



**public interest**  
ADVOCACY CENTRE

## **Submission to IPART's Draft Report Review of Prices for Sydney Water from July 2020**

**27 April 2020**

## About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

## Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- Anglicare;
- Good Shepherd Microfinance;
- Financial Rights Legal Centre;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- The Sydney Alliance; and
- Mission Australia.

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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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# 1. Introduction

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to respond to the Independent Pricing and Regulatory Tribunal's (IPART's) *Review of prices for Sydney Water Corporation from July 2020* Draft Determinations.

The recent experience of drought provided compelling evidence reliance upon historic experience and practice is increasingly inappropriate in the face of a rapidly changing climate. Not only was the recent period dryer and hotter than any on record, but it saw catchments deplete significantly faster than modelling based upon what historic experience predicted. This has wide ranging implications, from the handling of leakage to the calculation of economic levels of leakage and conservation, demand forecasts, calculations of long run marginal cost (LRMC) and investment planning.

The recognition climate change is impacting decision making is welcome. PIAC does not consider, however, that the wide-ranging implications of these changes are being appropriately integrated into some of the assumptions and calculations fundamental to decision making by Sydney Water, and elements of IPART's assessment of those decisions. We encourage IPART and Sydney Water to consider the experience of the recent extreme heat and dry in examining the implications of that departure on Sydney Water's operations, and considering how to incorporate this into better decision making processes. Sydney Water's planning, pricing and operations, and the regulatory assessment undertaken by IPART, must be appropriately calibrated to the ongoing impacts of climate change, to ensure a resilient water supply that remains sustainable and affordable.

PIAC has advocated for comprehensive pricing reform to better reflect the value and uncertainty of scarce water resources, while providing fairer and more sustainable incentives for efficient use and conservation. While we appreciate IPART's consideration of these challenges, PIAC does not support customer-facing dynamic 'scarcity' pricing of water. The water usage pricing proposed by IPART, in conjunction with the dynamic wholesale water usage charge proposed for WaterNSW, effectively passes all demand and resource risk through to consumers with almost no mitigation on the part of WaterNSW or Sydney Water. PIAC considers this inequitable, regressive and not in keeping with widely accepted principles of retail pricing for an essential service.

PIAC is concerned the dynamic retail pricing structure has been initiated by IPART without consultation with stakeholders and the community, and in isolation from the Hunter Water Draft Determination being conducted concurrently. PIAC considers this proposed price is deeply flawed, and will address the significant issues and likely failings of the proposed price in detail, later in this submission.

In this submission PIAC provides detailed input on a number of key elements of the draft determination, including:

- The proposed dynamic water usage price, IPART's reasoning in proposing it, and why an Inclining Block Tariff is a more equitable, efficient and effective means of achieving the objectives outlined by IPART.
- Discretionary project spending, how the projects are implemented and their costs recovered, and the need for stakeholder engagement in amending and finalising the framework governing such projects.
- Leakage reduction, issues with how the economic level of leakage is determined, and how leakage performance is monitored and reported on.
- Wastewater pricing, how costs are determined, and whether household control may be improved by recovering costs through usage-based prices.
- The need for rebate and assistance reform as highlighted by the current impact of COVID, and the ongoing reforms to recover costs through usage prices.
- The application of late fees and declined and dishonoured charges, and the need to consider the impact upon households experiencing financial difficulty.
- Capital Expenditure (CAPEX) allowance, the non-approval of the Prospect-MacArthur link project and questions regarding the reasoning for this decision.

## 2. Pricing

### 2.1 Issues with the proposed dynamic price and its impact on households

PIAC is extremely concerned by the proposal to implement a dynamic retail water usage price for Sydney Water customers. The proposed dynamic price operates as an effective scarcity price, which IPART itself assessed as being inappropriate and flawed.

In the draft determination (the draft) IPART proposes to introduce a dynamic retail water usage price that mirrors the dynamic wholesale water usage price proposed for WaterNSW. These prices would differentiate between an 'average' or unrestricted price when dams are above 60% at the commencement of a quarter, and a 'drought' or scarcity price when dams drop below this mark at the commencement of the quarter. Once activated, these drought prices would persist until catchment levels exceeded 70% at the commencement of the quarter.

In the draft IPART identifies two broad issues with the flat tariff status quo proposed by Sydney Water, as the basis for proposing an alternative. Namely:

- The flat tariff structure resulted in significant revenue reductions for Sydney Water in times of drought and water restriction. This reasoning was also cited in the proposal for WaterNSW dynamic wholesale water usage price.
- The flat tariff structure employed by Sydney Water did not encourage water conservation, and could increase uncertainty for consumers.

