

20 November 2025

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Independent Pricing and Regulatory Tribunal  
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Lodged electronically: <https://www.ipart.nsw.gov.au/>

Dear Tribunal Members

### **WaterNSW Rural Valleys pricing review 2025-26 – Discussion Paper – 23 October 2025**

EnergyAustralia is one of Australia's largest energy companies with around 2.2 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 5,000MW of generation capacity.

We appreciate the opportunity to provide our views on the Tribunal's ongoing review of rural bulk water services provided by WaterNSW. We believe that the Tribunal's one year determination for 2024-25 was too short of a delay for a more fulsome consideration of matters facing WaterNSW, and the issues on which it is now seeking feedback. The 53% increase in WaterNSW's proposed revenue requirement, as well as its longer term cost projections, highlight fundamental issues in its governance and pricing arrangements. This requires intervention by the NSW Government given the significant impact on affordability and the ongoing sustainability of WaterNSW's business.

We strongly recommend that the Tribunal institute a conservative price path, with expenditure allowances at the lower end recommended by its consultant. In doing so the Tribunal should allow for its determination to be reopened in the event WaterNSW is able to demonstrate an urgent need and on the basis of compelling evidence. We generally refer the Tribunal to our prior submission on WaterNSW's proposal and the adequacy of its justifications.<sup>1</sup>

Our comments below relate to several issues raised in the Tribunal's discussion paper, namely:

- observations by Aktins on the proposed expenditures



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<sup>1</sup> [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Online-Submission-EnergyAustralia-L.-Irlam-9-Dec-2024-202136234.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Online-Submission-EnergyAustralia-L.-Irlam-9-Dec-2024-202136234.PDF)

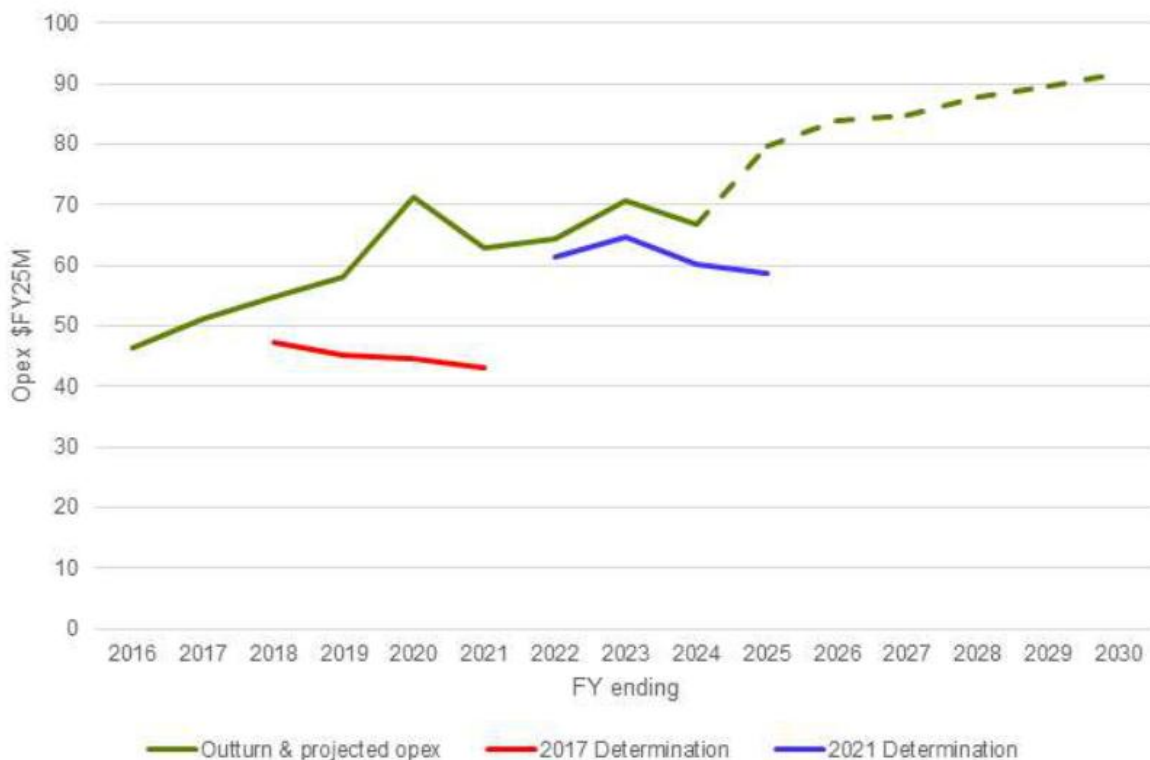
- cost shares and extent of burden carried by the NSW Government
- WaterNSW’s pricing structures
- other elements of the determination including its length and the form of price control.

### Aktins’ report on expenditures

The review of WaterNSW’s proposed capital expenditures points to systemic flaws in how it manages assets, the most concerning of these in not appearing to have a robust understanding of asset condition and performance. Aktins comments that WaterNSW’s portfolio of replacement projects “are not particularly price or delivery constrained”.<sup>2</sup> Shortcomings were also identified in WaterNSW needing to improve its oversight of out-turn cost information, which is necessary to ensure forecasts are accurate and efficient.

