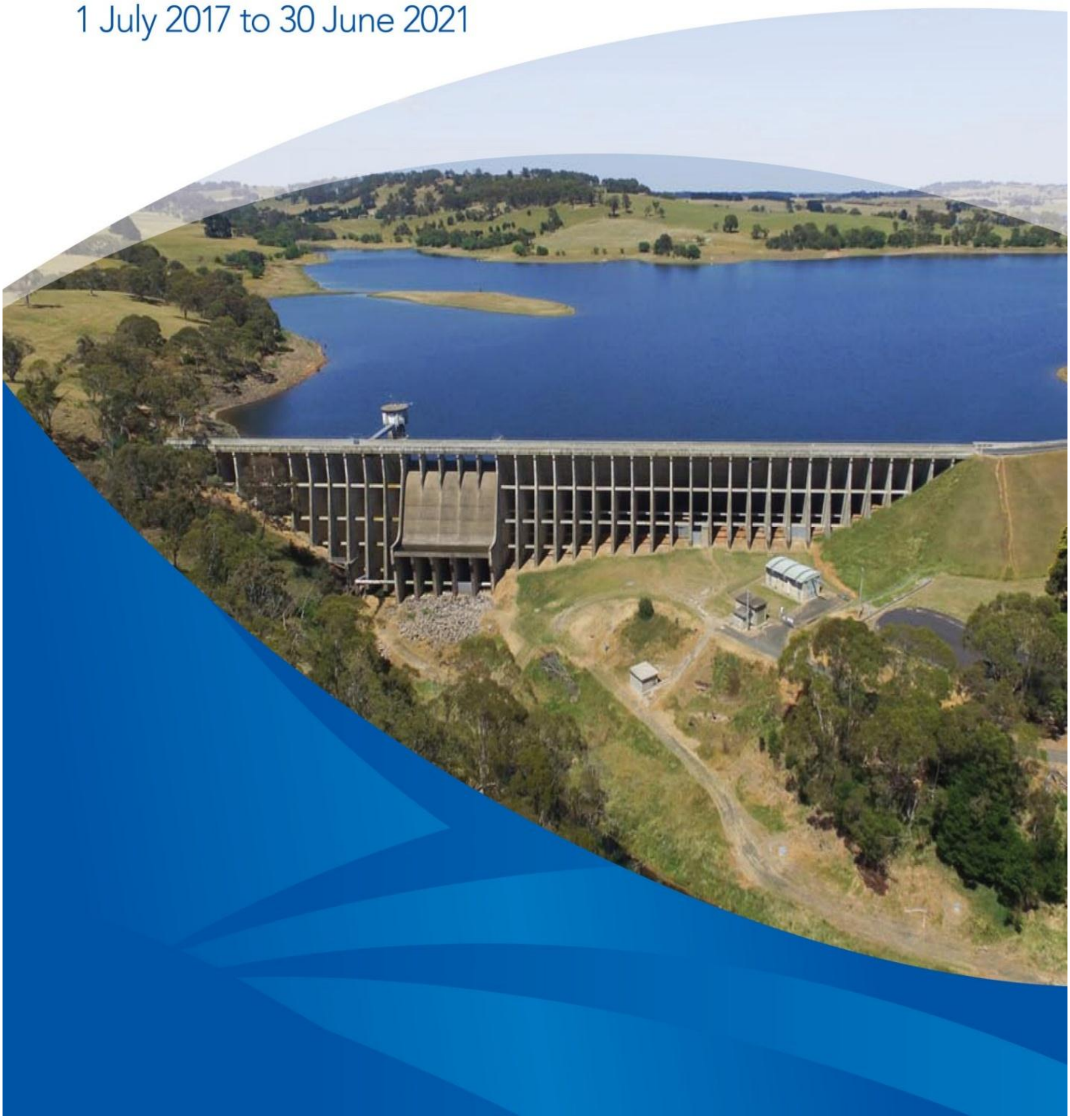
Response to the Independent Pricing and Regulatory Tribunal Issues Paper

Regulated prices for NSW Rural Bulk Water Services from

1 July 2017 to 30 June 2021



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1. Introduction

WaterNSW is pleased to provide this submission in response to the Independent Pricing and Regulatory Tribunal of NSW (IPART) Review of prices for WaterNSW, Rural bulk water services from 1 July 2017, Issues Paper, September 2016 (the Issues Paper).

The Issues Paper was provided in response to WaterNSW's Pricing Proposal to IPART for regulated prices for NSW Rural Bulk Water Services from 1 July 2017 to 30 June 2021 (Pricing Proposal).

This document, which is WaterNSW's submission in response to the Issues Paper, is based on our Pricing Proposal and provides further elaboration on the issues highlighted by IPART in its Issues Paper and our Pricing Proposal. This document should be read in conjunction with the WaterNSW Pricing Proposal and the Issues Paper.

1.1 Amendment to our Pricing Proposal – Fisheries Management Act

We are seeking to amend our Pricing Proposal to include additional expenditure for compliance with the Fisheries Management Act 1994. Our Pricing Proposal, at page 87, anticipated that additional expenditure would be required for regulatory compliance:

> *Regulatory Compliance – Environmental represents capital expenditure to comply with relevant environmental protection legislation. The costs have historically been predominantly driven by obligations under section 218 of the Fisheries Management Act 1994 (NSW) to provide for fish passages or offset equivalents arising from dam safety upgrades. The program was suspended due to customer feedback on escalating fishway construction costs and willingness to pay following WaterNSW's pricing submission. In the ACCC 2014 Decision, the ACCC determined less funding than we requested for our broader capital works program. This meant that no single valley had sufficient funds to complete the whole of the intended scope of the fish passage program, which lead to a broader reprioritisation.*
>
> *Following a subsequent request from the former Minister for Primary Industries, The Honourable Katrina Hodgkinson MP, WaterNSW substituted the fishways program for other planned works, whilst finalising discussions with Fisheries NSW on developing a least cost, long-term strategy to fish passage management. We may need to update our pricing proposal based on the outcomes of these discussions which are nearing finality at the time of preparing this pricing proposal.*

Since submitting our Pricing Proposal, we have determined the most appropriate way forward for the forthcoming determination period, in consultation with Fisheries NSW.

1.1.1 Namoi valley fishway offset

WaterNSW is proposing an additional $3.24 million of capital expenditure in relation to the Namoi valley to provide a fishway offset for the Keepit and Split Rock Dam safety upgrades at Walgett Weir. This expenditure would replace the need to construct a more expensive fishway at Gunidgera in satisfaction of the Dam Safety Upgrade offset, at an approximate cost of $9 million. This approach provides users with a lower cost option while still satisfying Fisheries Management Act obligations. The impact on customers in the Namoi valley is as follows[1]:

Valley	Additional Bill Impact of Fishway - General Security (GS) customers	Total Bill Impact of Pricing Proposal + Fishway - GS customers	Additional Bill Impact of Fishway - High Security (HS) customers	Total Bill Impact of Pricing Proposal + Fishway - HS customers
Namoi	1.09% bill increase compared to the original pricing proposal for 17/18	4.3% bill increase from 16/17 to 17/18	1.07% bill increase compared to the original pricing proposal for 17/18	4.5% bill reduction from 16/17 to 17/18

[1] The impact for a medium GS or medium HS customer as defined on page 48 of our Pricing Proposal.

1.1.2 Long-Term Prioritised Fish Passage Program

WaterNSW is proposing additional expenditure of $2.01 million for preliminary work to undertake the planning, design, optimized costing and business case activities for a new Long-Term Prioritised Fish Passage Program. This program is to be undertaken with the support of Fisheries NSW with the intent to provide an outcome which would benefit fish passage and, with the support of NSW Government (through full government funding – not yet secured), would be at no further additional cost to water users, which may otherwise be significant. This program would supersede what would otherwise have been a costly fishways compliance program, half of which would be paid for by customers on the current user: government share splits.

