Section 1.2 of the report notes that *'The consultants are required to present this range and offer clear guidance on the factors that should inform IPART's decision within the range'* (Pg 2).

In our opinion, the requirement for the consultants to provide clear guidance on the factors informing IPART's decision has not been met. Given the strong case for the project's prudence and efficiency (as agreed by the consultants), WaterNSW maintains that the lower bound scenario does not reflect a credible range and should be reconsidered.

Figure 2- Extract from Page 14 of the Draft Report

Box 4 Recommendations Warragamba E-flows Project

Proposed by WNSW	\$301.76 million
Recommended range	\$0 to \$301.76 million
<p>Low-expenditure scenario \$0</p> <ul style="list-style-type: none"> Deferring all construction until the next determination period. <p>This scenario carries a risk of substantial further escalation of costs in the 2030-35 determination period, while the benefits of deferring (e.g. reduced bill impacts to end use customers) would be extremely minimal in the 2025-30 period. There would be an associated reduction in recurrent operating costs in the 2025-30 period of ~\$315,000 under this scenario.</p>	<p>High-expenditure scenario \$301.76 million</p> <ul style="list-style-type: none"> Undertake the proposed works as planned by WaterNSW. <p>As this project is prudent and largely inevitable to meet dam environmental management best practice this scenario would allow for benefits and outcomes of much investigation and project development to be realised most efficiently by delivering environmental benefits in the near term for the likely lowest overall expenditure.</p>

2.3.7. Warragamba Pipeline Renewals (Section 2.5.3 of the Aither Report)

WaterNSW acknowledges aspects of the consultant’s findings on the Warragamba Pipeline Renewals projects, but notes inconsistencies in the assessment of the lower bound scenario.

The consultants found that *‘There is a clear need for the project that is demonstrated by the criticality of the infrastructure, the age of the infrastructure, reported failures and condition assessments. Broadly speaking the prudence, efficiency and alignment of the project to IPART’s 3Cs have been shown’ (Pg 16).*

However, despite these findings, the reviewer recommends a lower bound expenditure of \$60.35m (a **38% reduction** from WaterNSW’s proposed expenditure) without, in our view, sufficient justification.

As with the Warragamba E-Flows project, the assessment lacks a clear explanation of how the lower bound scenario was determined based on the defined guidance. The review does not clarify whether the project was deemed a *“non-essential service”*, whether *“alternative assumptions”* were applied, or how the *“estimated minimum expenditure balances affordability and service quality”*. Notably, the rationale provided for deferring Tranche 4 appears to reinforce the importance of completing the works rather than supporting a delay.

WaterNSW considers the lower bound finding inconsistent with the intent outlined in Sections 1.2 and 1.2.1 of the Aither report states that *“The consultants are required to present this range and offer clear guidance on the factors that should inform IPART’s decision within the range” (Pg 2).* The lack of transparency in the methodology used to determine the lower bound in our opinion undermines the reliability of the assessment and raises concerns about the appropriateness of the proposed reductions.

2.3.8. Cataract Dam Safety Upgrade (Section 2.5.4 of the Aither Report)

The IPART Consultant’s draft report contains several incorrect and misleading assumptions and assertions regarding *UN270011 – Cataract Dam Safety Upgrade* project. These errors demonstrate a fundamental misunderstanding of the regulatory framework, dam safety risk management approach, and the technical considerations underpinning WaterNSW’s proposed structural risk mitigation measures. The key issues are outlined below:

- The Dams Safety Regulation, regulatory framework, and WaterNSW dam safety risk management approach have been misunderstood by the draft report.
- If IPART adopts the consultant’s findings, it would compromise necessary dam safety management for Cataract Dam, potentially resulting in regulatory non-compliance.
- The assessment of Structural Mitigation Measures (SMM1 and SMM2) is inconsistent; despite both undergoing equivalent levels of evaluation and optioneering, the consultant has erroneously determined them to be different.
- The failure of anchors is associated with failure mode CAT-F8 (spillway training wall), which SMM1 (Spillway training wall mass concrete buttress) directly addresses. The progression of this failure mode necessitates remediation by SMM1⁹. And further analysis will not change this necessity.
- A contingency plan is not an alternative to SMM1. Their zones of impact, design intent, and scopes are fundamentally different.
- Delays in implementing SMM1 significantly increases the risk of training wall failure, which ultimately would have substantial cost, operational and water security impacts.

The draft report by Aither contains several assumptions and judgements that pose a risk to WaterNSW’s ability to maintain dam safety compliance under NSW regulatory requirements. These assumptions were made without consulting subject matter experts in dam safety, engineering, regulations or dam owners’ obligations – departing from past IPART pricing reviews, where such expertise was specifically engaged.

WaterNSW has applied its rigorous and audited Dam Safety Management System (DSMS) to assess risks at Cataract Dam, ensuring that all assessments align with regulatory requirements and industry standards. The DSMS undergoes annual audits by Dam Safety NSW and IPART (as part of Operating Licence compliance with ISO55001) to confirm compliance and accepted practice.

Based on this thorough, expert-led process, WaterNSW is firm in its position that both SMM1 and SMM2 are reasonably practicable and essential. Their implementation is necessary to meet regulatory obligations, maintain water security, and ensure the safety of downstream communities.

2.3.9. Water Infrastructure Renewals (Excluding Warragamba Pipeline Renewals) (Section 2.5.5 of the Aither Report)

The analysis underpinning the proposed low scenario for Greater Sydney Water Infrastructure Renewals (excluding Warragamba Dam) lacks rigour, and WaterNSW will respond to this in detail once the report is issued. WaterNSW would like to highlight the below errors of fact.

The description/ analysis of the prioritisation process utilised for Water Infrastructure Renewals included a number of factual errors as summarised below:

Item	Response
Safety given equal weighting to other factors. “Typically, Safety would be given greater weight” pg.22	This is misleading – the corporate risk appetite statements upon which scoring is based reflect relative tolerance for different types of risk.
Statement that there is “no clear or measurable benefit due to the log scale” pg.22	This statement is incorrect. The calculation for benefit uses the benefit value without the application of Log scale.

⁹ Day 3 (27 Nov 2024) – Cataract Dam Safety Upgrade – Presentation slide 11. Supplied under RFI RA-19C.

