



The Border Rivers Commission

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Submission

Independent Pricing and Regulatory Tribunal Draft Determinations and Reports on:

Water Administration Ministerial Corporation & WaterNSW rural bulk water prices from 1 July 2021

16 April 2021

Background

The Dumaresq-Barwon Border Rivers Commission operates in the upper Murray Darling Basin. The Commission came into existence by a legislative agreement between the States of New South Wales (NSW) and Queensland (Qld) in 1946-1947.

The Commission is a joint operation with each State retaining 50% shareholding control. Commission expenses incurred are funded 50:50 by each State. Each State has 50% ownership of the Commission's \$158 million bulk water infrastructure asset portfolio.

The Commission determines, enables, and monitors each State's eligible share of water that crosses or passes into and along the NSW and Qld border. It has certain investigative functions to identify and report potential improvements for water sharing equity.

The Commission manages water at a wholesale supply level, i.e. our stakeholders are the States and not individual water users of either State. Subsequent revenue from water usage is collected and retained separately by each State.

The States jointly contributed \$3.6 million to fund the Commission's expenses in the 2019-20 financial year. All works and services are undertaken by or procured through a government entity of either State. The Commission, in turn, pays those entities for their services. Operating expenses for 2019-20 were \$3.2 million.

Further detail is available online in the Commission's annual report at www.brc.gov.au.

General Comments

The Commission appreciates the opportunity to provide further comments to IPART's review of the Water Administration Ministerial Corporation and WaterNSW rural bulk water prices. The Commission takes seriously its responsibility to providing cost-efficient and prudent services.

The Commission acknowledges that a significant increase in the Sunwater costs has contributed to larger call-up requirements on the States. While the Commission agrees in part with IPART's views on Sunwater's charges' efficiency, we also consider that a material component of the increase is justified. These increases don't just include allowance for CPI but also reflect changes in the Queensland operating landscape regarding risk and changes in insurances. The Commission also works with Sunwater to ensure they are undertaking a higher level of renewals and maintenance activity, to ensure that the Commission's asset portfolio is appropriately maintained.

In May 2020, when the Qld Department of Regional Development, Manufacturing and Water was confirmed as the Commission's Qld Controlling Authority by legislative changes, the Commission was able to commence negotiation with Sunwater fully. With no contractual arrangements in place, negotiations on service outcomes and price have not been able to be achieved.

The Commission is supporting the Qld Department as the Qld Controlling Authority in the negotiation of this complex service contract with Sunwater. For example, the Commission has engaged a specialist Commercial Advisor to undertake a transactional review and finalise the parties' contractual matters. This service contract has a complexity of issues regarding the application of insurances and indemnities specifically required by Sunwater to undertake the services. As IPART would be aware, the landscape on insurances has changed significantly since the class action outcomes from the 2011 flooding in Qld.

It is worthwhile noting that the Queensland Government Insurance Fund does not provide insurance coverage to Qld Government-Owned Corporations. The Treasury Managed Fund (TMF) NSW does provide insurance to NSW State-Owned Corporations.

The Commission considers that IPART's recommendation for a downward adjustment of -\$1.2 million, which aligns the Sunwater costs to historical expenditure before 2017, is unlikely to recover the NSW share of the

prudent and efficient costs of operating the Commission. Any savings remain uncertain until the Contract between the State of Qld and Sunwater is finalised. Therefore, if savings are not realised, the Commission is concerned that there could be a more significant increase to be applied during subsequent pricing determinations.

The Commission will be undertaking a "value for money" review of the Contract. The emphasis of the value for money review will be to fully investigate the rates for operations, maintenance and renewals, and the application of overheads once the Contract is in place. We do not believe that the Atkins review was intended to, or able to thoroughly investigate to the depth of detail that is required when looking at the overall rates being applied by Sunwater.

The additional catch-up and continuing efficiency adjustments of 1.1% and 0.7%, respectively, may also be challenging to achieve during this determination period, given the recent governance improvement program undertaken by the Commission.

Since 2019, as noted by IPART, the Commission has been undertaking a significant program of governance and management improvement. In particular we have developed and are implementing a Strategic Business Plan. This Business Plan guides the Commission's internal activities and assists in a longer-term reform program being contemplated by both Shareholding Governments.

Along with increased internal activities has come a better understanding of the Commission expenses, which has led to increased overall costs. These can primarily be attributed to:

- The Commission has increased its administration support from one to two by employing a CEO to ensure that it can undertake the work required;
- Annuity Fund deposits amounts, which is used for the payment of Renewals and Enhancements work on Assets have been included in the budget (not previously considered), in addition, and as identified by IPART (and Atkins), the amount of those deposits is also under review by the Commission, and States have been advised of potential significant increases in the deposit value;
- The Commission is undertaking investigations and other work in many areas, for example, spending money on putting in place appropriate service arrangements with Service Providers. Specifically driving the negotiation of a contract between the State of Queensland and Sunwater and undertaking the planned cost price review; and
- Fixing longstanding invoicing issues with service providers has provided visibility that the Commission was most likely *under recovering expenses through the call-up*. In particular, WaterNSW experienced some delays in billing but this was rectified in 2019.

In closing, the Commission feels that the IPART recommendations do not fully reflect the uncertainties surrounding efficiencies that will be realised with the contract negotiations with Sunwater. With the Shareholding Governments supporting a reform agenda for the Commission, it may be a significant setback to this agenda to apply the reduction suggested. It is hard for the Commission to provide further comment without knowing the outcomes of insurance applications, the contract negotiations with Sunwater, the value for money review and the cost price review on all service providers, as until this time the Commission has limited control of the efficient and prudent costs, however considers that a reversion to 2017 do not reflect the genuine prudent and efficient costs of operating the Commission.

Yours sincerely



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CEO
Dumaresq-Barwon Border Rivers Commission