The expenditure has been allocated in equal shares to those valleys that have an existing fishway offset obligation which would be mitigated by the Long-Term Prioritised Fish Passage Program, namely Gwydir, Lachlan and Macquarie. The impact on customers in these valleys is as follows[2]:

Valley	Additional Bill Impact of Fishways General Security (GS) customers	Total Bill Impact of Pricing Proposal + Fishways GS customers)	Additional Bill Impact of Fishways (HS customers)	Total Bill Impact of Pricing Proposal + Fishways (HS customers)
Gwydir	1.34% bill increase compared to the original pricing proposal for 17/18	4.4% bill increase from 16/17 to 17/18	1.29% bill increase compared to the original pricing proposal for 17/18	4.0% bill reduction from 16/17 to 17/18
Lachlan	0.96% bill increase compared to the original pricing proposal for 17/18	1.6% bill reduction from 16/17 to 17/18	0.96% bill increase compared to the original pricing proposal for 17/18	7.9% bill reduction from 16/17 to 17/18
Macquarie	0.97% bill increase compared to the original pricing proposal for 17/18	15.2% bill reduction from 16/17 to 17/18	0.96% bill increase compared to the original pricing proposal for 17/18	20.9% bill reduction from 16/17 to 17/18

[2] The impact for a medium GS or medium HS customer as defined on page 48 of our Pricing Proposal.

2. Response to Specific Questions

2.1 Regulatory framework and services

2.1.1 Question 1

Given we are obliged to follow the Water Charge Infrastructure Rules when setting prices in the Murray-Darling Basin valleys, are there issues where we should apply the same approach when determining prices for the three coastal valleys?

As set out in our Pricing Proposal, even though some customers in the Fish River Scheme are not subject to the Australian Competition and Consumer Commission (ACCC) Water Charge Infrastructure Rules (WCIRs), we applied the ACCC WACC methodology to those customers to ensure a consistent approach across the Fish River Scheme.

We support IPART using its standard approach to setting the Weighted Average Cost of Capital (WACC) in the coastal valleys, as we consider IPART's WACC methodology provides better price stability for customers and is closer to 'best-practice' than the approach under the current ACCC rules. We elaborate further on this in our response to Question 12.

2.1.2 Question 2

Are WaterNSW's proposed monopoly services for the 2017 Determination appropriate?

WaterNSW believes they are.

2.1.3 Question 3

What further information should be provided to stakeholders in relation to Murray-Darling Basin Authority and Borders Rivers Commission contributions?

We have received feedback from our customers that they find the system of administration, costs, charging and payments for the Murray-Darling Basin Authority (MDBA) and Border Rivers Commission (BRC) opaque and difficult to understand. We agree with our customers that further detailed information on the charges should be provided to our customers.

We encourage the Commonwealth and NSW Governments, the Authority and Commission to provide greater information and transparency of process in determining spend and calculation of charges to our customers on these issues and to clearly articulate to them the role that each of the participants, including WaterNSW, plays in the cross-jurisdictional architecture. We anticipate the introduction of customer consultation on levels of service would be welcomed by customers. We set out further views on the MDBA and BRC in response to Question 24.

2.1.4 Question 4

Is there any reason why the price path for WaterNSW's Murray-Darling Basin and coastal valleys should not be aligned at four years?

The pricing periods should be aligned. Indeed, if the periods were not aligned, this would increase costs for WaterNSW as we would need to engage in separate pricing processes with IPART. Our internal planning, reporting and billing systems would need to accommodate different price paths over different periods. Producing further inefficiencies and increased costs would increase costs for customers over the long term.

2.2 Notional revenue requirement

2.2.1 Question 5

Is WaterNSW's proposed user share revenue requirement for the 2017 Determination appropriate?

WaterNSW is proposing a decreased revenue share requirement paid for by customers in the order of 11 per cent over four years. This decrease is driven by significant decreases in proposed operating expenditure, up to 20 per cent. This decrease in operating expenditure shows a lean and efficient organisation. This was achieved through WaterNSW's new management team implementing significant workplace, organisational and operational efficiencies.

To determine the user share of its revenue requirement, WaterNSW applied user shares consistent with previous determinations. On this basis, WaterNSW considers the proposed user share of revenue requirement for 2017 Determination appropriate.

As noted in our Pricing Proposal at page 71, WaterNSW considers that a review of the cost allocation arrangements will be a substantial undertaking. Due to the commitments associated with the current rural pricing determination, WaterNSW's view is that such a review is best conducted after the conclusion of the current process. This would enable sufficient resources (WaterNSW and customers) to be allocated to the process and ensure proper consideration and consultation of the matter, as well as enabling any recommendations such as legislative or policy changes to be effectively implemented. This approach, proposed by WaterNSW, was agreed to by our Customer Service Committee reference group.

Any decrease in the amount paid by users would result in an increase in the amount paid by the NSW Government. Therefore, the NSW Government would need to agree to pay any additional amounts either specifically or by agreeing to any amount arising from a determination of IPART. We set out in Attachment A the origins of the current users/government share from the first IPART determination for the then State Water in 2001 through to the decision of the Australian Competition and Consumer Commission in 2014.

We also refer to IPART's Review of Rural Water Charging Systems, Final Report, August 2012 (IPART 2012 Report). In the IPART 2012 Report, IPART recommended:

> "***Recommendation***
>
> ***5 Government to pay State Water, until 1 July 2017, a community service obligation equivalent to the government's share of efficient costs as calculated using the same cost sharing ratios determined by IPART in the 2010 price determination for State Water. After that, IPART would review the cost share ratios and activities prior to every second ACCC determination (ie, every 8 years), starting in 2017***.
>
> *We recommend the continuation of our current approach to determining government costs shares, using the cost sharing ratios applied in our 2010 Determination for State Water until 1 July 2017. We recommend that we would review the cost share ratios every 8 years after 2017.*
>
> *In practice, this means we are likely to start our review of cost sharing ratios in October 2015, to inform State Water's submission to the ACCC in early 2016.*
>
> *The cost sharing ratios for State Water were last reviewed in the 2010 Determination. We consider reviewing the cost sharing ratios every second pricing determination period as a suitable balance between the need to ensure that the cost sharing ratios remain appropriate, and the additional costs imposed in undertaking a separate review of cost shares at every pricing determination*."

By a letter dated 23 October 2012 to the Chief Executive Officer of IPART, the NSW Government outlined its response to the recommendations in the IPART 2012 Report. In relation to the above recommendation, the NSW Government noted as follows:

> "*Agree, noting that the review of cost shares should be complete well in advance of the completion of SWC's 2014 price determination period*".

As no such review was conducted by IPART in the lead up to the end of the current determination period, WaterNSW was not in possession of any updated information to inform its Pricing Proposal, other than the previous cost shares.

2.2.2 Question 6

Is WaterNSW's approach to allocating indirect costs between its Greater Sydney and rural operations appropriate?

The ratio we applied to allocating indirect costs between WaterNSW's Greater Sydney and rural operations of 55:45 follows the recent decision of IPART in its determination of WaterNSW prices for Greater Sydney[3]. IPART adopted this ratio following the recommendation of IPART's efficiency consultants, Aither. Aither's recommendation was made following detailed discussions with WaterNSW on the most appropriate split between the two areas. Our analysis indicates that there have been no changes to indicate a material change to this split and therefore we see no reason to change the ratio.

By applying any other ratio for the rural pricing determination, WaterNSW would either over or under recover its costs which would not be a desirable outcome. WaterNSW is seeking consistency from IPART's decisions to enable it to manage its business within a stable regulatory environment.

2.2.3 Question 7

Are WaterNSW's proposed operating costs over the 2017 determination period efficient, taking into account drivers of this expenditure and bulk water services delivered?