To address these issues Sydney Water had proposed drought related cost pass-throughs and a drought volatility adjustment mechanism (DVAM) to be recovered through service charges. IPARTs justification for rejecting this proposal, and proposing a dynamic scarcity price is illustrative.

- Drought pass-throughs and DVAMs could lead to increased service prices and create the risk of bill shock for customers
- These mechanisms would not provide a strong incentive for customers to conserve water during drought. PIAC contends they also reduce the incentive for Sydney Water to improve systemic efficiency and conservation.
- This solution would shift most of the cost and revenue risk in responding to drought from Sydney Water to its customers, with little incentive for Sydney Water to address or mitigate those risks and related costs.
- This solution is not consistent with stakeholder preferences for cost recovery through usage prices, or with community preferences for billing stability and predictability.

PIAC agrees with this reasoning and supports IPARTs decision not to proceed with Sydney Water's proposed drought cost pass through and DVAM recovered through service charges. In PIAC's view, IPART's proposed dynamic drought price is inappropriate and shares some of the flaws noted by IPART in rejecting the Sydney Waters proposal, specifically:

- It results in households carrying the burden of risk and costs. In conjunction with the WaterNSW dynamic wholesale usage price, it shifts most of the demand risk and cost impact of scarcity, unmitigated, onto households. These risks should be borne by those best-placed to manage them, and the cost of doing so by those who contribute relatively more to them being incurred.
- It creates price volatility and the likelihood of bill shock. It passes through substantial, sharp and immediate increased prices to consumers without first giving signals and incentives for conservation and efficiency that would prompt them to reduce future usage and bills. In the draft IPART notes that water is generally price inelastic and that households do not tend to change their behaviour in the short term in response to price.
- It does not provide an enduring incentive to conserve water. When the scarcity price is not in operation, there is little incentive for conservation. Indeed, the proposed unrestricted price would reduce the incentive for household conservation. While providing a sharp price incentive in the defined 'drought' period, this incentive is not signalled consistently in a way that influences appliance purchasing decisions, renovations and long-term behaviour necessary to conserve and use water efficiently. In providing a sharp price signal only during periods of defined scarcity, the proposed prices are likely to result in short term under consumption from financially vulnerable households, little change for households with higher incomes, and bill-shock and increased financial stress for those who are unable to change.

- It operates regressively.  
In charging those who can't change behaviour equally with those who can, it imposes a relative penalty on lower usage households, households with inelastic usage, renters, pensioners and those households who are already conserving water, all groups in which lower household incomes are overrepresented.
- It does not provide long term signals for the 'value' of water.  
In operating sharply for potentially short periods of time, it encourages unsustainable underuse in defined periods of scarcity, with a similarly unsustainable bounce back in times when 'average' condition prices apply. Sydney Water's experience with demand increases during periods of price decline provide evidence of this.
- In not providing enduring signals, but simply passing through costs of scarcity unmitigated, it leaves all of the risk with consumers who have limited ability to manage the scarcity risks. By allowing WaterNSW and Sydney Water to pass through all of these risks and costs, it undermines any incentive for them or the NSW government to improve systemic water use efficiency.
- It exacerbates existing inadequacy and inappropriateness of supports and rebates.  
As pensioner rebates are tied to service charges, which have been progressively reduced, a dynamic price amplifies the bill impact upon them. Renters and low-income households are already neglected by supports and are less likely to be able to make changes to improve their household water use efficiency. There are currently no rebate supports to assist them, with the dynamic price likely to materially impact their usage costs.

In support of the conservation incentive provided by the dynamic price structure, IPART presents calculations<sup>1</sup> outlining the relative experience of a household with average usage of 200kL/ year. It presents water usage reductions from the 200kL start-point in increments of 20kL, comparing the water usage bill for each with Sydney Waters proposed price of \$2.11/kL, against the same usage levels for IPARTs 'drought price' of \$3.12kL. Presented this way it appears an average household with 200kL of annual usage can 'save' \$62 by reducing their usage by 20kL, \$125 reducing by 40kL, and \$187 reducing by 60kL.

