

SUBMISSION ON IPART REVIEW OF WHOLESALE WATER AND WASTEWATER CHARGES – SUPPLEMENTARY DRAFT DETERMINATION

MAXIMUM PRICES FOR WHOLESALE WATER, SEWERAGE
AND TRADE WASTE SERVICES FROM 1 JULY 2017



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Prepared By:	Frazer Hill	08.05.2017	
Reviewed By:	Georgia Watt	08.05.2017	
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General Enquiries

Name:	Scott Taylor
Telephone:	
Mobile:	██████████
Email:	████████████████████

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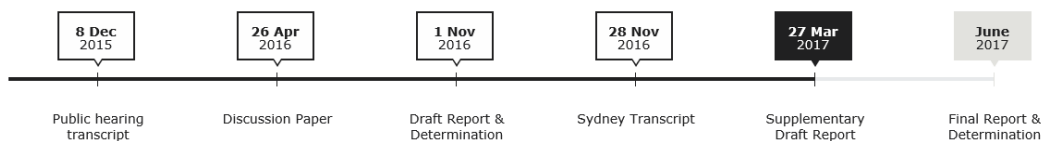
1 Executive Summary

Lendlease welcomes the opportunity to comment on Independent Pricing and Regulatory Tribunal (IPART)'s Supplementary Draft Determination and Report on pricing for wholesale water, sewerage and trade waste services (**Supplementary Draft Determination**).

We appreciate the additional time that IPART has taken to better understand the complexities and interdependencies of the monopoly wholesale water and wastewater services provided by Sydney Water and Hunter Water and the impact that they have on the broader NSW water market, and specifically customers who operate recycled water schemes licenced under the Water Industry Competition Act 2006 (**WIC Act**).

This proposal should be read in conjunction with our previous submissions and representations at the public hearings since 2015 as per the IPART review process.

MILESTONES



Please note that our position has not changed since our last submission, but our distress has materially increased with the Supplementary Draft Determination. This Supplementary Draft Determination has validated our fears that:

- IPART's narrow terms of reference are not aligned with the NSW Government's vision and policy for the broader NSW economy and water market or WIC Act,
- the current focus is on valuing infrastructure, rather than the services provided to customers and the broader benefits to the community such as sustainability; and
- IPART's theoretical perspective translates into the practical erosion of private competition and participation within the NSW water market.

We are also concerned that in response to many of the concerns that we have raised, IPART have redoubled their reliance on scheme-specific reviews. Please note our view that scheme-specific reviews do not work and should not be relied upon as the sweeping safety net for a failure to set appropriate system-wide prices and price signals for customers operating recycled water schemes.

We actively seek IPART to:

- create a new class of customer to represent customers who operate recycled water schemes;
- retain non-residential pricing for these customers as per the Draft Determination, in contrast to the proposed introduction of a new cross-subsidy to be paid by these customers through irrelevant wholesale prices that have little regard to the wholesale customers' cost to serve and the system benefits provided by these customers, and;
- support a broader review by the NSW Government into the transitional arrangements to support the implementation of the 2017 Metropolitan Water Plan.

2 Background and context

2.1 Where is the NSW water market going?

The Metropolitan Water Plan sets a compelling vision of the future for NSW. It does this recognising that water is a limited natural resource, and managing this resource for the benefit of the community presents challenges. It identifies the region's rapidly growing population and expectations for more liveable cities as creating new and increased demands for water. The 2017 Metropolitan Water Plan is the NSW Government's response to these challenges and pressures.

Lendlease is excited and inspired by the vision of the NSW Government in this regard, and we think that we will have an important contribution to make.

Among other things, the Metropolitan Water Plan identifies regulatory and policy barriers to achieving the outcomes that NSW needs to achieve over the next 10 years or more to meet the region's needs.

Unfortunately, IPART's Supplementary Draft Determination represents the worst of these barriers. IPART maintains that it has:

“had regard to the existing legislative framework and current NSW Government policies. This legislative and policy environment affects what we are able and required to do in making our pricing decisions, as well as what we need to consider to meet our objectives for this review.” (IPART, p20)

What is apparent is that IPART is considering policy in the narrowest possible sense – IPART has received three directions from the NSW Government which it takes to be the only policies that it should have any material regard for in this process.