WaterNSW has proposed significant decreases in operating costs over the 2017 determination period as noted by the Issues Paper. The proposed operating costs are illustrative of WaterNSW budgeting a lean and efficient organisation over the 2017 determination period. This outcome is as a result of WaterNSW's new management team implementing significant workplace, organisational and operational efficiencies.

2.2.4 Question 8

What scope is there for WaterNSW to achieve further efficiency gains over the 2017 determination period?

WaterNSW's proposed operating expenditure reflects the strenuous efforts of WaterNSW management team in significantly decreasing costs and producing savings for its customers. This is reflected in the 20 per cent decrease in our forecast operating expenditure requirements.

IPART should acknowledge these ambitious efforts and allow WaterNSW to implement its plan for these savings while producing better customer service and a safe working environment for our people. If our organisational transformation efforts over the term of the determination provide additional efficiencies, which we will strive for, though which are likely to be modest considering the significant decreases which we have proposed, they will be passed on to our customers, either in our next determination or through an efficiency carryover mechanism should IPART introduce one. See our responses to questions 30 and 31.

[3] IPART, Review of prices for WaterNSW, From 1 July 2016 to 30 June 2020, March 2016, pages 21-22.

2.2.5 Question 9

Has WaterNSW's capital expenditure in Coastal Valleys over the previous determination period been prudent?

WaterNSW notes that the Issues Paper holds the allowance for capital expenditure for the Coastal valleys constant in nominal terms from 2013-14 to 2016-17. However, a review of the capital expenditure allowance in IPART's 2010 determination shows that the allowance was front-ended for the period, see page 134 of WaterNSW's Pricing Proposal. Therefore, the comparison in the Issues Paper does not fairly represent a view on what the revenue allowance would have been over the 2014-15 to 2016-17 period.

Page 135 of our Pricing Proposal sets out an explanation of WaterNSW's capex in the Coastal Valleys during the 2010-11 to 2013-14 period which WaterNSW considers to have been prudent.

2.2.6 Question 10

Is WaterNSW's forecast capital expenditure for the 2017 determination period prudent and efficient?

WaterNSW acknowledges that whilst its proposed "Maintain Capability" capital expenditure program is higher than the most recent regulatory allowances, it is actually lower than that allowed prior to 2012-13. Our capital expenditure program has been developed using a sound asset management methodology – MEERA or Modern Engineering Equivalent Replacement Asset methodology - that aims to ensure that we maintain asset capability for the lowest lifecycle cost, so as not to run down our assets to a point that creates a significantly larger capital expenditure liability for the next generation of customer. We provide further details of our approach at pages 87 to 90 of WaterNSW's Pricing Proposal. On this basis, WaterNSW considers that its forecast capital expenditure for the 2017 determination period is prudent and efficient.

2.2.7 Question 11

Is WaterNSW's proposal to have a capital maintenance allowance in addition to its building block allowance for depreciation reasonable?

WaterNSW does not accept that it has proposed *a capital maintenance* ***allowance*** *over and above the depreciation allowance*.

WaterNSW's proposed RAB revenues for the 2017-21 capital expenditure program are calculated using RAB depreciation under the traditional building blocks approach.

In relation to our proposed capital expenditure, WaterNSW has proposed a program to ensure that its assets are appropriately maintained over the regulatory period. WaterNSW capital expenditure program represents a prudent, efficient and sustainable level of capital based on identified needs, asset condition, risks and operational concerns. WaterNSW has now put in place processes to ensure that it delivers on its capital expenditure program in the upcoming determination period.

2.2.8 Question 12

Should we maintain our standard approach to setting the Weighted Average Cost of Capital (WACC) in the coastal valleys, or should we adopt the same approach as in the Murray-Darling Basin valleys?

We support IPART using its standard approach to setting the Weighted Average Cost of Capital (WACC) in the coastal valleys, which we applied in our Pricing Proposal. This is because:

- the ACCC's 10-40 day "on the day" approach to determining the risk free rate results in higher price volatility for customers, due to increased volatility in the WACC compared to the IPART methodology which uses a 50% on the day / 50% 10 year average approach. We note that the Australian Energy Regulator (AER) and the Essential Services Commission (ESC) in Victoria methodologies use a 10 year trailing average, which results in a smooth, modest and gradual pass-through of changes in market rates to customers. We consider the AER/ESC methodology as industry best practice;

- the IPART and AER approaches also enable hedging of the regulatory debt allowance, as it is too risky to refinance 100% of debt every four years;
- the ACCC WACC approach of a mandated 6% market risk premium and mandated 0.7% equity beta does not allow the regulator to consider the current state of equity markets.

Therefore, on balance, WaterNSW considers the approach taken in its Pricing Proposal of applying the IPART WACC methodology in the Coastal valleys as the best approach. Although WaterNSW would like to see consistency in approach, our view is that consistency towards the IPART (or even better, the AER/ESC) WACC methodology as the preferable outcome.

2.2.9 Question 13

What is an appropriate rate of return for WaterNSW's assets?

See our response to Question 12.

2.2.10 Question 14

Are there any reasons to depart from a straight-line depreciation method for calculating the allowance for regulatory depreciation?

We see no reason to depart from a straight-line depreciation method for calculating the allowance for regulatory depreciation.

2.2.11 Question 15

Are WaterNSW's proposed lives for existing and new assets appropriate?

Yes, the lives for assets differ across valleys and asset class and differentiate between existing assets and new assets. Our approach is based on the ACCC's approach in the ACCC 2014 Decision which better reflects real world asset lives over artificially lengthened approaches. It is appropriate to consider these factors when calculating the depreciation allowance. This ensures that customers who benefit from the assets contribute to the capital cost of the assets throughout their useful life.

2.2.12 Question 16

Should Irrigation Corporations and Districts receive rebates to reflect the avoided costs of the bulk water services they provide to their members?

The rebates proposed in WaterNSW's Pricing Proposal follows prior IPART and ACCC decisions to provide the rebates and their form.

2.2.13 Question 17

Are the levels of Irrigation Corporation and District rebates proposed by WaterNSW reasonable?

They have decreased from prior periods, reflecting the cost reductions and efficiencies within our business.

2.2.14 Question 18

Under current price structures, what measures should be used to manage risk (positive and negative) to WaterNSW?

WaterNSW is mainly a fixed cost business. However, to reflect customer preferences, our proposed pricing structure includes variable tariffs. This exposes WaterNSW to risk that its revenues will not meet its costs in a timely manner. This risk is unique amongst regulated water utilities where charges are often entirely fixed[4]. As set out in WaterNSW's Pricing Proposal, for customers with a fixed tariff of less than 80%, WaterNSW proposes the introduction of a risk transfer product. In line with customer preference, we also proposed continuation of the unders and overs mechanism (UOM). However we note that the UOM did not materially reduce revenue volatility in the ACCC determination period, as shown in the table below:

$M	2014-15	2015-16	Total
ACCC allowance*	65.3	66.9	132.2
Actual Sales Revenue with UOM	58.2	53.0	111.2
Forecast Revenue without UOM	58.2	52.6	110.9
Difference	0.0	0.3**	0.3

* The analysis excludes the coastal valleys, the Peel valley and the Lowbidgee.
** The UOM addressed less than one per cent of the revenue shortfall.

2.2.15 Question 19

What rate should be applied to the Unders and Overs Mechanism (UOM) account?

WaterNSW is not proposing any change to the WACC to be applied to UOM balances.

2.2.16 Question 20

Should an UOM be introduced for users in the Peel Valley?

WaterNSW will be interested to review the responses of users in the Peel Valley to this question.

2.2.17 Question 21

What implications, if any, should WaterNSW's proposed risk transfer product (RTP) have for the Unders and Overs Mechanism and the annual adjustment to prices (and vice-versa)?

