

## **EPA submission on IPART (NSW) Issues Paper**

### **Prices for WaterNSW from 1 July 2020**

#### **Operating expenditure**

WaterNSW is forecasting environmental planning and protection expenditures of \$4.1 million (\$2019-20) over the 2020-24 determination period. Environmental planning and protection expenditures over the upcoming determination period are driven by a forecast of approximately \$1.0 million per annum, which includes an increase of approximately \$0.5 million per annum from 2020-21 onwards, to assess and manage the risks associated with contamination and hazardous building materials on WaterNSW land.

WaterNSW considers that its proposed operating expenditure plan is more reflective of a steady state operating environment for WaterNSW. It submits that its proposed increase in operating expenditure from 2019-20 to the 2020 determination period is due to a range of activities including:

- An increase in water monitoring;
- Increased land management costs;
- Increased maintenance activities;
- Higher land contamination costs; and
- Increases in insurance premiums.

WaterNSW also undertakes other activities relating to environmental requirements and standards, such as development impact assessments and mining rectification works. The costs of undertaking development impact assessments are contained in the section on catchment management, while the costs of carrying out mining rectification works are accounted for as maintenance costs.

Water NSW is proposing to invest in drought-related planning works in 2019-20 and the EPA is assessing several drought supply options in close collaboration with Sydney Water and the NSW Government to secure Sydney's water supply in deep drought – should conditions worsen.

#### **Capital expenditure**

Two environmental compliance capital projects (2019-20) are proposed totalling \$104.7 million. These are Warragamba Environmental Flows (E-Flows) & Contamination and Hazardous Material Management.

In the 2020-24 determination period, the program will substantially deliver infrastructure that will allow for increased environmental releases from Warragamba Dam in line with the 2017 Metropolitan Water Plan for Sydney which identified this as the next major improvement in Hawkesbury-Nepean waterway health. This will comprise the majority of the Water Quality, Catchment Protection and Environment program within the period.

The Contamination and Hazardous Material Management program will substantially reduce risks from contaminated lands and hazardous materials on WaterNSW facilities.

## COMMENT

### General

The EPA's involvement with WaterNSW is a collaborative one in which both organisations work together to minimise health risks to drinking water. The Memorandum of Understanding (MoU) works effectively for both organisations. The most recent MoU was signed and enacted on 19 December 2016.

The EPA does not have specific performance issues or concerns to raise in relation to WaterNSW and wishes to continue to work in liaison with WaterNSW given the complexities of the water management jurisdictional space.

Effective coordination and collaboration of agency programs and legislation in the carriage of these functions will continue to be important in all our decision making to help address catchment pressures. These functions have included the regulation of activities scheduled under the *Protection of Environment Operations Act 1997*, informing land use planning and design of water services and infrastructure and responding to major pollution incidents. The EPA will continue to work closely with WaterNSW through the Strategic Liaison Group to help provide reliable and consistent environmental regulatory services.

In undertaking these functions, the EPA has been guided by the latest independent audit of the health of the declared Sydney catchment area (the Catchment Audit) and a NSW Auditor General's report (the Report) into the EPA regulation of water pollution in drinking water catchments and illegal disposal of solid waste.

The EPA has also provided a submission to the NSW Chief Scientist & Engineer Independent Expert Panel for Mining in the Catchment. The EPA outlined the EPA's role in relation to coal mining in the Greater Sydney Water Catchment Special Areas as the regulator of pollution and waste from coal mining activities. This panel will provide expert advice to the Department of Planning, Industry and Environment (DPIE) – Planning, on the impact of mining activities in these catchment areas. The EPA will be guided by any findings or recommendations from DPIE - Planning relevant to its regulatory activities.

### Other Issues

The EPA is working with WaterNSW on drought related planning works (environmental planning stage) for projects including the Burrawang to Avon Tunnel.

In the operational & capital expenditure bid there is limited detail on:

- assessing and managing the risks associated with contamination and hazardous building materials on WaterNSW land; and
- the Contamination and Hazardous Material Management program.

It is unclear if a risk-based approach has been used to develop and prioritise these programs. The following detail can assist in analysing this aspect.

There are two broad management tiers for contaminated land in NSW.

1. The EPA, which uses its powers under the *Contaminated Land Management Act 1997* (CLM Act) to deal with contamination that is significant enough to warrant regulation given the site's current or approved use; and

2. Planning authorities, who deal with other contamination under the planning and development process, on sites which do not pose an unacceptable risk under their current or approved use. This process determines what remediation is needed to make the land suitable for a different use.

There are key EPA CLM registers as follows:

- The first relates to “Notified Sites”. The EPA publishes a list of contaminated land notified under section 60 of the CLM Act. These have been assessed by the EPA as being contaminated, but may not always require regulation under the CLM Act.
- The second relates to a “Record of Notice”. The EPA publishes information on its record of notices when a site has been declared 'significantly contaminated' under the CLM Act.

Further information relating to contaminated land management can be found on the EPA website at <https://www.epa.nsw.gov.au/your-environment/contaminated-land>