- The first is to implement postage-stamp pricing across the licence areas of Sydney Water and Hunter Water respectively. IPART acknowledges that this policy position has an adverse impact on competition and they deemed 'retail minus' to be the only effective way to determine wholesale prices within this context.
- The second is to set developer charges for water and wastewater at zero. This passes the incremental cost of any new development on to Sydney Water's or Hunter Water's broader customer base and distorts the true cost of reticulating water and wastewater infrastructure. Recycled water, on the other hand (and quite perversely), does not benefit from this leg up.
- The third is the requirement for IPART, under section 15 of the IPART Act, to consider environmental matters in its price reviews. This however, only goes as far as to require IPART to allow regulated entities to recover, through prices, their efficient costs of meeting environmental regulatory requirements. (IPART, p 101)

However, casting the net a little wider, it is apparent that the policy position of the NSW Government is discernably different to the policies considered IPART.

The following tables show how IPART's determination is at odds with NSW Government policy, as articulated in the NSW Metropolitan Water Plan. In considering this divergence, it is apparent that the guidelines or constraints within which IPART are operating are either out-of-touch or part of the problem.

- in relation to fostering competition,

NSW Metropolitan Water Plan	IPART Supplementary Draft Report
<p>“The NSW Government introduced the WIC Act to foster diversity, growth and innovation in the water industry” (p 16)</p> <p>“There are also significant institutional, policy and regulatory barriers to the uptake of economically efficient water recycling, for example... there is different treatment of recycled water scheme costs compared to traditional wastewater servicing costs...” (p 42)</p> <p>“Current pricing and regulatory settings can bias investment toward traditional servicing models, such as centralised water and wastewater networks. This occurs even where integrated solutions (including recycling) are shown to be as cost effective.” (p 48)</p>	<p>“IPART does not pre-emptively favour specific servicing solutions or means of achieving regulatory objectives.” (p 23)</p> <p>“An entrant that requires a 15-25% WACC would not represent an efficient replacement for an existing provider that only requires a 4.9% real post tax WACC.” (p 130)</p> <p>“Setting prices to wholesale customers that compensate for all risks they face as a business is inconsistent with regulatory practice, which holds that permitted rates of return to equity should only compensate investors for systematic (undiversifiable) risks.” (p 130)</p>

- in relation to recognising the benefits of recycled water, and;

NSW Metropolitan Water Plan	IPART Supplementary Draft Report
<p>“The 2017 Metropolitan Water Plan will provide Greater Sydney with the blueprint for an affordable water system, having the security and resilience that it needs, as well as achieving associated societal goals.” (p iii)</p> <p>“Diversity of sources (including recycled water) makes NSW’s water supply resilient” (p 34)</p> <p>“(The) plan is opening the door to a broader range of recycling options, provided they are cost effective.” (p iii)</p> <p>“The use of recycled water and stormwater helps preserve our drinking water supplies” (p 11)</p> <p>“Use of recycled water helps preserve water stored in dams for drinking, reduces the impact of stormwater run-off on our waterways, and helps cool and green our urban environments.” (p 14)</p> <p>“The use of recycled water saved about 33 billion litres of water a year that might otherwise have come from our drinking water supplies” (p 14)</p> <p>“Membrane-based wastewater treatment and small bore sewers allow for local and more integrated water solutions to be considered instead of the traditional approach of</p>	<p>“IPART is not responsible for setting the environmental or liveability objectives of the community, nor for determining the best way for such objectives to be met.” (p 24)</p> <p>“In the absence of avoided costs (or negative facilitation costs), it is not appropriate for IPART to require Sydney Water’s and Hunter Water’s water and sewerage customers to contribute to the cost of recycled water schemes that they do not use through a reduction to the wholesale price.” (p 26)</p>

connecting new developments to existing centralised sewer networks.” (p 60)	
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- in relation to the benefits of integrated water cycle management.