WaterNSW has adopted the preferences of our customers in maintaining the UOM, which operates independently to the operation of RTP. WaterNSW is open to considering changes to the UOM preferenced by customers if any such changes apply symmetrically to under and over balances of the UOM.

2.2.18 Question 22

Should water users pay for WaterNSW's purchase of a risk transfer product?

WaterNSW is prepared to share a proportion of the risk associated with a variable tariff with its customers. On that basis, we have proposed that water users with a variable component of more than 20 per cent of revenue should pay for the purchase of a risk transfer product. Those with less than a variable component of 20 per cent should not have to pay for the purchase of a risk transfer product.

2.2.19 Question 23

[4] See WaterNSW's Pricing Proposal, section 6.5, page 38.

Would water users be willing to move to an 80:20 fixed to variable price structure if they saved on the cost of a risk transfer product (or a similar means of managing risk to WaterNSW of revenue volatility)?

WaterNSW consulted extensively with customers in forming its Pricing Proposal and we based our proposal on customer preferences. Our customers advised us that they wished to remain on their current fixed to variable tariff structures. However, as noted in our Pricing Proposal, we are aware of one valley considering moving to an 80:20 fixed to variable tariff structure.

2.3 Pass-through charges

2.3.1 Question 24

Are the proposed BRC and MDBA user share of costs efficient?

WaterNSW agrees with customers that BRC and MDBA costs should be subject to a review of prudency and efficiency. The most efficient way to do this is through the constructing authorities. This is currently not possible, because:

- although WaterNSW is directed by NSW Government to pass through costs of these programs, only a portion of the costs relate to asset work;
- the BRC and MDBA impose certain asset maintenance and dam safety requirements on the assets that WaterNSW manages, therefore, WaterNSW has not applied its own asset management standards;
- the work that WaterNSW performs is at the direction of the programs and not within the discretion of WaterNSW.

2.3.2 Question 25

How should BRC and MDBA costs be recovered from water users (ie, how should charges be structured to recover these costs)?

As noted in the Issues Paper, the 2014 ACCC Decision included the establishment of a separate UOM for MDBA revenue, whereby the full revenue shortfall is recovered (or paid back) in the subsequent regulatory year.

In WaterNSW's Pricing Proposal, we highlighted at page 145 that we anticipated an under-recovery of $3 million at the end of the current determination period[5], which we proposed to collect throughout the whole of the next determination period to lessen the impact of bill shock. To avoid further price variations for customers resulting from this form of UOM, we proposed that for the next determination period, the pass through costs should be a fixed charge.

2.3.3 Question 26

Is WaterNSW's proposed adjustment to the high security premium reasonable?

WaterNSW's proposed adjustment to the high security premium aligns the proportion of revenue received from high security customers for the forthcoming determination period with that of the current determination - despite moving to a 100% fixed charge for MDBA/BRC costs. Without the adjustment, high security customers would pay a higher proportion upon the move to the 100% fixed charge for MDBA/BRC costs. This is set out in the table below.

Current MDBA/BRC Charges – ACCC

[5] This was a worst case scenario estimate.

Revenue Split				Charges			
Valley	GS	HS	% Revenue from HS Customers	GS Fixed Charge	HS Fixed Charge	Usage Charge	Current HS Premium
Border	$970,050	$17,292	2%	$1.49	$4.22	$4.03	2.84
Murray	$8,850,063	$1,626,458	16%	$1.74	$3.22	$4.17	1.84
Murrumbidgee	$1,876,327	$509,930	21%	$0.29	$0.72	$0.82	2.44
MDBA/BRC 100% Fixed Charge under current HS Premium							
Revenue Split				Charges			
Valley	GS	HS	% Revenue from HS Customers	GS Fixed Charge	HS Fixed Charge	Usage Charge	Current HS Premium
Border	$751,617	$25,333	3%	$2.86	$8.11	$0.00	2.84
Murray	$12,635,524	$2,931,151	19%	$6.07	$11.19	$0.00	1.84
Murrumbidgee	$2,336,761	$1,100,833	32%	$1.03	$2.51	$0.00	2.44
WaterNSW Proposed MDBA/BRC 100%Fixed Charge - under WaterNSW proposed HS Premium							
Revenue Split				Charges			
Valley	GS	HS	% Revenue from HS Customers	GS Fixed Charge	HS Fixed Charge	Usage Charge	Current HS Premium
Border	$763,529	$13,421	2%	$2.90	$4.30	$0.00	1.48
Murray	$13,174,357	$2,392,318	15%	$6.33	$9.14	$0.00	1.44
Murrumbidgee	$2,710,138	$727,455	21%	$1.19	$1.66	$0.00	1.39

2.3.4 Question 27

Do water users in the Yanco Creek System support the continuation of the Yanco Creek Levy as proposed by WaterNSW?

WaterNSW will be interested to review the responses of users in the Yanco Creek System to this question.

2.3.5 Question 28

Should the Yanco Creek levy be charged per ML of water entitlement or per ML of water usage?

If Yanco Creek customers support moving to charges being levied on the basis of ML of water usage, then WaterNSW would need to change its billing systems to accommodate this change. WaterNSW seeks to only charge a per ML basis once it has made the change to its billing systems. WaterNSW notes that it does not receive any payment for the billing service it provides in respect of the levy. WaterNSW will consider this as part of its next pricing determination proposal.

2.4 Form of regulation and price structures

2.4.1 Question 29

Are there reasons to depart from a price cap as the form of price control for WaterNSW?

As the Issues Paper notes, WaterNSW is proposing the continuation of the hybrid form of price control with the UOM and annual price reviews. We propose annual price reviews for all valleys with the UOM. WaterNSW also proposes an additional mechanism to manage revenue volatility.

As flagged in its Pricing Proposal, WaterNSW is looking to explore a customer levels of service framework as well as the development of tariffs which would allow customer specific choice. For example, customer rather than valley choice on variable tariff structure and payment for the risk transfer product. These developments would form part of our rural pricing submission for the 2021 determination period and at that time we may also reconsider our views on a price cap being the appropriate form of price control for WaterNSW.

2.4.2 Question 30

What regulatory measures can enhance WaterNSW's incentives to pursue efficiency gains?

WaterNSW agrees that a shortcoming of the current approach is that the financial rewards for achieving savings deteriorates over the regulatory period forming a theoretical perverse incentive for regulated businesses to delay savings from the latter years of one regulatory period to the beginning of the next regulatory period.

WaterNSW agrees that an efficiency carryover mechanism can address this issue by allowing gains (or losses) to be held for a specified period of time regardless of when they are achieved within the regulatory period, equalising incentives to achieve efficiency gains throughout the regulatory period.

2.4.3 Question 31

Should we apply an Efficiency Carryover Mechanism to WaterNSW's rural operations?

WaterNSW deliberately did not propose an efficiency carryover mechanism in its Pricing Proposal and will discuss this issue with customers in the lead up to the 2021 determination, with the benefit of experience of its operation in Greater Sydney. WaterNSW is interested to hear customer views on this issue in response to the Issues Paper.

2.4.4 Question 32

Is WaterNSW's proposed 40:60 fixed to usage charge split appropriate?

WaterNSW proposed fixed to variable usage charges on the basis of the decisions of the valley Customer Service Committees facilitated by our consultation process in the lead up to our submission of our Pricing Proposal (other than for the Fish River Scheme).

Customers decided to continue with their current fixed to variable splits. Therefore, we proposed the current fixed to variable splits, which for the majority of valleys was 40:60, for Hunter and North coast it was 60:40[6] and for Lowbidgee it was 100% fixed. WaterNSW proposed an 80:20 split for the Fish River Scheme. WaterNSW proposed the fixed variable splits of less than 80:20 on the basis that a risk transfer product would be introduced.

As noted in the Issues Paper, at least one valley is considering moving to an 80:20 fixed to variable tariff structure. If one or more valleys made a decision to change to an 80:20 fixed to variable tariff structure, WaterNSW would support such a change.