The statement that the scoring system is “prima facie arbitrary”	This statement is incorrect/ misleading. The scoring is undertaken based upon a library of risk descriptors calibrated to the organisation’s risk procedure.
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2.3.9.1. Errors in ‘Box 7 – Water Infrastructure Renewals Program’ Findings (pg.25)

The findings for the Water Infrastructure Renewals (excluding Warragamba Pipelines) included a number of errors as follows (page 25 of the report):

- WaterNSW was not able to replicate the consultant's values for the low-expenditure, and high-expenditure scenarios. Based upon the stated approach to determining these values, our calculations indicate that figures should be:
 - Low expenditure scenario = \$160.0 million (41% reduction)
 - High expenditure scenario = \$265.5 million (2% reduction)
- Box 7 references two different figures for the high expenditure scenario, with an apparent typographical error indicating \$256.2million.
- Box 7 also includes a statement regarding the deferral of all moderate and low risk projects: “ *The scenario carries a low risk due to the clear inference that medium and low benefits across the seven criteria provides only a medium risk of an incident related safety, environmental harm or interference of supply.*”

This statement is both inaccurate and misleading. The deferral of all projects assessed as retiring moderate risks (78 projects, at a risk value of \$500,000 each) or low risks (22 projects at a risk value of \$25,000 each) does not in aggregate represent a low risk to WaterNSW or our customers. In fact, on the basis of the scoring methodology, these would appear in aggregate to represent a **risk value of \$39,550,000**, being roughly the equivalent of two individual extreme risks.

On this basis, the exclusion of this expenditure appears to contradict the stated approach to determining low-range expenditure being to reflect “ *the estimated minimum expenditure required to deliver essential services while seeking to balance affordability with service quality.*”

- Project and Program Level Findings do not align - the impacts of the proposed methodology and potential adoption of the Lower bound scenario would result in two (33%) of the projects for which the reviewer stated: “ *on the whole the expenditure was deemed to be prudent and efficient*” (Pg 21) falling outside the allowance envelope. These projects include:
 - Greater Sydney rockfall stabilisation - a series of projects to keep our facilities, people and members of the community safe, and
 - Upper Canal monitor and respond - a project to cost efficiently manage the reliability of the canal supplying 15% of Sydney's drinking water, and upon which Sydney depends on to maintain the current system yield.

Lack of reference to this appears to be an error or omission on the part of the consultant.

The proposed program of works included 147 projects with an associated expenditure of \$270 million (excl. efficiency factor and excl. corporate overheads).

2.3.10. Customer/Stakeholder Engagement

The reports also seem to suggest that government has not been coordinated in its approach to policy and other projects, which we strongly do not support. For example, Aither has suggested that WaterNSW has not engaged with Government or Sydney Water on the Warragamba Climate Resilience Project, and that

until we do, they imply that there is no justification for the project. They also call out the lack of community engagement, despite the evidence we provided that the project is part of a whole of government initiative under the Hawkesbury-Nepean Disaster Adaptation Plan work being led by the NSW Reconstruction Authority.

We suggest that these comments are corrected before the reports are made public.

3. WaterNSW comments on the AtkinsRéalis draft report (Rural Valleys)

3.1. Digital Expenditure (Rural Valleys)

3.1.1. Summary of our concerns with the AtkinsRéalis digital draft findings

Our key concerns with the AtkinsRéalis draft findings on our proposed digital expenditures are summarised below:

(1) Flawed benchmarking approach

- The water sector presents challenges for benchmarking. Given WaterNSW's unique structure, benchmarking results should not be relied upon.
- A simplistic spend ratio is inadequate
- It is based on a flawed and overly simplicity benchmarking approach which lacks normalisation and makes little attempt to include relevant peers

(2) WaterNSW does not accept removal of Water Insights under the upper range scenario

- Removal of Water Insights undermines the overall effectiveness of our digital strategy
- Removal of key programs that directly align to customer value is out of step with a core element of the IPART's 3Cs framework (*promote customer value*).¹⁰

(3) WaterNSW does not agree with AtkinsRéalis low and very low range ex post adjustments to WAVE

- The proposed reductions ignore long-term enterprise-wide benefits and misinterpret benefits realisation.

(4) WaterNSW does not accept reduction in People costs

- The proposed \$8.7M reduction is unrealistic and risks delaying critical projects, increasing cybersecurity risks, and compromising compliance with new regulations.
- Reductions would undermine WaterNSW's ability to deliver on strategic objectives and improve operational efficiency.

(5) WaterNSW does not accept reduction in Software Licensing costs

- Reducing software licensing by \$6.6M risks operational disruptions, outdated systems, and failure to meet regulatory compliance.
- The proposed reduction would have long-term negative consequences, ultimately costing more to resolve than maintaining the necessary budget.

(6) WaterNSW does not accept the lower range scenario

- It is based on a flawed benchmarking approach (see point 1 above)
- The lower range is unviable for the business to continue operating

¹⁰ IPART Water Regulation Handbook, July 2023, pages 2, 36 & 108.

- We question whether there is value in including the lower range if it is not viable, and consider the lowest range should at least allow the business to recover its most basic efficient costs with a CPI adjustment
- The lower range scenario which carries “significant risks” does not align to principles of ensuring the business achieves efficient recovery of costs and does not represent a fair sharing of risks

WaterNSW is concerned with AtkinsRéalis’ assessment of the digital expenditure, which includes substantial and largely unjustified reductions of \$4.31 million in the upper bound and \$17.90 million in the lower bound over the 2025 Determination period.¹¹ WaterNSW has attempted to reconcile the digital capital expenditures in the draft report, noting that summary tables identifying the digital expenditure by year, by determination, broken down into upper bound and lower bound have not been provided. Without sufficient data or analysis to substantiate these cost reductions, WaterNSW is not able to undertake a meaningful assessment to reconcile the findings as they apply to Rural Valleys.