In addition to the difficulty in responding to such a short-term price signal, these savings are misleading as they are comparisons against the cost of 200kL under the drought price of \$3.12/kL, not the cost of 200kL under the unrestricted price of \$2.30/kL. We consider this important in the context of consumers preference for bill stability and consistency, and the way households understand and compare their costs against their 'usual' bill. In this case their usual usage bill for 200kL, in unrestricted conditions, would be \$460. In order to achieve a comparable usage bill under drought pricing, they would need to reduce their usage by 50kL a year, or 25%. Considering the base usage, and the timeframes involved, PIAC considers this immediate response unlikely for most of the community, meaning even average consumption households are likely to face significant bill shock when scarcity prices are operating, with little means of mitigation.

<sup>1</sup> IPART. 'Draft report: Review of prices for Sydney Water from 1 July 2020.' March 2020. P.132



We note that IPART, in assessing pricing alternatives, concludes that ‘scarcity pricing’ is not feasible due to the relative inelasticity of water demand, the volatility in billing it creates and its significant inequity issues<sup>2</sup>. While scarcity pricing is presented as a pricing option rejected in the course of IPART’s determination, PIAC considers there to be little practical difference between the proposed dynamic price and scarcity pricing that operates with a pricing ‘floor’ to protect revenue.

PIAC supports a dynamic usage price at a wholesale level and strongly supports pricing which incentivises sustainability and water use efficiency, but regards scarcity pricing at a household level as inappropriate for a service essential for health and wellbeing. The proposed scarcity usage price for households is punitive and inequitable, and unlikely to result in substantial and sustainable improvements in water use efficiency and conservation.

We strongly recommend against proceeding with the proposed dynamic price, and reiterate the value of an enduring Inclining Block Tariff in balancing efficiency, stability, fairness and sustainability.

## **2.2 Why an Inclining Block Tariff structure is in the best interests of NSW households**

PIAC has consistently recommended that a comprehensive review of water pricing is required. Understanding of the nature of water resources has improved, with climate change, population, technology and economic developments determining that the current pricing and regulatory framework is not capable of delivering the sustainable, affordable and efficient outcomes required. It is important to ensure that reformed water pricing:

- Supports equitable affordable access to the water essential for household health and wellbeing. The community regards water as an essential community service. Pricing structures must meet the community expectation that the essential water needs of all in the community are affordable, with costs of essential access shared fairly by the community
- Is cost-reflective, where the causers or beneficiaries (those who are larger discretionary users in the long term) pay the costs related to their behaviour, and their long-term impact on sustainable and affordable access to the resource. It is crucial to recognise that not all usage is essential and that not all costs should be socialised.
- Does not place the burden of the risk of intermittent (however regular) shortages on all consumers, by relying on short-term price spikes that act as punitive imposts.
- Supports sustainable use and supply of water to the community by providing clear, ongoing signals of the value of water and its supply limitations. It should signal the risk and costs involved in flexible or discretionary usage behaviour that impacts disproportionately upon the security and sustainability of that supply.

<sup>2</sup> IPART. ‘Draft report: Review of prices for Sydney Water from 1 July 2020.’ March 2020. Appendix I pp.66-69

- Incentivises supply and re-use solutions that are environmentally sustainable, resource efficient and minimise costs.

PIAC highlights the following arguments in favour of an Inclining Block Tariff (IBT):

- It clearly and transparently aligns water pricing structures with business and community expectations and messaging regarding conservation and efficiency.
- It responds to customer preferences that pricing be weighted towards volumetric usage charges and improves a household's ability to reduce its bills by managing flexible or discretionary, rather than essential usage.
- It recognises that at higher levels of usage, units of water have a higher cost to the community, related to the increasing impact of usage on finite water resources particularly during periods of scarcity.
- It recognises that higher levels of usage contribute disproportionately to the need for expansion and operation of desalination, which is a higher cost means of providing water.
- It creates a simple, transparent framework that can incorporate long and short-term cost and supply signals into a signal that households can understand. This flexibility is crucial given the uncertainty of climate change impacts combined with population growth.
- It recognises scarcity is a long-term issue that needs to be signalled on a permanent basis not just during the incidence of extreme conditions. Short term scarcity pricing is considered punitive by water users, and has limited impact as it provides signals at a time when there is little scope for reduced demand to have a material impact. Once storages are depleted, only expensive 'supply augmentations' can be employed, at a time where implementation is at its most expensive.
- It can be better integrated with waste and recycled water services pricing so as to better enable their efficient implementation. This is crucial as currently wastewater re-use and recycled water schemes are often not able to demonstrate an economic case.

IPART's analysis has shown that despite the general inelasticity of water demand, where demand is responsive to price it is in the long term, reflecting the fact time is required for price signals to be understood and acted on by consumers<sup>3</sup>. IBTs have a well-established role in providing the basis for such long-term signals to consumers.