2.4.5 Question 33

[6] The effective split for the North coast is closer to 65:35 due to the impact of the 10% price escalation on user charges.

Are there reasons to depart from the current approach for setting high security and general security entitlement charges?

WaterNSW is not aware of any significant arguments in relation to changing the current approach for setting high and general security entitlement charges but would be interesting in any such views.

2.4.6 Question 34

What is the appropriate structure of WaterNSW's Fish River charges?

WaterNSW sees no reason to change the structure of the Fish River charges other than as set out in our Pricing Proposal.

2.4.7 Question 35

Is WaterNSW's proposed 80:20 fixed to usage charge split for Fish River charges appropriate?

Subsequent to the closure of the Wallerawang power station, we consider that an 80:20 fixed to variable usage charges is appropriate.

2.5 Water sales and entitlement forecast

2.5.1 Question 36

Is WaterNSW's proposed adjustment to sales forecasts in the Fish River Scheme appropriate?

In the absence of usage forecasts from EnergyAustralia, WaterNSW considers its proposed adjustment to sales forecasts as appropriate.

2.5.2 Question 37

Are WaterNSW's forecast water sales volumes reasonable?

WaterNSW has proposed continuation of the current method to forecast water sales volumes in the absence of any methodology proven to be more accurate. WaterNSW notes that it has proposed an annual update in accordance with the ACCC WCIRs.

2.5.3 Question 38

Should we maintain the existing approach to forecasting water sales – that is, using a 20-year rolling average based on historical water sales?

See response to question 37.

2.5.4 Question 39

Are WaterNSW's forecast water entitlement volumes reasonable?

WaterNSW believes so. WaterNSW notes that it has proposed an annual update in accordance with the ACCC WCIRs.

2.6 Proposed Prices

2.6.1 Question 40

Are WaterNSW's proposed bulk water prices reasonable?

WaterNSW is pleased to have proposed lower average prices for customers in its Pricing Proposal.

2.6.2 Question 41

Is WaterNSW's proposed approach in increasing prices in the North Coast and South Coast valleys so they transition towards full cost recovery reasonable?

WaterNSW has capped increases in the North and South Coasts to 10%, in line with IPART's determination in 2010, as they transition towards full cost recovery. As noted in our Pricing Proposal, WaterNSW is engaging with customers in the North Coast with a trial of our customer levels of service framework to develop long term options for customers.

WaterNSW notes that IPART has stated in its Issues Paper that it will examine the proposed prices in the North Coast and South Coast valleys. Any further decrease in prices in those valleys to be paid for by users will result in a higher Community Service Obligation paid for by NSW Government, which is a matter for NSW Government. WaterNSW does not object to such an outcome, as its interest is in securing funding for its revenue requirements. See also our response to Questions 56 – 59 below.

2.6.3 Question 42

Are WaterNSW's proposed MDBA and BRC pass through costs reasonable?

WaterNSW notes that at this time, it has not yet received a final direction from the NSW Government to pass through MDBA and BRC charges. Therefore, the pass through costs may change depending on the direction from NSW Government.

2.6.4 Question 43

Are WaterNSW's proposed final prices reasonable?

WaterNSW is pleased to have proposed lower average prices for customers in its Pricing Proposal.

2.6.5 Question 44

Are WaterNSW's proposed Fish River Scheme charges reasonable?

WaterNSW has attempted to balance the interests of all users and ensure the long term financial sustainability of the Fish River Scheme in setting prices for the Scheme in the light of the closure of the Wallerawang Power Station.

2.7 Other charges

2.7.1 Question 45

Do customers support the introduction of credit card payment options?

WaterNSW is seeking to provide its customers with greater options and flexibility in paying their bills by providing for the introduction of credit card payments. Recent customer surveys indicate that 60% of customers would like to receive their bills by email while 48% of customers would support direct debit for payment of their bills. It is a reasonable expectation that customers will also expect greater options and flexibility in making payments including credit card options.

2.7.2 Question 46

Is there any reason for IPART to regulate these fees?

There is no reason to regulate these fees as customers can avoid them by using other payment methods.

2.7.3 Question 47

Are WaterNSW's proposed meter service charges reasonable?

WaterNSW believes so. These are based on a third party contract determined in a competitive process.

2.7.4 Question 48

Should WaterNSW recover meter reading costs through a separate charge rather than including them in standard bulk water charges?

WaterNSW has proposed a restructure of its meter reading charges to reduce the overall costs of providing meter reading. Customers will benefit from this change as it has resulted in reduced operating costs and a lower revenue requirement from customers. A separate meter charge is something that WaterNSW is interested in pursuing. However, to construct a new charging regime for meters will take considerable analysis and consultation with our customer and is something that we propose to do in the lead up to the 2021 pricing determination.

2.7.5 Question 49

Is WaterNSW's proposed trade processing charge reasonable?

WaterNSW believes so. WaterNSW has proposed not to increase this charge over the next determination period other than for the effect of inflation. WaterNSW notes that it requires an explicit recognition of its methodology for interstate trade processing as part of the IPART decision.

2.7.6 Question 50

Is WaterNSW proposed environmental gauging station charge reasonable?

WaterNSW believes so. WaterNSW is seeking a cost reflective charge of the incremental costs of upgrading the stations to achieve and maintain the level of accuracy required under Commonwealth National Measurement Standards(CNMS). The CNMS applies to the measure of usage, therefore, this charge for the upgrade is appropriately allocated to the environmental customer as its usage is measured by the gauging stations. Other customers have their usage measured by their individual meters, the costs of which they are responsible for.

We note that Table 92 of our Pricing Proposal at page 113 notes that the charge is to be levied "*Before the works are carried out as requested by the customer*". This is incorrect. The works on the gauging stations and the charges will be levied as set out on page 117 of our Pricing Proposal "*as they reach end of life*".

2.7.7 Question 51

Are WaterNSW's proposed refundable meter accuracy deposits appropriate?

WaterNSW believes so. WaterNSW notes that where the meter is found not to be within meter accuracy standards then the deposit will be returned to the customer.

2.7.8 Question 52

Is WaterNSW's proposed "fee for service" approach to determining Fish River connection fees reasonable?

WaterNSW believes so. WaterNSW's "fee for service" approach is cost reflective of the individual service provided which may vary for each connection.

2.7.9 Question 53

Is WaterNSW's proposed Fish River disconnection fee reasonable?

WaterNSW believes so. The fee is limited to the recovery of labour cost for providing a standard disconnection.

2.8 Impacts of prices

2.8.1 Question 54

Is WaterNSW's analysis of the impacts of its proposed prices on customer bills reasonable?

WaterNSW believes so. 60 per cent usage of the entitlement is closely reflective of the average usage across the state using the current 20 year rolling average which is 57 per cent of billable entitlements (excluding the Lowbidgee which is under a fixed charge).

2.8.2 Question 55

Can we improve our proposed approach to assessing customer impacts?

WaterNSW is in the process of constructing an online bill calculator. Once launched, this tool could be set up with prices for a proposed determination which would enable customers to input their own parameters to obtain an individual impact assessment.

2.9 Other issues

2.9.1 Question 56

How should the cost of providing bulk water services be recovered in valleys in which full cost recovery has not been achieved?

IPART has stated in its Issues Paper that it will examine the proposed prices in the North Coast and South Coast valleys. Any freeze in prices or further decrease in prices in those valleys to be paid for by users will result in a higher community service obligation for the NSW Government. WaterNSW does not object to such an outcome for the affected valleys.

WaterNSW has capped increases in the North and South Coasts to 10%, in line with IPART's determination in 2010, as they transition towards full cost recovery. As noted in our Pricing Proposal, WaterNSW is engaging with customers in the North Coast with a trial of our customer levels of service framework to develop long term options for customers.