Further complicating our review is the recommended adjustments to the digital-related operating expenditure, specifically concerning software licensing and people costs across the regulatory period. The report suggests a reduction of \$5.1 million for software licensing and \$11.1 million for people costs, with no details behind how these adjustments have been implemented.¹²

Moreover, the approach taken by AtkinsRéalis in benchmarking digital expenditures is problematic. The use of non-normalised benchmarks from various regulated and non-regulated firms does not consider the specific circumstances of WaterNSW as a bulk water provider with responsibilities to deliver services on behalf of the NSW Government (as it relates to WAMC). WaterNSW considers drawing such a causal relationship between the total capital program and the recommended digital allowance insufficiently recognises the nature of the activities and obligations WaterNSW is required to meet.

This methodology results in an \$84 million reduction in opex, \$70 million in capex, and \$154 million in total expenditure (totex) based purely on using the non-digital expenditure recommendations as a basis to adjust digital expenditure.¹³ This fails to account for the unique obligations and activities of WaterNSW and the non-recurrent nature of capex.

Additionally, WaterNSW is concerned with AtkinsRéalis’ approach to its lower range scenario, based on its inadequate benchmarking approach. AtkinsRéalis itself states, that a lower range would have “significant risks”, that it “is not clear that this level of expenditure would be sufficient” and “is likely to jeopardise the implementation of programs that deliver future efficiencies”.¹⁴ It is unclear to us as to how this could reasonably represent a lower range and would appear to be misaligned to principles in the IPART Handbook for efficient cost recovery and appropriate sharing of risks.¹⁵

Further, the upper range excludes the Water Insights Portal¹⁶, a critical part of WaterNSW’s proposed plans to deliver on services central to the customer. Finally, the significant and largely unjustified ex post reductions to the WAVE program under the ‘very low’ scenario, whereby only the benefits are included in the RAB demonstrates a lack of understanding of WaterNSW’s role in the NSW Water Ecosystem.¹⁷

WaterNSW urges IPART to reconsider the proposed reductions based on a more accurate and transparent assessment that reflects the unique role of WaterNSW, the specific challenges it faces, and the long-term digital strategy required to deliver on its regulatory and customer obligations. The following sections provide

¹¹ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 159

¹² AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 153

¹³ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025)

¹⁴ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 157

¹⁵ IPART, Water Regulation Handbook, page 108

¹⁶ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 152

¹⁷ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), Table 5-6, page 151.

a more detailed analysis of these concerns, demonstrating why the proposed reductions are inappropriate and should be revisited.

3.1.2. Flawed Benchmarking Approach

WaterNSW considers AtkinsRéalis' use of benchmarking is fundamentally flawed and of limited use for revenue setting purposes. It draws on a series of regulated and non-regulated firms and **has not been normalised for the specific operating environment of WaterNSW, particularly its status as a WAMC agency delivering services on behalf of the NSW government.** While AtkinsRéalis has listed several of the limitations in the draft report, they nonetheless use the findings to support their recommended digital expenditures. While comparing to benchmarks has some utility in theory, benchmarks provide little if any useful guidance for our purposes without an extensive normalisation approach that does not appear to be undertaken.

WaterNSW is a complex business, including in its geographical area, the diversity of digital services required to be delivered across its area of operations, and in its delivery of services on behalf on the NSW Government to the community. There are no examples that we are aware of in the water sector that involve such a diverse function.

WaterNSW contests the benchmarking methodology used by AtkinsRéalis, based on the following:

- **WaterNSW's unique operating environment and roles requires a more nuanced approach:**
WaterNSW's dual role in metropolitan and regional water delivery and management, coupled with its responsibilities for WAMC, sets it apart from other water utilities. AtkinsRéalis' selection of urban water utility comparators, including retail utilities and those with combined urban water and wastewater services, lacks relevant comparability. It is not clear whether AtkinsRéalis has attempted to **normalise data from the selected peers to provide a more meaningful comparison.**
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- **Industry trends is likely to provide better insight:** AtkinsRéalis' benchmarking approach does not acknowledge sector-wide cost pressures. Their approach of applying a generic and non-contextual comparison does not reflect the regulatory, security, and operational realities shaping digital investment.
 - WaterNSW's cloud computing costs are projected to increase at 16%¹⁹ per year, which compares favourably with the average increase across NSW Government at 26% per year (2% month on month).²⁰ Adopting cloud computing adopting is critical for business and there is a trend of increasing reliance among businesses - Gartner (2023) predicts that more than 50% of enterprises will rely on cloud platforms by 2028. Further, by 2028, most organisations will consider cloud as a business necessity.²¹ In the US, the cloud computing market size is expected to grow at a compound annual growth rate of 21.2% from 2024 to 2030 and 20.3% between 2024-2030.²² Considering both these growth rates, it is evident

¹⁸ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), pg. 149

¹⁹ WaterNSW, Attachment 11 Digital expenditure, 30 September 2024, page 27

²⁰ Department of Home Affairs, Cyber and Infrastructure Security Centre, 2022, Regulation impact statement: a risk management program framework for critical infrastructure assets, available at <
<https://oia.pmc.gov.au/sites/default/files/posts/2023/02/Impact%20Analysis.pdf>>

²¹ Gartner, 2023, Garner Says Cloud Will Become a Business Necessity by 2028, available at <

[²² Grand View Research, Cloud Computing Market Size & Share, Industry Report, 2030](https://www.gartner.com/en/newsroom/press-releases/2023-11-29-gartner-says-cloud-will-become-a-business-necessity-by-2028#:~:text=The%20Role%20of%20Cloud%20in%202023&text=Gartner%20predicts%20that%20more%20than,necessity%20(see%20Figure%201)></p></div><div data-bbox=)

that **WaterNSW's predicted growth rate of 16% compares well domestic and global trends.**

- WaterNSW maintains our proposed growth rates - that increases in operating expenditure are driven by essential and uncontested cost drivers, including software licensing, cybersecurity, and compliance with Security of Critical Infrastructure (SOCl) legislation²³ - are a better reflection of the likely trend costs for digital expenditures required over the 2025 determination period. Similar trends are also observed among industry peers such as Greater Western Water (GWW)²⁴, Yarra Valley Water²⁵ and SA Water²⁶. Benchmarking, when detached from these critical business drivers, becomes a flawed exercise rather than a meaningful evaluation tool. Digital investment trends must be assessed within their industry-specific context, not in isolation.
- For other areas of digital expenditure, Yarra Valley Water forecast increasing trends in digital licensing, maintenance and support costs over its next two regulatory periods. It forecast, its annual average for these costs to represent an annual average of \$17.72 million out to 2033.²⁷ For reference WaterNSW's forecast for Software licensing & maintenance for FY30 is \$11.45 million.²⁸ For cyber security it forecast an annual average expenditure of \$1.61 between 2023 and 2033 (opex).²⁹ SA Water, has forecast its cyber expenditure to be \$22.6 in capex and \$9.5 in opex (totex \$32.1) over 2024-2028.³⁰