PIAC recommends the re-implementation of an IBT structure as the most appropriate means of balancing pricing efficiency with the wider roles that water pricing must fulfil. These roles include:

- Helping to reduce demand to meet the long-term supply and demand imbalance<sup>4</sup>.

<sup>3</sup> IPART 'water scarcity: does it exist and can price help solve the problem' Water – working paper, January 2008, 10-12

<sup>4</sup> Prior to the current extreme circumstances, WaterNSW latest update of water system yield for Greater Sydney involved a downward adjustment that, particularly when viewed in conjunction with new connection growth,

- Importantly, the second block should provide a clear price signal incentive for people to use less drinking water for water intensive discretionary uses (such as pools and gardens), while lessening the impact upon usage essential for health and well-being.
- Supporting the equitable and affordable access to essential water needs of all consumers (in the first block), while sending a price signal in support of conservation for water intensive discretionary use.
- Maintaining access to essential use for all consumers through the adjustment of the step design (in both the quantity of usage and the degree of tariff step).
- Helping minimise the exposure of vulnerable customers to higher prices.

These factors were previously recognised by the tribunal in implementing an IBT<sup>5</sup>. Additionally, PIAC strongly recommends IBTs as the most appropriate price structure because:

- They are employed by the bulk of urban water businesses in Australia, including those with water supply circumstances comparable with those faced by Sydney Water
- They reflect the strong and consistent consumer preference, identified by Sydney Water, Hunter Water and IPART, that there be price signals related to higher water use, that encourage and support conservation expectations. We note that Sydney Water customers have expressed no support for dynamic pricing.
- Price increases can be restricted to a smaller number of consumers, rather than the whole community, and in any case price increases are confined to the portion of household usage that is more flexible. Where there is a need to recover the costs related to increasingly uncertain and expensive supply, this fairer and likely to be more politically viable.
- They provide more effective means to target assistance to households unable to address their higher usage by minimising the cohort of consumers impacted by price increases. They can be supported through, for example, transitioning to rebates provided on a proportionate basis, efficiency investment supports and rebates for families and low income households, and rebates for medical use.
- They smooth the pointed wholesale price signals, SDP operational costs, and other cost pass throughs and volatility related to demand risk and the cost impacts of scarcity into a more stable price structure that mitigates and shares them more equitably.

### **2.2.1 IBTs are equitable and efficient.**

In considering PIACs recommendation in favour of an IBT, IPART asserts IBTs are not equitable, nor efficient, and in any case are less efficient than flat tariffs based upon LRMC. IPART

meant that long term secure supply without desalination would be less than required to meet long term demand, notwithstanding extreme circumstances such as those currently being experienced.

<sup>5</sup> IPART 'water scarcity: does it exist and can price help solve the problem' Water – working paper, January 2008. P.6

contends IBTs are inefficient because some consumption is being priced at a level either above or below marginal cost, specifically:

- That the upper price block would be above the LRMC, which is problematic because
  - it would encourage investment in conservation and alternative water supply such as grey water and water tanks  
**Response** – PIAC contends that this is a desired outcome of an inclining block tariff and one reason that it is preferable to a flat or dynamic price that does not give an enduring incentive for such a response. If IPART notes the need to incentivise conservation as an argument in favour of a dynamic price, it is contradictory to present this as an argument against an IBT.
  - the cost of these investments would be above the opportunity costs of ‘producing’ the additional water they replace  
**Response** – This is an overly theoretical economic reasoning that does not recognise the way that household decisions are made, and that cost comparison is not the only driver of household water use decisions. The community has an understanding that water resources are limited and that the overall sustainability of the water system is benefited by optimised household efficiency.

PIAC considers the installation of solar panels as a relevant comparison, where although reduced cost of electricity is an important consideration, for over a decade households have installed solar panels even where relative cost calculations do not suggest it is an economic decision. Households make this decision to support improving the sustainability of household energy use, and in support of improved environmental sustainability.

Pricing structures that align price incentives with these motivations can be regarded as efficient. The same reasoning applies to household water use efficiency decisions, and in recognising and aligning with these broader motivations, IBTs are efficient drivers of conservation.