Page 122 of the Issues Paper, IPART states:

> We intend to consider the level of bulk water service that customers require in each of the valleys with low levels of cost-recovery and/or the level of prices. This may involve reassessing the assets, infrastructure and operating costs that would be required to deliver services, given both supply and demand factors.
>
> To do so, we may investigate how each of these assets (dams) would be designed and constructed now, given what we know now about the customer base and demand for bulk water services. Under this type of approach, we would consider setting the user share of capital costs based on the depreciated optimised replacement cost (DORC) of assets.

> To ensure that the principles upon which we set prices are consistent and objective, we have engaged consultants to develop a preliminary set of principles and guidelines we have reference to when making pricing decisions in this context, while maintaining the integrity of our regulatory approach.
>
> We will aim to set prices that will provide incentives to manage assets efficiently over the long term.

WaterNSW is wary of the potential overlap of the approach by IPART and its own trial of the Customer Levels of Service framework in the North Coast valley; a key input for our inaugural 20 year Infrastructure Strategy. WaterNSW has already commenced substantial and detailed consultation with affected customers on the needs for their businesses and community over the long term[7]. WaterNSW is taking into account a broad range of factors, including the future regional economic development needs of the North Coast (from parallel work of the Department Industry), tariff and pricing structure changes, policy changes and opportunities to leverage other water utility and local government water strategies to achieve a more coherent and integrated regional approach to integrated water cycle management.

It is not clear what consultation process IPART is proposing from its review as to the level of bulk water service that customers require in each of the valleys with low levels of cost-recovery and/or level of prices. IPART's approach seems, at least initially, to assume that the cost recovery problem is singularly a cost problem. WaterNSW's substantial work on the North Coast Levels of Service model to-date suggests that this is overly simplistic, and solutions to the cost recovery issue will come from a number of areas.

WaterNSW's view is that it should be allowed to reach its conclusion without a change in approach from IPART in relation to the value of the assets (i.e. the RAB). Moreover, WaterNSW notes that the 2013-14 IPART forecast RAB for the North coast and South coast valleys is $5.6 million and $2.9 million respectively (in 2019-10 $ see the 2010 IPART Determination for State Water Corporation). Yet, the depreciated optimised replacement cost (DORC) is in the order of $32.9 million in the North Coast and $33.4 million in the South Coast (in 2012-13 $, as noted in our valuation for insurance purposes). Any move to DORC would result in increased bills for users.

WaterNSW manages assets in these valleys as efficiently as possible over the long term within regulatory constraints such as dam safety and work health and safety requirements. Any lessening of return on these assets and/or ability to meet regulatory requirements may necessitate WaterNSW to make a business decision on the ongoing viability of these assets. WaterNSW wishes to maintain its assets in these areas for the benefit of the local industries and communities. However, without assured revenue streams to facilitate responsible asset stewardship this may not be possible. WaterNSW will continue to engage constructively with users and the NSW Government on long term solutions.

2.9.2 Question 57

What principles or approaches should we use to assess the efficient costs of services in valleys that are well below full cost recovery?

Refer to question 56. WaterNSW considers that the current approach should continue under the forthcoming determination period while it pursues its Customer Levels of Service approach for the affected valleys. WaterNSW considers that it is best placed to make long term decisions on the future of its assets in consultation with its customers and the NSW Government.

[7] WaterNSW notes that it is aware that NSW Irrigators Council is also conducting a review of customer requirements in the North coast, seeking similar outcomes to the WaterNSW customer levels of service trial.

WaterNSW notes that its operations must meet specific regulatory requirements such as for dam safety and Work, Health and Safety requirements. It must have secure revenues to meet these requirements and to continue to operate its assets.

2.9.3 Question 58

What principles should we use to determine prices in valleys that are well below full cost recovery?

Refer to Question 56.

2.9.4 Question 59

Given the low level of cost-recovery, are there any assets that should be excluded from the asset base and hence from prices? If so, what are the ongoing costs of these assets and who should bear them?

Refer to Question 57.

2.9.5 Question 60

Is there a need for output or other reporting measures for WaterNSW over the upcoming determination period? If so, what are appropriate measures?

Any output measures determined by IPART for WaterNSW should not be duplicative of other reporting obligations and should not provide any additional significant regulatory burden in order to minimise costs and increase our efficiencies in providing services to our customers.

Attachment A – IPART decisions on user cost shares

2001 IPART Determination

"The Tribunal has carefully considered ACIL's recommendations to revise the basis for total cost allocation by adopting an 'impactor pays' approach and excluding 'legacy costs' from current charges. It has also carefully considered the substantial comments received from key stakeholders about ACIL's suggested approach. In the light of persuasive argument about the classification of legacy costs, and the practical application of an impactor pays approach, it has decided to modify the allocation principles recommended by ACIL and reflected by the Tribunal in the Draft Report.

The impact of this review is on the allocation of 'compliance' capital costs incurred to ensure structures comply with occupational health and public safety standards and environmental standards. For this Determination, these costs will be allocated equally to the Government and to users. Prior to the next Determination the Tribunal will review, in consultation with stakeholders, the allocation of these and other compliance capital costs".[8]

"5.1.2 Impactor pays

> *Impactor versus beneficiary*
> *'Impactor pays' and 'beneficiary pays' are both approaches for addressing the problem of how to allocate costs that arise within a system — such as the NSW bulk water system. These costs could arise directly, in order to deliver particular services. They could also arise indirectly, through investments designed to reduce the damage resulting from the service delivery.*
> *Impactor is defined as any individual or group of individuals whose activities generate the costs or a justifiable need to incur the costs that are to be allocated. The impactor pays principle seeks to allocate costs to different individuals or groups in proportion to the contribution that each individual or group makes to creating the costs or the need to incur the costs.*
> *Beneficiary is defined as any individual or group of individuals who derive benefits from the costs that are to be allocated. These benefits may result from their own use of the services involved (in which case the beneficiary is also the impactor) or be in the form of reduced damage to their interests due to the usage patterns of others. In the later case the beneficiary is sometimes referred to as the victim. The beneficiary pays principle seeks to allocate to costs to different individuals or groups in proportion to the benefits that each individual or group stands to derive from the costs being incurred.*
> *Note that the allocation principles do not require that the costs be met solely by the direct impactor or beneficiary unless these are final consumers. The costs may well be passed on to end users in the form of higher prices for goods or services derived from the use of the resource system.*

Whilst the Tribunal considers the 'impactor pays' principle is appropriate for bulk water cost allocation, it notes that there does not appear to a universally accepted understanding about its application. The Tribunal has attempted to allocate costs between extractive users and the broader community, represented by the Government, essentially in proportion to the contribution each group makes to creating the costs or the need to incur the costs. In so doing the Tribunal considers that the impactors causing the need for expenditure variously include both:

[8] IPART, Department of Land and Water Conservation, Bulk Water Prices from 1 October 2001, page 27.

- *the community, in changing the standards which natural and built infrastructure is required to meet and in requiring increased levels of environmental resource and asset management; and*
- *bulk water users, by creating the need for system management expenditure, environmental mitigation and, effectively, by requiring ongoing bulk water delivery from assets which might otherwise be decommissioned rather than upgraded to meet contemporary standards.*

The Tribunal stresses that the adoption of this approach to cost allocation does not remove the significant level of judgement necessarily inherent in much of the cost allocation process, particularly as the allocation splits occur across expenditure categories aggregated from a wide range of specific cost items.

5.1.3 Application

The legacy and impactor pays principles were applied to more than 100 DLWC 'subproduct' expenditure categories to allocate costs between extractive users and the Government. These sub-product allocations were then used to allocate costs at a valley or DLWC region level.

Table 5.1 highlights the application of these principles to a range of cost categories.