In the absence of conducting a robust benchmarking assessment that considers relevant market peers and normalises for key factors such as the asset base, land area size and customer numbers, drawing **comparisons to industry trends can support better identification of performance.**

- **A Simple Spend Ratio is Inadequate:** AtkinsRéalis have used a simplistic ratio of digital spend as a percentage of overall business spend. We question the value of this given WaterNSW's uniqueness and requirements to deliver services across three determinations.
- **A Totex-Based Benchmarking Approach is Misleading:** AtkinsRéalis' use of totex will likely yield understated results as capital investment is non recurrent (compared with opex) and can vary significantly between utilities depending on where they are in relation to investment cycles (e.g., steady state, maturity uplift etc).

We question the need for benchmarking if it does not yield valuable insights: WaterNSW recognises the limitations of benchmarking and has attempted to demonstrate the appropriateness of directions in its expenditure by referring to water businesses experiencing similar challenges.

3.1.3. Critical Importance of the Water Insights Portal

While the upper range scenario is generally acceptable, WaterNSW does not support the removal of the Water Insights Portal (\$7.8 million)³¹ based on the following concerns:

²³ WaterNSW, Attachment 11 Digital expenditure, 30 September 2024, page 38

²⁴ Greater Western Water, 2024 Price Submission, available at <https://media-2.yvw.com.au/inline-files/29092022%20ESC%20-%20YVW%20Price%20Submission_0.pdf>

²⁵ Yarra Valley Water, 2023-28 Price Submission, available at <https://media-2.yvw.com.au/inline-files/29092022%20ESC%20-%20YVW%20Price%20Submission_0.pdf>

²⁶ SA Water, 2024-28 Regulatory Business Plan, available at <https://www.sawater.com.au/___data/assets/pdf_file/0011/747074/Regulatory-Business-Plan_RD24-submission.pdf>

²⁷ Yarra Valley Water, 2023-28 Price Submission, Page 218

²⁸ WaterNSW, Pricing Submission 2025-30, Attachment 11

²⁹ Yarra Valley Water, 2023-28 Price Submission, Page 218

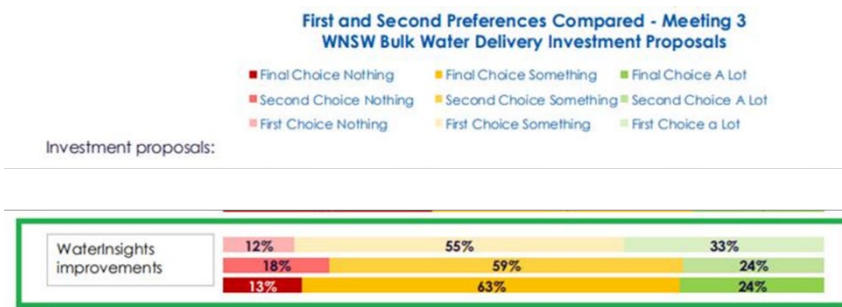
³⁰ SA Water, 2024-28 Regulatory Business Plan, Page 193

³¹ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), pg. 152

- 1. Water Insights is Essential for Customer and Community Engagement:** The Water Insights Portal is essential for community engagement, information dissemination and proactive customer notifications. Its removal would hinder our ability to drive better outcomes for the community through building public trust and supporting informed decision making. The project is a key platform to achieve the central theme of the Water Regulation Handbook, *promote customer value*.³²
- 2. Interconnected Digital investments:** WaterNSW’s digital investments are interconnected, and the removal of a critical component like Water Insights undermines the overall effectiveness of our digital strategy. Further, WaterNSW disagrees with AtkinsRéalis’ statement that community engagement, information, and education are “not mandatory or core”. In fact, IPART’s 3Cs Handbook states “*customer and community engagement is a cornerstone of the 3Cs framework*”.³³ WaterNSW’s digital strategy is a holistic vision and piecemeal adjustments will undermine its effectiveness.
- 3. Customer Expectations and Transparency:** Removing the Water Insights Portal would fail to meet the community’s growing expectations for transparency, ultimately making it more difficult for WaterNSW to maintain public confidence in our operations, as public attitudes continue to evolve. WaterNSW strongly believes that the Water Insights Portal is a core investment that aligns with regulatory principles of customer transparency, engagement, and education. Further information about the key benefits to customers through the Water Insights portal is provided in our submission (WaterNSW Top 10 Projects – Water Insights and Appendix 4 NSW Water Sector Shared Technology Ecosystem Roadmap and Attachment 11).³⁴

WaterNSW undertook comprehensive customer and community engagement as part of its commitment to better listen and respond to customers, stakeholders, and the community it serves. Insights and learnings from this engagement shaped the revenue proposal. Customer Advisory Groups were consulted in July 2023 with “Better engagement and relationships” being identified as one of the desired future outcomes.³⁵ This included WaterNSW providing more proactive and broader communications, access to more information and improvements to the customer experience such as faster and easier applications. An online customer experience portal and one data platform between the water agencies were specific proposals included as actions in response to customer and stakeholder feedback.

The proposed investment in the Water Insights Portal has therefore been shaped by the customers to deliver on customer expectations over the next regulatory period.



³² IPART, Water regulation Handbook, July 2023, page 2.

³³ IPART, Water Regulation Handbook, July 2023, page 28.

³⁴ Attachment 7, WaterNSW Top 10 Projects – Water Insights. Appendix 4 NSW Water Sector Shared Technology Ecosystem Roadmap. Attachment 11, Digital Expenditure.

³⁵ WaterNSW Pricing Proposal 2025-2030, Customer and Community Engagement Report – Phase 2 Outcomes, April 2024, page 27.

The removal of the Water Insights Portal contradicts both customer priorities and IPART's regulatory principles. It jeopardizes transparency, increases long-term operational costs, and weakens WaterNSW's ability to serve its stakeholders effectively.