We consider WaterNSW’s approach to developing its operating expenditure forecasts is more akin to a ‘bottom up’ methodology rather than ‘base-step-trend’. Aktins identified 20 adjustments to the chosen base year (which itself was not justified) and 17 step changes, finding it difficult to understand the nature of several of these. Aktins also comments that WaterNSW was unable to explain instances of higher spends for some items. Figure 3-1 furthermore suggests to us that WaterNSW is not responsive to incentive arrangements. We have serious concerns that continual overspends will lead the Tribunal to ‘ratchet up’ allowances over time and above the efficient levels that customers should be expected to pay.

**Figure 3-1 – Historical and proposed Rural Valleys opex**



Source: Aktins

<sup>2</sup> AktinsRealis, *WaterNSW Rural Valleys Expenditure Review*, June 2025, p. 13.

Aktins' findings align with the high-level observations we provided previously to the Tribunal. While we believe that WaterNSW has been transparent and cooperative with Aktins and the Tribunal, we expect that requesting further information from WaterNSW will not improve the Tribunal's ability to set efficient expenditure allowances. The onus should be on WaterNSW to present a robust set of justifications that are commensurate with the significant increases in costs that it expects customers to pay for. The Tribunal should not default to approving allowances in favour of WaterNSW in the absence of this. The Tribunal should be seeking to emulate outcomes that would be seen in a workably competitive market. Any flaws in WaterNSW's approach and their associated inefficiencies should be worn by its shareholders. We encourage the Tribunal to substitute WaterNSW's proposed expenditures using benchmarking and similar data from other regulated water businesses.<sup>3</sup>

### **Cost shares and impactor pays**

The Tribunal needs to take a more fulsome approach to allocating cost burden between customers and the Government. Notwithstanding any material inefficiencies in projected costs, the extent of costs being incurred by WaterNSW, including those outlined in longer term plans, suggests that the Government as owner would incur material losses if prices were set at levels that customers can afford. This goes beyond consideration of impactor pays. The Tribunal's exploration of the extent of any externalities in service provision may lead it to a defensible methodology regarding cost shares. But it is more important for the Tribunal to directly and transparently engage with affordability impacts and exercise its judgement on appropriate outcomes for customers and the community. This would be an extension of its approach to pricing for North and South Coast valleys, in reference to social impacts and similar elements under section 15 of the IPART Act.

We otherwise encourage the Tribunal to investigate the application of the impactor pays and other elements of the National Water Initiative pricing principles. As a first step, this would involve obtaining and publishing sufficiently granular data to understand how WaterNSW currently allocates costs.

### **WaterNSW's pricing structures**

This point on transparency on cost allocation goes to WaterNSW's detailed pricing structures.

The Tribunal's suggestions in section A.4 of the discussion paper, while made in the context of cost shares, go to the heart of concerns we have raised previously on how WaterNSW sets prices generally. There does not appear to be a solid grasp on how and whether WaterNSW's prices are cost-reflective, in the broadest sense. This need not be an esoteric exercise in developing long run marginal costs, quantifying externalities or price optimisation. The Tribunal has suggested use of judgement in relation to activity codes and of information in its cost models.<sup>4</sup> This information should be disclosed and open for public scrutiny. WaterNSW's major projects and programs of works are the main driver of proposed price increases. It should be relatively easy to assign their costs to particular valleys or pricing regions, or develop a transparent allocation method where they are not directly attributable.

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<sup>3</sup> IPART, *WaterNSW Rural Valleys Pricing Review 2025-26 - Discussion Paper*, October 2025, p. 15-17.

<sup>4</sup> *ibid.*, p. 38.

## Decisions involving risk-sharing

The Tribunal has sought feedback on the length of the price determination. WaterNSW has submitted data to 2029-30 and stakeholders have had opportunity to comment on this. It is also apparent that WaterNSW is undergoing a major transition in which case opting for a longer period would create the risk for windfall gains or losses relative to regulatory benchmarks. A longer period would also be more suitable to situations where WaterNSW was expected to be more responsive to incentives, which does not appear to be the case at the moment.

We generally refer to our prior comments on the form of price control. A revenue cap suits WaterNSW as it puts volume risk entirely onto customers. Arguably costs are mostly fixed and should be recovered in this way. Applying a revenue cap in the face of material fluctuations in sales volumes will tend to amplify price shocks. Price volatility and the associated social and community impacts are acute concerns in the current determination, which arguably justify price rather than revenue controls. As we have noted previously, because of its customer composition, the Fish River Scheme faces significant cost recovery risks in the event of a major customer exiting. Such an exit would push significant costs onto remaining customers, many of which would be unable to bear. The Tribunal should explore the prospects of allowing short term temporary water trades to other parties that could help secure WaterNSW's revenue base. Much of our water entitlement is unutilised. Allowing this to be traded would also release critical water resources for customers and communities in need.

If you would like to discuss this submission, please contact me on [REDACTED]  
[REDACTED]

Regards

**Lawrence Irlam**

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