- it would affect large ‘low income’ households and so be inequitable  
**Response** – This appears to be a narrow interpretation of equity and the role of pricing. Introducing the income of a large household suggests that there are pricing structures that do not impact large households with low incomes. This is not the case, and is certainly not the case for IPARTs proposed dynamic price which prices all the usage of a household (regardless of its income and household size) well above the LRMC, provides no allowance for affordably priced essential usage, and does so in a way that gives households (particularly those with low income) little time and scope to adjust their circumstances and behaviour to use water more efficiently.
- That the first price block would be below LRMC, which is problematic because it would represent a price signal encouraging over consumption. The example of a small high-income household with low usage benefiting was presented.  
**Response** – Firstly, there is no inherent need for the first block to be priced below LRMC. The price point of the first block should be set according to appropriate essential usage.

Where the bounds are set and the level at which they are set is an important determinant of the effectiveness of an IBT. Secondly, even if it was to be priced at or below the LRMC this aligns with the imperative that pricing support the affordability of the essential usage required to support health and wellbeing. We note that the taxation system includes a universal allowance of tax-free income, and income which is taxed at lower levels, even for those with very high incomes. In a similar vein it is appropriate, and in line with community expectations of equity and fairness that all households have an affordably priced access to essential usage.

PIAC does not consider that IPART has demonstrated that IBTs are inherently inefficient, or less efficient than the alternatives. Importantly, in discussing efficiency it does not appear that IPART has understood that there are 'absolute' efficiency dimensions to household water usage, in the sense of the minimum water use to effectively fulfil a function and the relative contribution to sustainable water use. A household dishwasher, for example, may be regarded as efficient when it uses the least possible water to clean dishes. The efficiency of the appliance does not vary according to the cost of the water it uses, but the amount.

Both essential and discretionary or flexible usage can be regarded as efficient or inefficient in absolute terms. For instance, a 20-minute shower is inefficient, an uncovered swimming pool is inefficient, running a dishwasher when it is not full is inefficient, as they utilise more water than is needed. IBTs provide a clear signal to use water efficiently in the household by helping to encourage households to minimise their usage in the higher priced block. Importantly it encourages households that use more water to improve efficiency where it is more effective for their individual circumstances, rather than penalising all usage and potentially leading to under-consumption that impacts health and well-being. It may be preferable for a large household to install a rainwater tank to water their garden, fill their pool, wash their car, and wash their clothes, because their household structure means more water use in showers and cooking. For others, it may be easy to install efficient fittings and appliances and take 4-minute showers, so that they can support a garden.

Notwithstanding the need to balance efficiency objectives with the other key requirements of essential service pricing, PIAC contends that a well designed IBT supports efficiency at a household, and systemic level.

## **2.2.2 How an inclining block tariff should be structured**

PIAC proposes an enduring IBT price structure that employs some of the principles of IPART's proposed dynamic price, but which addresses the issues we have identified with the dynamic price. This structure would incorporate long term scarcity and insecurity of supply into a pricing signal, that apportions demand risk and its cost impacts to the higher block of usage to which it most directly contributes. Specifically:

- The first block utilises a 'base value' system yield assumption without desalination, to determine a long-run marginal cost-based price. This value would be between Sydney Water's proposed price \$2.11/kL and IPART's proposed unrestricted price. The price would determinate relative to where the upper usage level of the block is set, and how much

discretionary usage is intended to be captured from the average house. A usage point somewhere above average use for apartments and houses, respectively, is likely to be appropriate.

- The second block would incorporate any anticipated desalination and wholesale scarcity costs, so that consumers may see the impact of usage behaviour on the system costs where yield is variable and insecure. In signalling costs in advance, this more clearly links behaviour to costs in a way that can influence behaviour and investment. Importantly it ensures that the households creating more scarcity risk through higher consumption are paying the costs that will result. The second block could then be set anywhere up to the drought price proposed by IPART or the full marginal cost of desalination. Importantly, the price impact at any point in time is mitigated, both by the existence of the first block, and because the variable short-term costs are being recovered over time in the second block.

It is possible irregularity in periods of relative scarcity will result in Sydney Water over-recovering revenue according to its actual costs at any particular point in time. To account for this, and support sustainable pricing, a mechanism to allow 'banking' of any over-recovery should be considered, whereby:

- Over-recovered revenue, up to a pre-determined amount, is retained to account for potential revenue shortfalls in later periods of scarcity, where revenue from the upper block may not be sufficient to account for actual short run costs.
- Over-recovered revenue may be retained for a certain time period, before being returned to consumers through existing mechanisms.
- It may also be possible to make some retained revenue available, subject to expressed community preferences, for use in projects to improve household water efficiency.

PIAC recommends that IPART consider the potential for such a mechanism as part of its comprehensive review of regulatory and pricing structures for Sydney and Hunter Water.