3.1.4. WAVE Program: Misinterpretation of Benefits and Unjustified Adjustments

WaterNSW does not agree with the AtkinsRéalis *ex post* adjustments in its 'lower range' and 'very low range'. In particular, we have concerns over the long-term implications of adopting the recommended 'very low range' whereby only the benefits of the project are included in the RAB. While WaterNSW has acknowledged \$1 million of inefficient spending, AtkinsRéalis has proposed *ex post* adjustments that would result in allowed expenditures ranging from \$36.5 million to as low as \$6 million, which we find unjustified.³⁶ In making these recommendations, we believe the consultant has erred in the following ways:

- **Disregard for program complexity:** Throughout the current determination period, the WAVE program evolved significantly. Driven by the changing needs of our WAMC partners, DCCEE and NRAR, its complexity increased, with the scope now encompassing indirect and societal impacts. This expansion, along with an extended delivery timeframe, was approved by WaterNSW's Board, as it was considered to be in the best interest of our customers' and public's interests. Failing to acknowledge this evolution oversimplifies the program's scope and undervalues its critical role in delivering long-term benefits to customers and the broader community
- **Misalignment to the 3Cs framework:** AtkinsRéalis states that the lower range would "represent a very significant reduction from WaterNSW's forecasts" and that it is "not suggesting that WaterNSW could live within this envelope of expenditure".³⁷ AtkinsRéalis' lower range, which it acknowledges is not sufficient, would appear to be misaligned to a key principle of IPART's 3Cs framework, to ensure "equitable and efficient cost recovery".³⁸
- **Little justification for very low range:** There appears to be little justification or rationale for how the very low range has been determined. Removing any benefits not delivered to the business from the Digital portfolio is not justified given Digital is a delivery body and not necessarily the beneficiary. The only justification the consultant appears to have provided is "holding WaterNSW accountable for non-delivery of benefits".³⁹

The proposed lower-range adjustments to WAVE are unrealistic, excessive, and fail to recognise Digital portfolio's essential role of being an enabling function for digital transformation delivery

3.1.5. The 'People Cost' Reduction Recommendation

The proposal to reduce "people" costs by \$8.7 million⁴⁰ is not only unrealistic, but also counterproductive to WaterNSW's long-term goals. Our Technology Roadmap highlights that our proposed investments in people are essential to meet new critical capabilities in cybersecurity, compliance with legislation, enhanced data-sharing, and meet increasing demands for support from the broader NSW water sector.⁴¹

Although AtkinsRéalis recognises the drivers behind our proposed personnel costs, it appears to underestimate the critical role people play in our digital program. As stated in our Technology Roadmap, our

³⁶ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), pg. 14

³⁷ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 157

³⁸ IPART, Water regulation handbook, July 2023, page 36

³⁹ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 151

⁴⁰ AtkinsRéalis, WaterNSW - Rural Valleys Expenditure Review (2025), page 153

⁴¹ Appendix 4 NSW Water Sector Shared Technology Ecosystem Roadmap, page 20.

people investments are key to unlocking value from our technology investments.⁴² The proposed cuts by AtkinsRéalis would significantly impair our program's ability to deliver value to our customers.

3.1.6. Software Licensing Cost Reduction Recommendation

The consultant's proposed reduction in software licensing costs fails to account for the necessary investments in licenses to support WaterNSW's ongoing operations and growth. While we acknowledge the need for efficiency, reducing the licensing budget by \$6.6 million would significantly impact our ability to maintain and expand critical software platforms.⁴³

WaterNSW relies on several key platforms for operational efficiency, and cutting this budget could result in outdated or unsupported systems, exposing WaterNSW to operational risks and non-compliance with evolving regulatory requirements. Additionally, reducing licenses without a thorough analysis of system usage and needs could lead to operational bottlenecks and hinder WaterNSW's ability to deliver on its strategic objectives. A reduction in this area would disrupt critical services and risk system failures, which would ultimately cost more in the long run than maintaining the proposed budget.

3.1.7. Unviable Lower-Range Scenario

AtkinsRéalis' proposed lower range scenario, which as AtkinsRéalis concedes, is not viable, is deeply concerning and should not be considered. WaterNSW would expect that at the least, a lower bound option would allow the business to recover its efficient costs to operate, including CPI. WaterNSW questions the value of including a lower range that does not achieve this at a minimum.⁴⁴

WaterNSW firmly cannot support any consideration of the very low scenario for the following reasons:

- **Unsustainable funding level and significant risks:** the lower range falls below a level that can sustain our critical operations. AtkinsRéalis provides that this could result in a digital capital program of \$79.3 million compared with WaterNSW's proposed \$163 million, representing a cut of \$83.7 million or 51%.⁴⁵ This would represent a significant reduction which AtkinsRéalis itself acknowledges would carry "significant risks".⁴⁶
- **Based on flawed benchmarking:** the lower range has been built on a flawed benchmarking approach. Drawing reference to industry trends in investment would be a more appropriate and useful measure. WaterNSW has included some of this in its proposal (see Attachment 11)⁴⁷, as well as above in [Section 3.1.2](#).
- **Does not align to the 3Cs framework:** As outlined above in [section 3.1.4](#) AtkinsRéalis' lower range does not appear align to IPART's 3Cs framework, specifically the principle to ensure "equitable and efficient cost recovery".⁴⁸

WaterNSW requests IPART to dismiss the lower-range scenario, as it lacks a realistic basis and does not align with the principles of sustainable service delivery.

⁴² Appendix 4 NSW Water Sector Shared Technology Ecosystem Roadmap, page 20.

⁴³ AtkinsRéalis, WaterNSW – Rural Valleys Expenditure Review (2025), page 155

⁴⁴ AtkinsRéalis, WaterNSW – Rural Valleys Expenditure Review (2025), page 157

⁴⁵ AtkinsRéalis, WaterNSW – Rural Valleys Expenditure Review (2025), page 157

⁴⁶ AtkinsRéalis, WaterNSW – Rural Valleys Expenditure Review (2025), page 157

⁴⁷ WaterNSW, Attachment 11 to the WaterNSW Pricing Proposal, Digital, page 27

⁴⁸ IPART, Water regulation handbook, July 2023, page 36

3.2. Capital Expenditure – Rural Valleys

This section of the WaterNSW response focusses on the review of Capital Expenditure conducted by AtkinsRéalis in relation to the FY26-30 Rural Valleys program proposed by WaterNSW.