NSW Metropolitan Water Plan	IPART Supplementary Draft Report
<p>“The new WaterSmart Cities program will explore opportunities to deliver drinking water, wastewater and stormwater services to new communities in a more integrated, cost-effective and sustainable way.” (p 9)</p> <p>“In Greater Sydney we need to plan our water, wastewater and stormwater services in an integrated way to fully realise the benefits from the multi-billion dollar investment in water infrastructure.” (p 45)</p> <p>“Building integrated water solutions and cost-effective water recycling into new developments can reduce future demand on drinking water supplies and defer or avoid the need for major new water and wastewater infrastructure.” (p 21)</p> <p>“We will undertake a range of activities to enhance collaboration and identify economic, planning, and regulatory barriers and enablers to implementing integrated water solutions” (p 47)</p>	<p>“Recycled water plants need to be funded by revenue from the service they provide to end users (recycled water), and should not be funded by retail sewerage service revenue.” (p 53)</p> <p>“(The wholesale customer could) use the difference between its wholesale price (retail non-residential) and the price it could sell retail sewerage services (Sydney Water’s and Hunter Water’s retail residential and non-residential charges) to subsidise its recycled water business.</p> <ul style="list-style-type: none"> • This could provide incentives for inefficient over-investment in recycled water projects, at the expense of Sydney Water’s and Hunter Water’s customers. • This would also be inconsistent with funding opportunities available for Sydney Water’s and Hunter Water’s own recycled water schemes: we require these schemes to be self-financing (ie, their costs to be recovered from recycled water customers, rather than the broader water and/or sewerage customer base), unless they can demonstrate avoided costs to water and/or sewerage customers.” (p 52)

It is possible that IPART do not have clarity on what policy to apply – unless, in the case of postage-stamp pricing and developer charges, they are directly told to take into account a particular policy.

This divergence between IPART and the NSW Government is painfully clear in this Supplementary Draft Determination. If this Supplementary Draft Determination were to become IPART’s Final Determination, IPART’s theoretical perspective would translate into the practical erosion of competition and private participation within the NSW water market. The new pricing may also put at risk the economic viability of existing recycled water schemes within NSW, and impair each private investment.

The Supplementary Draft Determination clearly reinforces and further promotes the centralised water and wastewater networks managed by Sydney Water and Hunter Water at the expense of an evolving market inclusive of integrated water management with capital light innovation, customer focus on new services, private investment and competition.

This lack of perspective in IPART's Supplementary Draft Determination may be due to a narrow economist view of 'perfect' economic theory or it may be that they do not have the means to respond to what is clearly the direction NSW should be heading.

Furthermore, it seems that IPART's tools are appropriate for it to regulate the prices of a monopoly in the absence of competition and, in doing so, protect the interests of the customers of that monopoly. The fact that Sydney Water is among the most efficient monopoly water utilities in Australia is due, in no small measure, to the role that IPART has played in plying its trade. Policy in this context is something that can only really be accommodated every four or five years.

However, it appears that IPART is underequipped to set prices in the context of those monopolies competing with private participants. There is a strange metamorphosis that occurs: rather than protect customers from Sydney Water's and Hunter Water's monopoly, IPART somehow changes to protect Sydney Water's and Hunter Water's monopoly from customers. The 'one-eyed' approach to regulation (where IPART has to protect one party against another) is not appropriate when trying to create an even playing field in which competition can thrive. This requires an entirely different set of tools.

It is with this context in mind, that Lendlease is so fundamentally disappointed in the Supplementary Draft Determination. In the following sections, we identify the areas where we think this determination is inappropriate for customers operating recycled water schemes and the recommendations we propose to remedy the situation.

If our recommendations were adopted, then IPART would be doing no harm and allowing time: (i) for the policy, regulatory and price-setting regimes to align as well as (ii) to create a set of prices that can be used *in practice* by customers operating recycled water schemes in dealing with their monopoly competitors.