### ***Recommendation***

*PIAC recommends IPART implement an Inclining Block Tariff for Sydney Water, to align efficient conservation and water resource management practices and messaging with transparent, efficient pricing structures that share cost and risk fairly.*

## **2.3 Wastewater pricing**

PIAC accepts IPART's decisions regarding wastewater usage and service charging. However, we highlight that in engagement with Sydney Water, the community has expressed a strong preference for their bills to be based upon their actual usage, to maximise their control of costs. With the reduction in water service charges, wastewater service charges now represent the most significant fixed costs for Sydney Water customers.

While any change will require a reform of rebates and, potentially, the way rental tenants are charged for water, PIAC considers there to be merit in further empowering households and transitioning recovery of wastewater related costs from fixed charges to usage-based charges. To

this end, PIAC reiterates our recommendation that IPART consider reforms to wastewater charging, including:

- Commencing a transition to the recovery of wastewater service costs primarily through usage-based costs.
- Transitioning wastewater usage costs for all customers (residential and non-residential) to a percent discharge factor of their metered water usage. This discharge factor should recognise the different circumstances of apartments and houses.

We note IPART's discussion regarding using LRMC as the basis for determining efficient waste water usage prices. PIAC supports further consideration and agrees that Sydney Water should continue to improve the accuracy of its estimations of LRMC for each of its waste water catchments. However, we remind IPART of the consistent community support for postage stamp pricing, and their expectation that all members of the community pay the same price for the same service at the property.

### ***Recommendation***

*PIAC recommends wastewater charging structures be consistently applied across all regulated water businesses, with costs recovered primarily through usage charges based on a percentage discharge factor of metered water usage.*

## **3. Discretionary project spending**

PIAC agrees with IPART's decision to approve the discretionary project expenditure proposed by Sydney Water. While there remains room for Sydney Water to improve its ongoing community engagement, Sydney Water demonstrated consistent community support for the proposed projects and a willingness by consumers to pay the proposed costs.

While we understand developing a draft framework for the assessment of discretionary expenditure was necessary to consider the proposed projects, PIAC considers it appropriate that this draft framework should be further developed and only implemented subject to a dedicated process of stakeholder engagement.

We strongly recommend that IPART initiate a review of the framework and guidelines for discretionary expenditure at the completion of this determination process, to ensure that the process is robust and able to address the needs and concerns of the community and businesses. PIAC would be happy to work with IPART to develop an appropriate process for this.

While we support the decision to allow Sydney Water to proceed with the proposed projects, we consider that the treatment of these projects offers an opportunity to inform the future development of regulatory arrangements relating to discretionary spending, and how it should be implemented and monitored.

We note that IPART does not currently intend to prescribe how Sydney Water presents the charges related to its discretionary projects. There is merit in allowing Sydney Water scope to

respond in a way that best aligns with the expressed preferences of its customers and the community. However, PIAC disagrees with the idea to levy a separate, fixed 'discretionary' charge as the mechanism for recovery of the costs related to the approved discretionary projects.

Where the expenditure is allowed, the projects should be treated as any other approved projects, with their costs rolled into the revenue recovered through water prices. We reiterate our concern that a separate charge adds to potential customer confusion regarding its purpose, particularly if it is described as a 'discretionary spending charge' without the context and understanding of the nature of that discretion. Where there is no ability to avoid or mitigate this charge, highlighting its source and purpose does not serve any consumer information purpose. Information regarding the nature, make-up and cost recovery of discretionary projects is important, but is more effectively and appropriately reported in annual reports or other specific processes.

The draft determination proposes that the costs related to the discretionary stormwater projects be recovered from a fixed charge levied only on stormwater customers. The nature of the proposed stormwater projects, and the wider community benefits that they will provide, mean that recovery from the entire consumer base would be more appropriate. This approach would be more consistent with the way that all other discrete projects and investment programs are treated, within the larger framework of postage stamp pricing. We consider this matter, and how to treat discretionary projects and the recovery of their costs, should be more comprehensively addressed in the process reviewing and finalising the framework for discretionary projects.

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#### ***Recommendation***

*PIAC recommends charges related to approved discretionary spending be treated as any other approved project-related costs, and recovered through usage charges.*

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#### ***Recommendation***

*PIAC recommends costs related to approved discretionary stormwater projects be recovered from the entire Sydney Water customer base.*

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#### ***Recommendation***

*PIAC recommends IPART initiate a review of the framework and guidelines for discretionary expenditure at the completion of this determination process.*

## **4. Reform of rebates and assistance measures**

Effective assistance to support access to water services is essential for household health and wellbeing. The extreme circumstances arising from the response to the COVID-19 pandemic highlights some inconsistencies and shortcomings of water rebates and assistance measures.