Table 5.1 Examples of application of legacy and impactor pays principles

Expenditure area – examples	Legacy Government Component	Forward User Component	Forward Government Component
Asset rehabilitation necessitated by less than optimal past maintenance regimes	High	Low	Low
New major assets to support extractive use, incorporating flood/fish passage design elements purely to mitigate impacts of the asset	None	All	None
Activities to maintain functionality of assets	None	High	Low
Surface water quality data collection and management	None	Medium	Medium
Water health data collection and management	None	None	All
Operation of regulated river systems	None	All	None
Occupational health and safety capital upgrades	Low	High	Low
Interception of salt attributable to past irrigation practice or non-irrigation causes	All	None	None

5.1.4 Compliance costs

The areas of expenditure allocation which generated the highest level of stakeholder concern were compliance capital costs. These include capital costs associated with ensuring structures such as dams and weirs comply with relevant dam safety standards, meet relevant public safety and occupational health and safety standards and comply with contemporary standards to mitigate the environmental impacts of stream interruption. Particular concerns have been raised with the Tribunal about capital costs for structures to mitigate environmental impacts. These include fish ladders to enable native fish passage past structures such as weirs, multi level water offtakes in dams to reduce cold water pollution and release valves in dams sufficient to enable high volume environmental flows.

In the Tribunal's view the need to incur this expenditure arises because of the community's expectation that the needs of the environment will be met at the same time as the needs of extractive users. There is a significant legacy component to some of these costs with evidence that fitting of fish ladders has occurred for many years although some constructed in earlier years *are now thought to be inadequate. Ongoing extraction and changing community values both constitute impacts driving these areas of expenditure.*

Having reviewed the arguments put to it, the Tribunal has concluded that environmental compliance capital expenditure has both legacy and non-legacy components and is attributable to both extractive users and the general community (on behalf of the environment).
The Tribunal has similarly reviewed the allocation of compliance capital costs in the areas of occupational health and safety and public safety and has similarly concluded that these represent a mix of legacy and non legacy costs which are attributable to both extractive users and the community.

The allocation adopted by the Tribunal for these particular costs is less polarised than that proposed by ACIL. However, the Tribunal believes this is likely to result in allocations that appropriately balance the competing interests of different stakeholders.

The Tribunal has therefore made the following changes to sub-product cost sharing ratios proposed by ACIL and used in the Draft Report.

Table 5.2 Changes to sub-product allocations

Sub Product Code	Sub Product Long Name	ACIL Proposed Allocation User	ACIL Proposed Allocation Government	Revised Allocation User	Revised Allocation Government	Comment
PC330	Dam Compliance, Environment	33%	67%	50%	50%	A significant legacy component, but need for expenditure arises from continuing presence of structures. Removal would be an alternative option in some cases but for ongoing extraction requirement. Tribunal therefore considers equal share appropriate and consistent with the impactor pays principle.
PC331	Dam Compliance, OHS & Public Safety	0%	100%	50%	50%	OHS costs are borne by businesses generally rather than Government. Includes some public safety costs not necessarily attributable to extractive users and some legacy component, Tribunal considers it appropriate to pass through to users a significant share.
PC332	Regulated River Compliance, Environment	33%	67%	50%	50%	As with other environmental compliance sub-products, the Tribunal considers an equal sharing appropriate.
PC333	Regulated River Compliance, OHS and Public Safety	0%	100%	50%	50%	As with other OHS and public safety costs the Tribunal considers an equal sharing appropriate.
PC334	Unregulated River Compliance, OHS and Public Safety	0%	100%	50%	50%	As with other OHS and public safety costs the Tribunal considers an equal sharing appropriate.
PC335	Unregulated River Compliance, Environment	33%	67%	50%	50%	As with other environmental compliance sub-products, the Tribunal considers an equal sharing appropriate.

These changes increase the costs allocated to users by $1.8m per annum. The full set of subproduct allocation ratios proposed in the ACIL report is available in full on the Tribunal's website.

The Tribunal believes the cost allocations used in this report are a considerable advance over those used in previous Determinations. Nevertheless, they may benefit from further development. In particular the Tribunal would welcome development of a common view from stakeholder groups about the most appropriate basis for allocating these costs."[9]

2006 IPART Determination

"*The Tribunal engaged CIE to recommend appropriate cost sharing ratios, building on the cost sharing principles established in the 2001 determination. CIE reviewed these principles. It also evaluated the agencies' proposed cost share ratios, and the arguments that they and other stakeholders put forward for changing the ratios used in the 2001 determination, and considered whether recent regulatory changes (such as the establishment of water sharing plans and NWI) warrant revisions to the 2001 ratios.*

CIE concluded that:

> *…the Tribunal's principles with respect to cost share allocations [are] appropriate and robust enough to be applied to new WRM activities, as well as the activities of the newly corporatised [State Water].*

For many of State Water's products/activities, CIE recommended cost share ratios that are the same as State Water's proposed ratios. However, there are some key differences:

- *Within the capital expenditure category, State Water proposed that 100 per cent of OH&S costs be allocated to users, whereas CIE recommended the allocation remain at 50 per cent.*
- *Within the operating expenditure category, State Water proposed that 100 per cent of almost all products/activities be allocated to users. CIE recommended that for hydrometric monitoring, river operations and preventive maintenance, the users' share be reduced to between 70 and 100 per cent, and for water quality monitoring, dam safety compliance and insurance, the user share be reduced to 50 per cent. CIE's rationale was that some of the costs associated with these products/activities are incurred to meet community expectations*."[10]

"*For State Water costs, it decided that on balance, in most cases there was insufficient reason to move away from the ratios used in the 2001 determination, and these ratios should generally be used for the 2006 determination.*

The Tribunal agreed with State Water's proposal to set the users' share of costs associated with the Fish River Scheme at 100 per cent. It did not agree with State Water's proposal to increase the users' share of costs associated with dam safety compliance operating and maintenance, water quality monitoring and OH&S compliance system. It notes that CIE's advice was not to change the ratios for those products.

The Tribunal has some sympathy with State Water's arguments that the users' share of costs associated with hydrometric monitoring should be increased. State Water proposed that the ratio should be increased from 70 per cent to 100 per cent. In its Draft Report, the Tribunal accepted State Water's proposal for a ratio of 100 per cent. A number of stakeholders were strongly

[9] Ibid, pages 32 to 35.

[10] IPART, Bulk Water Prices for State Water Corporation and Water Administration Ministerial Council from 1 October 2006 to 30 June 2010, September 2006, page 37.

opposed to this draft finding, arguing that a substantial component of hydrometric activities relates to flood mitigation. The Tribunal has further considered this issue and accepts that these activities do play some role in flood mitigation. As a result, the Tribunal finds that the ratio should be 90 per cent.

The Tribunal received strong representation on the cost sharing ratio for activities associated with the Burrendong Dam. Macquarie River Food & Fibre (MRFF) has argued for a specific cost sharing ratio for activities on Burrendong Dam in recognition of the multi-purpose nature of the dam. Specifically, MRFF contends that 30 per cent of the original purpose of Burrendong dam was to provide flood mitigation and hence 30 per cent of the capital costs, operating costs, maintenance costs and upgrade costs of Burrendong Dam are incurred because of flood mitigation purposes.

The Tribunal notes that all dams in NSW arguably have some flood mitigation capacity, although it may not have been explicitly recognised in the original construction. For example, most of State Water's dams incorporate additional storage space at the top of the dam (the flood surcharge zone) which is intended to capture flood waters and control the release of these waters from the dam to minimise the peak of the flood. Approximately half of State Water's large dams have mechanised 'gates' attached to the dam wall which can be opened/closed to manage the release of water. Other dams don't have 'gates' and use the existing valves and fixed crest spillways for releasing water to meet users demands and to also release water to control flood waters. State Water's ongoing costs of its flood mitigation activities largely relate to whether the dam has mechanised 'gates' which require the mechanical/electrical components to be maintained. However, these costs are not directly related to the proportion of the flood mitigation zone in the dam.