3 IPART's Supplementary Draft Determination is a poor outcome for NSW and NSW water customers

This Supplementary Draft Determination establishes a 'default' price that does not and will not ever apply to a customer operating a recycled water scheme. The only way to determine the prices that ought to apply to these customers is to be achieved through a scheme-specific review. But a scheme-specific review is not appropriate to these customers for a range of reasons.

In total, IPART's Supplementary Draft determination is entirely inappropriate for the outcomes that we understand the NSW Government and IPART have expressed that they want to achieve.

3.1 Negative facilitation costs exist when recycled water schemes are developed

Every stakeholder and participant in this review acknowledges that negative facilitation costs will exist for every recycled water scheme. Sydney Water, for example, stated that they "acknowledge that the provision of recycled water could provide benefits to us in terms of lower costs." (Sydney Water, p iv) IPART noted several times the likelihood that recycled water schemes will have negative facilitation costs:

- "Negative facilitation cost may arise if a wholesale customer produces recycled water that allows the wholesale service provider to defer its next scheduled water supply or sewerage treatment augmentation." (IPART, p 84)
- "The recycled water plant may determine the value of avoided costs (or negative facilitation costs) to be subtracted from the wholesale price." (IPART, p 4)
- "Our wholesale pricing framework can reflect the environmental benefits of recycled water schemes (in the form of avoided costs) through the allowance of negative facilitation costs." (IPART, p 101)

IPART's own consultant, Oakley Greenwood, found that a recycled water plant is likely to have cost impacts for wholesale service providers in relation to both upstream (water) and downstream (sewerage) services. (IPART, p 87)

A simple example of negative facilitation costs that will apply to any recycled water scheme is the trade waste treatment that is performed by a recycled water plant. Under the system-wide prices, Sydney Water or Hunter Water get the full value of wastewater and trade waste treatment with no accommodation of trade waste in the 'minus' to be retained by the wholesale customer. In this instance, a recycled water scheme is not 'on-selling' the wholesale service provider's trade waste service, it is performing it itself.

This fact alone identifies that the system-wide prices ought never apply to a customer operating a recycled water scheme.

When considering the analysis by Oakley Greenwood, it is apparent that the categories of facilitation costs would likely apply to every different scenario for a customer operating a recycled water scheme. Indeed, if IPART disagrees, we would welcome their identification of the characteristics of a recycled water scheme where these prices would actually apply.

IPART have clearly established in their Supplementary Draft Report that negative facilitation costs would apply to each customer operating a recycled water scheme but that the value would differ on a scheme-by-scheme basis. To wit:

"We maintain our view that, in principle, negative facilitation costs should be reflected in wholesale prices. However, as outlined further below, we consider that, at this stage, these cost savings or benefits of wholesale customer's schemes to wholesale service providers, such as those associated with recycled water plants, can only be determined with a reasonable degree of accuracy on a scheme by scheme basis." (IPART, p 84)

3.2 There are no negative-facilitation costs in IPART's system-wide prices

Whilst negative facilitation costs exist for every customer operating a recycled water scheme, IPART have not included these in the system-wide prices. IPART recognise that there may be other facilitation costs or cost savings which should be reflected in wholesale prices; however, they have maintained their position from the Draft Report to not include facilitation costs in the system-wide determinations. (IPART, p 11)

Hunter Water suggested that IPART could set “a ‘notional negative facilitation amount’ that approximates deferred or avoided costs in the water or sewerage systems because of a recycled water scheme”. (Hunter Water, p 15) Oakley Greenwood, IPART's consultant, found that system-wide cost impacts of customers operating recycled water schemes can be derived for some elements. (IPART, p 87)

IPART are happy to set ‘average’ prices for every service provided by Sydney Water and Hunter Water, recognising that the cost to provide these services may vary significantly between individual customers, other than for customers operating recycled water schemes. Here, IPART applies a different standard. For these customers, IPART deems it critical that the price is as accurate as possible. We would benefit from further explanation as to why IPART is so hesitant in providing average prices for these customers and why it considers it has to apply a different standard to every other price it sets.