3.2.1. Overarching Themes

After reviewing AtkinsRéalis report on the proposed FY26-30 Rural Valleys Capital expenditure, WaterNSW has identified several themes that that we consider result in erroneous findings as a result of foundational errors that infect all subsequent considerations.

1. The report significantly **misunderstands and mischaracterises** WaterNSW's **legislative obligations**, particularly in relation to the environmental obligations legislated in the *Fisheries Management Act (1994)* and *Water Management Act (2000)*. This foundational error could lead to inappropriate conclusions regarding required expenditure, particularly in relation to proposed works associated with Fishways and Cold Water Pollution.
2. The methodology used to adjust the Rural Valleys renewals program was based upon a selective analysis of content not discussed during interviews and presents a **high-risk approach**. This is illustrated by the disconnect between findings for the Oberton to Duckmaloi Pipeline project, (assessed as prudent), and program level adjustments, which make the execution of this project impossible.
3. The draft report does not appropriately account for **cost sharing arrangements** that influence project funding and delivery. WaterNSW operates within structured agreements where costs are shared between stakeholders, including government entities and customers. The assessment overlooks these arrangements, leading to inaccurate conclusions about the required capital investment.

3.2.2. Legislative Obligations

Section 4.9 of the AtkinsRéalis report ("Environmental Planning & Protection) assesses the Fishway and Cold Water Pollution projects, providing a lower and upper bound for expenditure. However, fundamental errors in both bounds materially impact WaterNSW's ability to meet its legislative obligations

The AtkinsRéalis report states "*for both fishways and cold water pollution projects we have removed all proposed expenditure from the lower range scenario. This is to reflect the regulatory requirements for these projects would appear to not be absolute as evidenced by the fact these have been delayed by WaterNSW in the current price path period, and that these projects do not impact the business's ability to deliver water to customers as its core business.* (Pg 128)"

This conclusion is incorrect. The regulatory requirements for both fishways and cold water pollution mitigation are absolute and directly linked to WaterNSW's core function of capturing, storing and supplying bulk water as explained below.

3.2.2.1. Fishways

Section 218 of the *Fisheries Management Act 1994* mandates that fishways must be provided when constructing, altering, or modifying a dam, weir or reservoir on a waterway. The Department of Primary Industries (DPI) Fisheries assesses the need during the planning phase of the project and confirms in writing the requirements for the project proponent to provide fish passage as part of the project. DPI Fisheries has determined that all fishway projects in WaterNSW's FY26-35 submission are subject to this requirement.

3.2.2.2. Cold water pollution

Under Section 100(3) of the *Water Management Act 2000*, WaterNSW is required to develop and implement works to mitigate cold water pollution as a condition of the *Works Approval*. Additionally, cold water is classified a thermal waste under the NSW POEO General Regulation 2022.

The removal of these projects from the lower range scenario disregards clear legislative obligations and misrepresents WaterNSW's regulatory requirements.

3.2.2.3. Dam Safety Compliance (Section 4.8 of the AtkinsRéalis Report)

WaterNSW supports the findings of the AtkinsRéalis report in relation to Dam Safety compliance investigations and associated activities. The basis for the Upper and Lower bound findings are explained with a methodology basis provided. WaterNSW would note, however, that the proposed deferral of the Copeton Spillway Investigation and Remediation project will result in undesirable project and operational impacts. The project is in the detailed design phase to treat erosion that took place on downstream areas after releases during 2022 flood events. This project aims to remediate the eroded downstream right hand spillway training wall to reduce risk of flood releases bypassing the spillway channel. Details of the project were provided as part of RFI SA-67.

If the project is to defer by two years, WaterNSW carries significant project risk both in terms of asset damage (in the event of future flood), as well as incurring project costs for longer duration without activity. In the event of further damages, the cost to repair will be significantly greater than currently estimated particularly if the flows are not prevented from going towards the mapped shear zones. There is a risk that these shear zones could develop into gullies requiring a completely different design and treatment.

3.2.2.4. Environmental Planning & Protection (Section 4.9 of the AtkinsRéalis Report)

As noted, earlier WaterNSW are of the view that the AtkinsRéalis report has significantly misrepresented the obligations of WaterNSW in relation to its Environmental obligations and failed to recognise (or discuss) the cost-share arrangements that are associated with the works proposed in the WaterNSW submission.

The evidence of this view is based on the following statements contained within the report:

- *'For both fishways and cold water pollution projects we have removed all proposed expenditure from the lower range scenario' (Pg 128).*
- *'This is to reflect that the regulatory requirements for these projects would appear to not be absolute as evidenced by the fact these have been delayed by WaterNSW in the current price path period, and that these projects do not impact the business's ability to deliver water to customers as its core business'. (Pg 128).*
- *In regard to the Lower range scenario 'No allowance as not clear that regulatory requirements for the projects are absolute'. (Pg 128)*
- *'Customer ends up paying for benefits that are enjoyed more widely than just the customer base' (Pg 128).*

Based on the misrepresentation of WaterNSW's legislative requirements and lack of recognition regarding the existing funding arrangements, we consider it would be appropriate to revise the assessment of the proposed programs noting examples of the specific concerns below.

The proposed fishway program is closely aligned with the renewal of critical in-stream assets (Weirs and Regulators) in very poor condition (such as the Tyrell Regulator and the Lake Cargelligo Inlet Regulator). Due to conditions of approval, these renewal works cannot be completed unless the fishway is constructed simultaneously, making these projects essential to maintaining infrastructure reliability and compliance. A decision to delay any expenditure in regard to fishways also needs to ensure consideration of the water

regulation assets to which they are associated (we note that Tyreel Weir fishway is proposed to be adjusted however Lake Cargelligo is proposed to be deferred by 12 months – which will pose additional operational risk). Consequently, the statement that ‘these projects do not impact the business’s ability to deliver water to customers as its core business’ is not factually correct.

The AtkinsRéalis report states “*For the upper range we have rephased projects to be more aligned with the timing of the projects as foreseen and allowed for at the 2021 Determination*”.