It should also be noted that while all the dams have additional capacity which is classified as the flood surcharge zone, this increases the overall storage capacity of the dam leading to a higher security of supply for users. The reason for this is that water stored in the flood surcharge zone can also be used to supply water for users under certain conditions, as provided for in the Water Sharing Plans for the relevant valley. Further, not all State Water's dams have gates and mechanical elements that require maintenance. Therefore, in a lot of State Water's dams there is no ongoing expenditure specifically associated with the need to also manage a dam for flood mitigation purposes.

The Tribunal agrees that some expenditure on dams is undertaken primarily to maintain flood mitigation assets (such as mechanised gates) on the dam. However, users also derive some benefit from the flood mitigation works on the dams. The Tribunal has decided part of the MPM Capital projects (3530) product can be attributed to the need to maintain flood mitigation assets. As a result, the Tribunal finds that the ratio should be reduce from 100 per cent in the draft determination to 90 per cent.

Table 5.1 shows the Tribunal's findings on the user-cost share ratios for State Water, and compares them with the ratios used in the 2001 determination, proposed by State Water and recommended by CIE.

Table 5.1 Tribunal's findings on State Water's user-cost share ratios compared to the ratios used in the 2001 determination, proposed by State Water, recommended by CIE and the Tribunal's draft finding (%)

Product	2001 IPART Determination	State Water submission	CIE recom-mendation	Tribunal's draft finding	Tribunal's finding
Capital expenditure					
Asset management planning (3110)	100	100	70–100	100	100
Plant and equipment (3160)	100	100	70–100	100	100
Dam safety compliance capital projects –pre 1997 (3520)	0	0	0	0	0
Dam safety compliance capital projects –post 1997 (3525)	50	50	0–50[a]	50	50
MPM capital projects (3530)	100	100	70–100	100	90
Structure enhancement capital projects (3540)	100	100	100[a]	100	100
OH&S compliance system (4210)	50	100	50	50	50
Fishpassage works (6310)	50	50	0	50	50
Cold water impacts mitigation works (6320)	50	50	50	50	50
Salt interception schemes (6340)	10	10	10[b]	10	10
Fish River Supply Scheme	Na	100	100	100	100
Operating expenditure					
Customer support (1120)	100	100	100	100	100
Hydrometric monitoring (2120)	70	100	70–100	100	90
Water quality monitoring (2130)	50	100	50	50	50
River operations (2150)	100	100	70–100	100	100
Dam safety compliance O&M (3130)	50	100	50	50	50
Preventative maintenance (3140)	100	100	70–100	100	100
Billing & receipts (5220)	100	100	100	100	100
Insurance (5250)	100	100	50	100	100
Metering (2180)	100	100	100	100	100
Salt interception schemes (6140)	10	10	10[b]	10	10
Fish River Supply Scheme	Na	100	100	100	100

Notes

a Depends on whether users or the community demand the upgrade. Government (on behalf of the community) would pay the additional incremental costs associated with metering community demands.

b CIE retains the recommended 10 per cent allocation assuming that it reflects legacy costs. [11]

[11] Ibid, pages 39 to 41.

IPART 2010 Determination

"*IPART's decision is to maintain the approach and cost share ratios adopted in the 2006 Determination where:*

– costs are allocated between users and the Government according to Table 8.1
– 'legacy costs' incurred before July 1997 are fully borne by the Government.

Our decision on the percentage cost share of State Water's operating and capital expenditure that is allocated to users is set out in Table 8.1. We set State Water's charges to recover the user's share of these costs. The Government is responsible for the payment of revenue to State Water where the user cost share is less than 100%.

Table 8.1 IPART's decision on percentage user cost share of operating and capital expenditure

Activity	User share
Operating expenditure	
Customer Support	100%
Customer Billing	100%
Metering & Compliance	100%
Water delivery & Other Operations	100%
Flood Operations	50%
Hydrometric Monitoring	90%
Water Quality Monitoring	50%
Corrective Maintenance	100%
Routine Maintenance	100%
Asset Management Planning	100%
Dam Safety Compliance Capital Projects pre-1997	0%
Dam Safety Compliance	50%
Environmental Planning & Protection	50%
Insurance	100%
Capital expenditure	
Asset Management Planning	100%
Routine Maintenance	100%
Dam Safety Compliance - Pre 1997 Construction	0%
Dam Safety Compliance	50%
Renewal & Replacement	90%
Structural and Other Enhancement	100%
Corporate Systems	100%
Environment Planning and Protection	50%
Environment Planning and Protection	50%
Flood operations	50%
Office Accommodation Capital Projects	100%
Information Management Projects	100%
River Channel Protection Works	50%
Water Delivery and other operations	100%
Hydrometric Monitoring	100%

Note: Some activity codes have not been used to set prices for the 2010 Determination period. [12]

[12] IPART, Review of bulk water charges for State Water Corporation from 1 July 2010 to 30 June 2014, June 2010, pages 107-108.

"Our decision is to maintain the cost share ratios of the 2006 Determination for all activities. We consider that the current cost shares are the result of extensive review and consultation from previous determinations.

State Water has proposed some minor changes to cost share ratios as a result of upgrading its financial system. However, we do not believe this warrants a change to the current approach of the 2006 Determination. Our view is that State Water's proposed changes to cost shares represent minor re-categorisations that are consistent with the 2006 cost share ratios. We also consider that suggestions from stakeholders for proposed increases to the Government's cost share have not been justified.

State Water also sought clarification on the allocation of costs for the maintenance of fishways. We confirm that these costs are classified as routine maintenance, rather than compliance.
8.5.1 Cost share ratio for fish passage works when triggered by dam safety upgrade

Our decision is to maintain the cost share ratios from the 2006 Determination, including the 50% user cost share for fish passage works when triggered by dam safety upgrades.

A number of stakeholders proposed that the Government should be responsible for 100% of costs of fish passage works that are initiated by requirements to comply with NSW dam safety standards.114 Namoi Water stated:

> *We would submit that the fish passage trigger caused by that work [dam safety upgrade], when that work commences, again is a legacy issue and 100 per cent the cost of the New South Wales Government.*

Gwydir Valley Irrigation Association also shares this view:

> *When fish passage work requirements are triggered by Pre- 1997 Dam Safety Upgrades, the fish passage costs should be included as part of the Upgrade costs and allocated accordingly (100% Govt).*

Lachlan Valley Water stated that it:

> *…recommends that the provision of fish passage as a result of dam safety upgrades to pre- 1997 assets be considered an integral component of the dam safety upgrade and therefore 100% funded by Government.*

We consider that the proposal to allocate these costs to the Government is inconsistent with the 'impactor pays' principle. Fish passage is necessitated by the existence of dams which prevent fish movements. As dams exist primarily for irrigation purposes, a 50% fish passage user share is a reasonable sharing of costs on irrigators, regardless of whether the timing of dam safety upgrades has triggered the works."[13]

ACCC Determination 2014

"*The cost of State Water's infrastructure services is shared between the users of the service and a government share. The ACCC's decision relates to the total revenue requirement and the charges that will apply to users. The NSW Government informed the ACCC in November 2012 that it will pay the Government's share of the efficient costs using the same cost sharing ratios as determined by IPART in 2010. These ratios vary between capital and operating expenditure activity categories and are set out in IPART's Review of bulk water charge for State Water Corporation 1 July 2010 to 30 June 2014.*

[13] Ibid, pages 113-114.

The ACCC adopted these ratios in its draft and final decisions. The user and government shares of total revenue are detailed throughout this document. The ACCC's draft decision also contains information on user and government cost shares."[14]

[14] Australian Competition and Consumer Commission, ACCC Final Decision on State Water Pricing Application: 2014-15 – 2016-17, June 2014, pages 14-15.