That said, as they have been currently determined, the system-wide prices set out in the Supplementary Draft Determination do not and would never apply to a customer operating a recycled water scheme. It is clear even IPART do not believe that these prices would apply to a customer operating a recycled water scheme. We think that this is reinforced by IPART excluding existing schemes from the application of these prices. IPART's own modelling shows the cost increases that would be imposed by these prices are increases of between 200% and 400%. Plausibly, on a cost per kL for a wastewater service, given the limited volumes of wastewater discharged by a customer due to wastewater reuse, the increases could be significantly higher than even those numbers.

To our mind, **these system-wide prices reflect the prices that the wholesale service provider should charge an on-seller but have no basis as a starting point for determining the prices to be charged to a customer operating a recycled water scheme.**

3.3 Scheme-specific reviews are the only way that prices will be established for recycled water schemes

IPART have unhelpfully set an expectation that system-wide prices for wholesale services would be the prevailing price determination that applies to new schemes. (IPART, p 96) This is reinforced by Hunter Water, who have stated that, to their mind, system-wide prices would be the default prices for new agreements. (Hunter Water, p A.5) We think that this is wrong (although we understand why, at a 200-400% increase for providing the same service, Hunter Water would want these prices to be the starting point).

Given negative facilitation costs exist when recycled water schemes are developed, and there are no negative facilitation costs represented in IPART's prices, it is clear that these prices are irrelevant for customers operating recycled water schemes. **Even creating the expectation that these are the default prices for a customer operating a recycled water scheme is entirely inappropriate** – and inconsistent with IPART's own views expressed throughout the Supplementary Draft Report.

Further, it is clear that IPART intend to use scheme-specific reviews to establish data points to be able to determine system-wide prices for customers operating recycled water schemes in the future:

- “Over time, if more information is revealed and tested through conducting scheme-specific reviews, we may be in a position to establish estimates of benchmark or ‘typical’ facilitation costs.” (IPART, p 84)
- “We note that, over time as more recycled water schemes become operational, and more information on their impacts becomes available and can be verified, we may be able to incorporate avoided costs from recycled water plants in future system-wide determinations.” (IPART, p 87-8)

In the interim, the prices that will apply to a customer operating a recycled water scheme will be a price that is always different to these system-wide prices. According to IPART’s Supplementary Draft Determination, they will remain at the non-residential price for those existing schemes and will have to be determined for new schemes through scheme-specific review.

3.4 Scheme-specific reviews will not work

We made it clear in our last submission that scheme-specific price reviews would not work. Despite this, IPART changed their Draft Determination to practically force each customer operating a recycled water scheme into a scheme-specific review, as we identified above.

IPART acknowledged the issues that we raised and those that were raised by other stakeholders, but identified their own constraints (eg the IPART Act) and a range of mitigations that are, practically, unsatisfactory.

- **Public-disclosure requirements will reveal confidential information and intellectual property (IP) to competitors.** Whilst IPART identify that customers can make confidential submissions, the public disclosure requirements on IPART and the wholesale service provider will likely mean that confidential information and IP will be revealed through the process. We would like IPART to identify how they would protect confidential information and IP from being revealed indirectly through the process, but to our mind we cannot see how this would be able to be achieved to our satisfaction.
- **The wholesale service provider is a competitor.** Even without public-disclosure, in order for the wholesale service provider to propose a price in the process as set out by IPART, they will need to obtain all the necessary information from the customer. This involves a transfer of IP and confidential information to the wholesale service provider. We remind IPART that the wholesale service provider is also a competitor and will likely be competing for the same scheme and other schemes in the future. Even if the wholesale service provider was not incentivised to attempt to set their wholesale service prices at the maximum possible amount, this information would enable them to tailor their own offering for retail servicing to directly deal with their customer’s offering. Unless the parts of Sydney Water or Hunter Water who were dealing with these scheme-specific reviews were ring-fenced from the competitive parts of their organisations, then this remains commercially unacceptable.
- **The timeframe is too long.** The competitive property development market in which Lendlease operates requires developers to submit proposals within short timeframes. We have already established that system-wide prices are entirely inappropriate to base the investment decisions for recycled water schemes within these proposals. A customer does not have sufficient information to form the basis of an estimate of the scheme-specific prices that may emerge after the 12-month process has completed. Unless IPART can find a pathway for determining prices that meets the requirements of the environment in which real competition exists, then being unable to determine prices quickly enough will soon exclude these schemes from consideration.