Households in NSW, regardless where they live or who provides their essential energy services, can rely upon consistent support and assistance through:

- a range of NSW rebates that are applied consistently to all eligible households
- a range of minimum retailer-provided payment assistance measures that are defined and available to all households experiencing payment difficulty



- access to Emergency Account Payment Assistance (EAPA) for when they are unable to pay bills

While Sydney Water and other NSW water service providers have measures to address the needs of their customers, there is no equivalent consistent state-wide framework of assistance for NSW households to support their affordable access to essential water services.

Existing rebates are provided inconsistently, depending on whether a household is a customer of Sydney Water or a council water utility. Rebates are limited pensioners, and not available to a range of other households who need support for affordable access to the water essential for their health and wellbeing. These households include:

- Renters.  
Rebate support excludes the more than 30% of households who are rental tenants. This includes many low-income families, tenants of social and community housing, people with disability, and pensioners who do not own their own home. With bills increasingly weighted towards usage renters are responsible for covering more of the costs of service provision, without any potential rebate support.
- Low income families  
The NSW government provides substantial rebate support for affordable access to energy through its Low Income Household Energy Rebate and Family Energy rebate for electricity and gas. Water and energy are services both essential to support household health and wellbeing and rebate support should reflect this.

Ongoing reform to recover costs through usage-based prices has materially eroded the impact of existing rebate payments, and increasingly exacerbates equity and affordability issues for a range of households including renters, large households, low income households and those with medical needs that make reduced water use impossible. In proposing a dynamic usage price IPART has also recognised that rebate and assistance is required, and PIAC considers the need for this reform to be urgent, irrespective of the implementation of any pricing changes.

PIAC considers it timely to commence a review of assistance measures and rebate supports, with a view to recommending reforms that provide more consistent and effective support to all NSW households, and harmonise supports with potential pricing reforms that support efficiency and conservation of water use.

### ***Recommendation***

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*PIAC recommends IPART commence an urgent review of the water rebates, supports and assistance measures available to NSW households.*

## **5. The Prospect-Macarthur project**

The Prospect-Macarthur (ProMac) project was included in Sydney Water's updated proposal. This project was presented as a project responding to a number of important drivers, specifically:

- The current and future growth in the surrounding areas, including the south-west growth corridor and the western Sydney aerotropolis development. Sydney Water's proposal asserts that the pressures of this growth are already being felt and that approximately half of the project expenditure is required to upgrade infrastructure, originally installed to service a rural area, to cater reliably for denser urban and commercial populations.
- The need to improve system resilience, particularly in periods of drought. Sydney Water asserts that the reservoirs in question depleted significantly faster than was predicted on historic examples. They contend that bringing forward this project will make important improvements to resilience, particularly during periods of scarcity.

While PIAC does not question the decision to disallow expenditure at this time, we question the reasoning presented in support of the decision and the apparent dismissal of the growth drivers of the project. In particular, we question the citing of the recent periods of rain as a relevant factor in negating the need to improve system resilience to drought and scarcity. While not suggesting approval of the project in part or total, we consider it appropriate to present a more comprehensive explanation of the assessment of this project and why it was not deemed to be prudent at this time.

## 6. Late Payment fees

PIAC accepts that it may be appropriate for Sydney Water to recover some additional costs resulting from late payments. However, we continue to question the appropriateness of declined and dishonoured fees, and do not believe that IPART addressed our concerns in the draft determination, where they conflated late fees and declined and dishonoured fees. Our concerns remain:

- Most instances where payment is declined or dishonoured relates to a direct debt or automatic payment, rather than the presentation of a cheque which is dishonoured. For declined payments, the timing of the payment to Sydney Water and other recipients is not in the direct control of the payer. Particularly, where the customer may receive Centrelink payments, this issue can be compounded when their receipt is held up without warning. Considering that declined and dishonoured payments represent an attempt to pay that was not able to be completed generally through no fault of the customer, PIAC considers it to be a punitive charge.
- Customers who have a payment to Sydney Water declined or dishonoured will often be charged a fee by the entity undertaking their payment. It is unreasonable and punitive for a customer to be penalised twice for the failure of a payment that is unlikely to be the result of their intentional action.
- According to Sydney Water's own data the number of households impacted by declined and dishonoured fees is relatively immaterial to the business (275 in 2020-21). Considering the amounts involved and the number of payments involved, this does not appear to be a significant cost driver to the business.
- Customers who have attempted payment, but had that payment declined are more likely to be experiencing financial difficulty, whether or not they are in Sydney Water's Hardship

program. The imposition of an additional penalty payment, on top of that charged by their financial provider, is only likely to compound any financial difficulty.