The deferral of the DSU Offset Fishway program from the 2021 determination was explained at length during the efficiency review interviews with the primary reasons being:

- (1) escalating construction costs and insufficient funding allowed in the determination to complete the projects
- (2) limited availability of fishway design expertise and resource availability.

As explained, WaterNSW has already implemented changes to address the challenges that caused historical delays including:

- Funding improvements – cost estimates have been refined based on preliminary designs and early contractor involvement forming the basis of the forecast included in the pricing submission
- Design capability and capacity – WaterNSW has already engaged the specialist resources required to progress the work
- Collaboration with DPI Fisheries – WaterNSW is working closely with DPI Fisheries to agree on concept designs before progressing to detailed design

WaterNSW and DPI Fisheries have already rephased the DSU Offset program through engagement conducted as part of formulating the FY26–30 submission. This engagement resulted in an approach which will prioritise the construction of one fishway per valley in FY26–30, with the remaining construction works postponed to FY31. This targeted approach focuses on sites that provide the greatest ecological benefit with the lowest customer bill impact. These adjustments were documented in a letter from DPI Fisheries to WaterNSW on 23 Sep 2024, which was shared with AtkinsRéalis during the interview process. Refer to RFI RA-19C for the interview presentations.

As DPI Fisheries is the regulatory authority, any further deferrals- as proposed by AtkinsRéalis -would therefore require DPI Fisheries approval. Given the proactive measures already taken by WaterNSW to maximise ecological benefits and minimise customer price impacts, the rationale for additional deferrals is unclear and inconsistent with the updated program strategy.

3.2.2.5. Drought Project (Other) (Section 4.10 of the AtkinsRéalis Report)

Section 4.10 discusses capital expenditure associated with developing an Environmental Impact Statement (EIS), which is a statutory requirement for the long-term operation of the Chaffey Dam Pipeline. The reviewers correctly note that the pipeline was constructed in response to drought conditions and was temporarily operated under emergency provisions in 2020. However, their assumption that WaterNSW can avoid its statutory regulatory obligations by relying on future emergency declarations is incorrect.

Emergency provisions are intended for short-term crisis response and do not negate the requirement for statutory approvals to support long-term operations.

Additionally, the absence of meeting necessary approval conditions could impact WaterNSW’s ability to carry out essential maintenance, potentially compromising the reliability of the asset. The assumption that statutory obligations can be disregarded outside of emergency conditions is inconsistent with regulatory expectations and WaterNSW’s commitment to compliance.

For these reasons, WaterNSW does not support the lower range scenario that removes all expenditure for the required approvals.

3.2.3. Cost Shares

The consultant has made a number of recommended adjustments to WaterNSW forecast capital expenditure that appear to have not been based on assessing the prudence, need or efficiency of the proposed investment.

It is apparent that the consultant has erred by overreaching in opining on matters that outside of the scope of an expenditure review. Rather they are matters for a cost share review that requires an understanding of the guidance provided by the National Water Initiative agreements, contextual guidance provided by Intergovernmental Agreement on National Competition Policy, NSW Government policy and a direct assessment of customer affordability.

As a result, all recommendations that are based on who should pay for an activity or investment should be removed.

3.2.4. Simplistic Approach to Evaluating WaterNSW Investment Needs

The WaterNSW Rural Valley's renewal program is a critical component of the submission to ensure that WaterNSW can continue to provide reliable services to our customers. The development of the proposed renewals program included an extensive process and careful consideration of a range of key factors associated with prudent asset management.

The AtkinsRéalis Draft Rural Valley Expenditure Report proposes a simplistic methodology that:

- Draws upon a summarised asset health report referring to data from FY21-FY24 as a means for concluding that a *'trend of an improving health of the asset base'* (Pg 112) exists. This is a selective reading of a single section of the report. If read as a whole, the Asset Health Report does not support the conclusion of an improvement to health of our asset base.
- Uses this conclusion as the basis to propose adoption of backwards looking expenditure levels (including historical levels of corporate overhead) to determine the Lower and Upper bound range.

This overly simplistic methodology:

- ignores any application of sound asset management practices as the basis for determining a prudent level of investment in key infrastructure supporting a critical program of works;
- proposes a 'backwards looking' level of investment which provides no consideration or alignment to the actual works proposed by WaterNSW as part of the renewal program. The implied notion that WaterNSW can continue to prudently manage an ageing asset base across the Rural Valleys based on historic levels of expenditure is inconsistent with numerous Pricing Submission outcomes from a range of water utilities across Australia who are also seeking to manage the challenge of ageing assets;
- appears inconsistent with the requirement of the IPART Water Regulation Handbook (July 2023) to present a proposal that demonstrates *'alignment with long-term plans and the delivery of customer outcomes, and how they represent the optimal approach to delivering these long-term plans and customer outcomes (Pg 41)*.

The expenditure proposed by WaterNSW for the FY26-FY30 determination period for replacement and renewals in Rural Valleys is \$254.6 million.

Section 4.11.2 of the AtkinsRéalis Draft Rural Valley Expenditure Report (5 March 2025) makes a downward adjustment to the proposed level of expenditure for a lower and upper range scenario, with the following methodology:

- Lower range scenario – adjusted the spend to be aligned with that allowed at the 2021 Determination, which WaterNSW has overspent. This method derives an expenditure of \$117.8 million.
- Upper range scenario – adjusted the spend so that it is aligned with recent actuals using the average from FY23 and FY24. This method derives an expenditure of \$194.2 million.

3.2.5. Renewal and Replacement (Section 4.11 of the AtkinsRéalis Report)

WaterNSW is concerned with the cursory nature of the analysis of the renewals requirements, lacks rigour, relies upon a selective reading of data and lacks the review of a representative sample of the program. This approach lacks rigour and represents a high risk to our customers. WaterNSW will respond to this in detail in our response to the draft report once released.