- **Prior negotiation will not speed up the process.** IPART think that the timeframe issues can be addressed by prior negotiation between the customer and the wholesale service provider. To that end, IPART seem to forget, from time to time, that Sydney Water and Hunter Water are monopolies. But, beyond that, Sydney Water and Hunter Water are also competitors. So, given that fact that a customer is required to negotiate with (a) a monopoly and (b) a competitor and (c) within a regulatory environment where Sydney Water and Hunter Water are completely unprepared to move unilaterally from the prices set by their regulator, we do not consider that this is a viable solution.

We stand by our views that scheme-specific reviews will not work.

3.5 IPART may have established an environment in which Lendlease (and other private participants) will no longer seek to invest

The net result of these issues is that Lendlease would be highly unlikely to participate in a scheme-specific review of the model proposed by IPART. We consider that the process is not suitable and skewed against the customers at every step – the ‘prevailing’ prices paradigm, the process and timeframes required to get scheme-specific prices and the lack of symmetry in information between wholesale service provider and their customers. In light of that, we will likely take our capital and innovation elsewhere.

If IPART really want to promote competition in practice, they either need to try harder to set more reflective system-wide prices or set a price for the interim that reflects Sydney Water’s and Hunter Water’s cost to serve these customers while NSW seeks to align the policy and regulatory environment.

This is a grave concern given the broader pressures on NSW including population growth, increased demand for resources and the critical issue of affordable housing. A lack of innovation and further reform within the NSW water market will adversely affect communities’ ability to respond to these increasing pressures, and ability to create resilient communities into the future.

4 Our recommendations

IPART identifies this wholesale pricing review as being an important step to... facilitating competition in the water market. (IPART, p 27) We agree – this Supplementary Draft Determination is one of the singly most important milestones for competition in the water industry in Australia since the introduction of the WIC Act.

Given the importance of this wholesale pricing review and in light of the problems with the Supplementary Draft Determination, we outline our recommendations below.

4.1 Define an additional type of customer as a customer with a recycled water scheme

Given the system-wide wholesale prices will never apply, in practice, to a recycled water scheme, it is appropriate that IPART sets aside this class of customer from these prices.

As we discussed above, creating an expectation that these prices ought to be the ‘prevailing’ prices for all customers – and validating Sydney Water’s and Hunter Water’s views that these prices should be the ‘default’ for all schemes – is entirely inconsistent with the discussion in the Supplementary Draft Report around negative facilitation costs and the need for scheme-specific reviews where recycled water schemes are involved. It is clear that IPART intend to learn from scheme-specific reviews what prices ought to apply to these schemes, so creating any expectation that these system-wide prices ought to apply to recycled water schemes is unhelpful.

We feel that the notion that these prices should not apply to this class of customer is further supported by the fact that IPART are excluding all existing recycled schemes from this price determination.

IPART should either create a new class of customer and set different prices to these system-wide prices or clearly carve out this class of customer from the application of these prices.

This approach needs to align with the intent behind the WIC Act.

4.2 Set wholesale wastewater prices for these customers with prices capped at the non-residential wastewater service price

That said, of the two options presented above, we think that IPART should create a new class of customer for customers operating a recycled water scheme and set prices capped at the non-residential prices. This acknowledges the type of customers that are likely to invest in and operate recycled water schemes: it creates greater certainty than having no prices and needing to go through scheme-specific reviews.

IPART should feel comfortable differentiating between mere on-sellers of a wastewater service and customers operating recycled water schemes. This differentiation was present in the Draft Determination, but IPART moved away from it in their Supplementary Draft Determination.