It is arguable that a more appropriate response by Sydney Water to the decline of a customer's payment, would be the provision information regarding potential assistance, rather than the punitive imposition of an additional penalty payment. PIAC recommends that IPART reconsider the appropriateness of this charge in the context of Sydney Water's responsibility to assist customers experiencing financial difficulty.

PIAC understands Sydney Water does have authority to charge late fees and that comparable service providing organisations also charge late payment fees. However, we highlight that the NSW Government has also implemented measures to restrict energy retailers from charging vulnerable consumers extra fees for late payment. We recommend that IPART consider similar restrictions to protect vulnerable consumers from additional penalties.

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### ***Recommendation***

*PIAC recommends IPART consider whether continued charging of declined and dishonoured fees is appropriate.*

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### ***Recommendation***

*PIAC recommends IPART consider restricting the charging of late fees by Sydney Water, in line with current NSW Government measures preventing the energy retailers charging late fees to vulnerable households.*

## **7. Issues IPART is seeking comment on**

### **7.1 Should the definition of large non-residential customers, who are eligible to enter into an unregulated pricing agreement with Sydney Water, be expanded to include customers whose water usage from multiple properties exceeds 7.3ML annually? What are the benefits and risks?**

PIAC does not support expanding unregulated pricing agreements (UPAs) to customers whose water usage from multiple properties exceeds 7.3ML annually. No UPAs have been entered into by Sydney Water, and there is no apparent demonstrated need to expand this scheme, or benefit to the community or consumers from its uptake. Given the potential for the realisation of material benefits to households and the community, PIAC does not recommend expanding the definition of large non-residential customers.

### **7.2 Should Sydney Water be made, through its Reporting Manual, to report publicly on a quarterly basis on the focus areas of leakage performance and water conservation?**

As a result of rapid population growth and the impacts of climate change on water availability, water lost through leakage has assumed a much greater importance. The draft determination highlights that during 2018-19 Sydney Water lost the equivalent of 9% of total daily water supply through leakage. This is compared to the 15% of daily supply currently capable of being delivered

by the SDP. This comparison is relevant as water lost through leakage reduces the effective system yield and contributes to catchments being depleted more rapidly.

Where the trigger for expensive augmentation measures and the use of desalination are directly related to catchment levels, leakage impacts not only upon the sustainability of supply, but has a significant impact on the costs passed to consumers. Importantly, these costs are not only the short run costs related to cost pass throughs from restrictions, SDP operation and catchment transfers, but also the substantial long run costs that may be incurred through expansion of desalination which is directly linked to the level of catchments.

The draft determination demonstrates that Sydney Water not only did not meet its own economic level of leakage, but may be calculating that level in a way that is leading to inefficient and unsustainable practices. As part of a comprehensive review of the treatment of leakage, PIAC strongly supports greater monitoring and reporting of leakage performance and water conservation, and agrees public quarterly reporting would be an appropriate requirement.

### **7.3 What alternatives should IPART consider to encourage or require Sydney Water to deliver an efficient level of leakage reduction and water conservation?**

PIAC is concerned at the apparently high level of leakage experienced by Sydney Water. Leakage not only has a range of material cost implications in both the short and long term, but it represents lost supply that can undermine public confidence and support for conservation and efficiency of usage, particularly in times of drought and restriction. The impact of leakage may materially raise the risk of scarcity. The recent performance of Sydney Water (noted above) indicates that the way in which the efficient level of leakage is determined requires comprehensive review. PIAC specifically highlights the following considerations:

- Where leakage can constitute a material proportion of system demand (9% in 2018-19), then it is a significant contributor to costs in times of scarcity that require restrictions, costly drought response and the operation of pass-throughs and desalination.
- Where the Metropolitan Water Plan sets out fixed responses tied to catchment levels, including the operation and expansion of desalination, the contribution of avoidable leakage to the rate of depletion of catchments may be a material contributor to potential long-term investment costs.

#### ***Recommendation***

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*PIAC recommends that Sydney Water incorporate recent experience in a review of the assumptions underpinning the calculation of the economic cost of leakage, to ensure that the real short- and long-term cost implications of leakage are accounted for.*