3.2.5.1. Basis of Program Level Findings is unclear, including valley level implications

The basis of program level findings is unclear, and valley level findings were not provided with the draft report as opposed to the practice in prior reviews. We were unable to replicate the calculations for the 'low' and 'high' expenditure scenarios, and would like to note the following apparent errors:

- We were unable to replicate the 'low' scenario recommendation of **\$117.8 million** but note that the equivalent based upon the FY21-FY25 allowance (an approach we do not support) would be **\$126.1 million**. The recommended figure appears to have included the application of 'catch up' efficiencies to the allowance figures. If so, this is an error, as our current allowance was set with catch up efficiencies applied, and applying them again is effectively double counting.
- We were unable to replicate the 'high' scenario of **\$194.2 million** but note that if based upon 'recent actuals' per the description in the report of FY23 and FY24 expenditure, then the 'high' scenario would be expected to be **\$207.6 million**.

The report provided no visibility of the valley level outcomes.

3.2.5.2. Project Level Findings Contradict Program Level Analysis – Oberon to Duckmaloi Pipeline

The consultant has concluded that WaterNSW has not demonstrated the need for an increased level of investment to maintain service standards. This conclusion ignores the project level findings for the Oberon to Duckmaloi Project:

- The project was assessed as prudent (Draft Report page 133), in response to significant service level issues, with a clear health and safety driver.
- The proposed expenditure of \$26.6 million if executed as the only project in the determination would:
 - Require a **116% higher allowance** than the low scenario (**\$12.3 million**, assuming we adopt the WaterNSW calculated low scenario per above)
 - Require a **30% higher allowance** than the high scenario (**\$20.3 million**, assuming we adopt the WaterNSW calculated high scenario per above, and this is pro-rated based upon the distribution of the current allowance)
 - Not represent a realistic scenario in any case, as we could not feasibly defer **all other capex** in the valley for the remainder of the decade.
 - Note that the report fails to reference that WaterNSW had phased this project to be 50% delivered post FY30 to mitigate impact on customer bills.

As such the Oberon to Duckmaloi project represents a clear example where an increase level of expenditure relative to historic levels is required to address a clear level of service and safety risk. Failure to reference this in determining program level adjustments was an error.

Similarly, the Toriganny Weir project (**\$27.3 million**) alone would consume more than 100% of the valley budget under the low scenario (**\$24.6 million**), and 64% of the valley allowance under the high scenario (**\$42.5 million**). Again, the lack of consideration of this in the program level findings is an error.

3.2.5.3. Determination of Fish Passage Requirement for Toriganny Weir

Regarding the Toriganny Weir renewal, AtkinsRéalis states (Section 4.11.1) "*WaterNSW...did not provide any evidence of having investigated with the Ministry as to a requirement to construct a fishway at the site, particularly given that no fishway currently exists at this site*" (Pg 133). This statement is factually incorrect. The requirement to build a fishway has been determined by DPI Fisheries and confirmed in writing on 15 September 2023.

The Preliminary Business Case, which was provided in response to an RFI, explicitly references written confirmation from DPI Fisheries that a fishway is required at the site. WaterNSW can provide a copy of this confirmation if requested, which could have been provided in response to an RFI in order to clarify this critical requirement before the consultant made a recommendation to remove the fishway component from the proposed expenditure. Given the regulatory obligations surrounding fishway construction can be demonstrated, this materially impacts the validity of the consultant's findings.

As noted previously, the approach taken by AtkinsRéalis to adjust the renewal and replacement program lacks appropriate project-level analysis and fails to account for regional variations in infrastructure needs across WaterNSW's rural valleys. The review applied top-down expenditure reductions based on historical (backwards looking) expenditure rather than a detailed assessment of project necessity, asset condition, and service impacts.

WaterNSW proposed a renewal and replacement program of \$254.6 million over the FY26-FY30 determination period. However, as per Section 4.11.2 of the consultant's draft report, the consultant applied blanket reductions, on the basis that there was no evidence the asset base is deteriorating, to both the lower and upper range scenarios using the following rationale:

- Lower range scenario: Adjusted to align with the 2021 determination, despite WaterNSW having overspent in that period due to the necessity of critical renewals. This resulted in a 38% reduction to \$117.8 million. This represents an average annual expenditure (across all Valleys) of \$23.56 million over the 5-year determination.
- Upper range scenario: Adjusted to match the average expenditure of FY23 and FY24, disregarding required future investment needs. This resulted in a 24% reduction to \$194.2 million. This represents an average annual expenditure (across all Valleys) of \$38.84 million over the 5-year determination.

WaterNSW has previously observed that expenditure reviews typically involve assessing a representative sample of projects to determine whether the overall renewal and replacement is prudent and efficient. This process is usually supported, by in-depth discussions on asset condition, risk levels and impacts on service standards. During this review, the consultant selected a sample of projects from WaterNSW's proposal. WaterNSW made detailed presentations on each of these projects during the interview.

However, beyond these discussions, the only additional material reviewed appears to be high-level documents such as the asset health report. WaterNSW was clear during the interviews that its capital expenditure forecasts were not based on 'top down' profiling or condition-based modelling, but rather on individually validated and assessed projects. Instead of expanding the sample size to gain a more

comprehensive understanding of the proposed renewals program, the consultant relied on selective reading of limited documentation to conclude that an ongoing level of expenditure would be appropriate.

Despite not identifying any of the specifically sampled renewals projects as imprudent, the consultant proceeded with top-down expenditure reductions rather than using project-level analysis to determine expenditure requirements. This approach lacks the necessary rigour and fails to account for the operational and regulatory risks associated with deferring essential infrastructure renewal. The consultant's methodology did not account for the funding required to implement projects deemed prudent at the project level, resulting in expenditure scenarios that would not allow for their delivery. For example, the Oberon to Duckmaloi Pipeline renewal project was assessed in the draft report as prudent.

However, under the proposed low expenditure scenario for the Fish River, only 20% of the project could be delivered over five years if no other projects were undertaken in the valley. Even under the high scenario, only 33% of the project could proceed, making it impossible to complete within the FY26-30 period. This project addresses a current and critical service gap and was already rephased by WaterNSW to defer half of the delivery to post-FY30 to minimise customer bill impacts.

Similarly, the Toriganny Weir replacement project, also assessed as prudent, would not be deliverable under the low scenario. Despite these project-level assessments, the consultant applied broad reductions based on a high-level review of expenditure trends and high-level documentation, rather than an assessment of actual infrastructure needs and detailed project information made available. This approach does not adequately reflect the investment required to maintain service reliability and meet long-term asset renewal requirements. With regard to specific comments on individual projects WaterNSW also provides the following comments.