We think that the service being provided by a wholesale service provider to a mere on-seller is different to the service provided to a recycled water scheme because (a) wastewater produced by a recycled water plant is a different product to that produced by upstream customers and (b) a recycled water scheme requires a wholesale wastewater service to dispose of the waste from the recycled water plant through the treatment of wastewater to produce recycled water. A recycled water scheme treats wastewater before it gets transferred to the wholesale service provider and significantly reduces the volume of wastewater flows. This is fundamentally different to the characteristics of a mere on-seller.

IPART distinguished a potable water top up as a service that is required to provide recycled water to downstream customers – that is, it is a service that is required for a recycled water scheme’s own use (IPART, p 17). We would argue that the same logic applies to wastewater discharge from a recycled water scheme – that is, it is a by-product from the production of recycled water.

4.3 Recommend a broader review be completed by the time that it needs to complete its next wholesale price determination

IPART have indicated that the length of this Determination would be four years. Apart from being an arbitrary number for almost all purposes other than a regulatory price review process, if nothing else, it sets a timeframe for the review of the broader NSW water market as contemplated by the 2017 Metropolitan Water Plan to address all of the inconsistencies between the policy, regulatory and price-setting environment that have been discussed at length by IPART and each of the stakeholders in this review.

Our view is that the four years of this determination will pass by pretty quickly, and setting prices for customers with recycled water schemes to be capped at the non-residential price over that period will not cause material impacts on the overall system efficiency. Given the lead time and capital required to establish a recycled water plant, it is not as though flood gates will open with a plethora of shonky opportunists.

Conversely, setting the wrong prices and putting up practical barriers to getting the right prices, that may not be able to be overcome, will certainly lead to a dearth of customers. At this time, this would be a terrible outcome for NSW and NSW water customers.

IPART should support the conduct of a broader review and seek to influence the terms of reference to ensure that the things that they need to learn in order to be able to set appropriate system-wide prices for customers operating recycled water schemes can be learnt before the next price determination process commences.

Our hope would be that, within the next four years, there will be consistency and alignment between policy, regulatory and price-setting processes and that the prices set by IPART for 1 July 2021 would be able to support competition in practice for all of the benefits that competition brings.

We also caution IPART to consider the length of this determination having regard to the broader NSW water review – if there is any possibility that the broader review will not be completed within four years, we think that IPART should be more conservative with the duration of this determination. It would be entirely disappointing if IPART were to set out to complete the next price review before this broader review was completed as it is likely that there will be even further disparity between policy and regulation prior to the culmination of this review and the implementation of its recommendations.

It is also important that the NSW Government's approach, cognisant of the 2017 Metropolitan Water Plan, harmonises with the Productivity Commission's current review into water market competition and reform.

Appendix 1 – Proposed changes to the drafting of Supplementary Draft Determination

In the event that IPART rejects the substance of our recommendations set out in this submission, we feel that the drafting of the Supplementary Draft Determination does not reflect the stated intent of IPART in respect of existing schemes. It is clear that the focus of the Supplementary Draft Determination is, and should be, forward-looking.

The Supplementary Draft Report refers to existing *schemes* (and also existing agreements), where the Draft Wholesale Determination uses the definition of Existing Services.

We think that this is problematic as some schemes are still in development and may not yet be taking the full set of wholesale services from Sydney Water or Hunter Water (as the case may be). It is plausible – given the current scripting of the Supplementary Draft Determination – that the wholesale service provider may be able to argue that any new service supplied to those schemes (or even property within those schemes) come under the prices established within this price review.

To that end, we feel that any Monopoly Services being supplied to an Existing Scheme (as defined by the Area of Operations established within a WIC Act Network Operator’s Licence) now or in the future should be excluded from this determination.

If this were not to be the case, then the intention of IPART in excluding these existing schemes will be over-written and each existing scheme may soon end up deciding between be closing down due to the ‘default’ application of inappropriate prices or (if commercially acceptable) asking for a scheme-specific review.

We would be happy to provide further information, if required, or review any proposed drafting changes prior to publication of the Final Determination.