



Our Ref. DOC16/179807

Dr Peter J Boxall AO
Chairman
Independent Pricing and Regulatory Tribunal
PO Box K35
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Dear Dr Boxall

Sydney Water Corporation Price Review

I refer to the Independent Pricing and Regulatory Tribunal (IPART)'s invitation for submissions on the draft report *Review of prices for Sydney Water Corporation from 1 July 2016 to 30 June 2020* dated March 2016 (draft report). The Environment Protection Authority (EPA) has reviewed the draft report and the supporting report: *Sydney Water Corporation – Expenditure Review Final Report* (Atkins Cardno, 21 December 2015).

The EPA recognises the importance of IPART's role in ensuring that Sydney Water meets its statutory objectives: to be a successful business, to protect the environment and to protect public health, in a prudent and efficient manner. However, the EPA is concerned that IPART's decision not to fund Sydney Water's proposed allowance for capital and operating expenditure over the 2016-2020 price path period will result in a deterioration of environmental performance of Sydney Water's sewage reticulation networks and treatment plants, resulting in increased non-compliances with Sydney Water's environment protection licences and increased impacts on the environment and community. These concerns are detailed in the attached document.

This submission should be read in conjunction with the EPA's submission on IPART's *Issues Paper on the Review of Sydney Water Corporation prices from 1 July 2016*, dated 2 October 2015 (Reference: DOC15/389587).

The EPA would appreciate the opportunity to meet with IPART to discuss these concerns. Please contact Jacinta Hanemann, Acting Manager Metropolitan Infrastructure on [REDACTED] or [REDACTED] to arrange a mutually convenient time.

Yours sincerely

A black rectangular redaction box covering the signature of Barry Buffier.

BARRY BUFFIER AM
Chair and CEO
Environment Protection Authority

18 APR 2016

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The EPA's submission on the draft report *Review of prices for Sydney Water Corporation from 1 July 2016 to 30 June 2020* dated March 2016

The draft report states that IPART has decided not to fund Sydney Water's proposed allowance for capital and operating expenditure over the 2016 determination period 'to ensure efficient and prudent expenditure' and is proposing an \$80m reduction in Sydney Water's proposed core operating expenditure (covering the day to day operating, maintenance and administration costs for delivering water, wastewater and stormwater drainage services) and a \$420m reduction in Sydney Water's proposed capital expenditure (including project specific reductions on the Wastewater Treatment Plant Renewals Program, Avoid Fail Sewer Rehabilitation Program, Wastewater Servicing of the Northwest Growth Centre and the North Head Wastewater Treatment Plant biosolids amplification).

It appears that IPART considers that, during the current price path period, Sydney Water has performed well against the EPA licence criteria and therefore Sydney Water's proposed increases in expenditure for maintaining and operating assets is not warranted. For example, a reduction in capital expenditure of \$100m for the Wastewater Treatment Plant Renewals Program is proposed compared to Sydney Water's proposal. This will reduce the expenditure to a similar level as for the current price path period, which was deemed sufficient by Atkins Cardno to maintain performance against environment protection licences and provide positive impacts on community aesthetics by improving waterways and beaches. The basis for Sydney Water's proposed increase, that is, an expected shift in the asset condition profile into the poor or very poor condition range, was not accepted by Atkins Cardno. IPART has accepted Atkins Cardno findings in the draft report.

The draft report states that IPART is satisfied that the proposed determination will not negatively affect Sydney Water's ability to meet its environmental obligations including the requirements in its environment protection licences.

The EPA is not satisfied that this is the case.

Sydney Water currently holds twenty three environment protection licences for sewage treatment systems that it owns and operates across the Sydney, Blue Mountains and Illawarra areas. Each sewage licence covers both the sewage treatment plant(s) and the associated network of sewer pipes, sewage pumping stations. Each sewage licence has strict, legally enforceable conditions with the objectives to: protect and minimise harm to the environment and public health from sewage discharges; and require no deterioration and continuing improvement in the sewage treatment system environmental performance relative to existing conditions.

Based on EPA's investigation of current Sydney Water sewage related incidents, the EPA is concerned that there may be a general deterioration occurring in Sydney Water's infrastructure and in Sydney Water's environmental performance.

The EPA receives 170-200 Environment Line reports regarding Sydney Water sewage related incidents per year. The EPA requests detailed incident reports for a subset of these to assist in determining the severity and root cause of the incident and whether further regulatory action is warranted.

The EPA notes that since 2014, the EPA has issued Sydney Water with seven Penalty Notices, three Official Cautions and five formal warnings for breaches of environmental legislation. In addition:

- In December 2014, as a result of an enforceable undertaking with the EPA, Sydney Water agreed to pay \$200,000 to fund environmental works following a pollution incident at the Glenfield Water Recycling Plant, Macquarie Fields in November 2013;
- In April 2015, Sydney Water was sentenced by the Land and Environment Court to pay a penalty of \$157,500 for two offences arising from a sewage leak at its Malabar Sewage Treatment Plant in early September 2013 and ordered to pay EPA's legal costs; and
- The EPA is currently investigating an overflow from a rising main at Rydalmere from an aqueduct over the Parramatta River.

The breaches involved operator performance, maintenance and/or infrastructure/equipment issues.

In terms of performance, for a significant number of recent Sydney Water incidents, the EPA has noted: delays in Sydney Water notifying the incidents to the EPA (as required under the *Protection of the Environment Operations Act 1997* and the licences); and poor response times to and inadequate clean-up of the incidents. The most recent Penalty Notices of \$15,000 issued to Sydney Water were for a sewage overflow from the Cronulla Sewage Pumping station into Woollooware Bay and a sewage overflow into Bardwell Creek. In both cases, the clean-up was unacceptably delayed. Subsequently, the EPA amended Sydney Water's environment protection licences to require it to clean up overflows as soon as practical.

The EPA also notes that Sydney Water's Sewage Treatment System Impact Monitoring Program Data Report indicates that there has been an upward trend in the volume and number of dry weather overflow events per year since 2009. It is not clear whether this is result of insufficient expenditure by Sydney Water to maintain its aging infrastructure.

The five year statutory review of Sydney Water's sewage treatment environment protection licences, undertaken by the EPA in 2015, also demonstrated a high level of community and stakeholder concern through submissions received. These included: the current performance of Sydney Water, Sydney Water's aging infrastructure and that the requirements of the environment protection licences were not stringent enough to drive continuous environmental improvements. Similar concerns were raised by a range of stakeholders at the 'Public Hearing related to IPART's review of prices for Sydney Water Corporation' held on 10 November 2015.

The EPA is concerned that the proposed reduction in capital and operating expenditure will result in a deterioration of performance of Sydney Water's sewage reticulation networks and treatment plants, resulting in additional non-compliances with Sydney Water's environment protection licences and increased impacts on the environment and community.

The EPA is further concerned that the proposed reduction in capital and operating expenditure will hamper Sydney Water's ability to deliver continuing improvement in the sewage treatment system's environmental performance relative to existing conditions.

The EPA notes that IPART has accepted Sydney Water's allocation of \$158m for the wet weather overflow abatement program and potential upgrade of the Winmalee sewage treatment plant required under the environment protection licences.

Wet weather overflow abatement is an important component of minimising the environmental impacts of Sydney Water's operations. Sydney Water has recently submitted a licence variation application to the EPA that proposes a reduction in the budget for the overflow abatement capital expenditure from \$5.5 billion to \$146 million. This variation is based on moving from overflow abatement based on reducing the frequency of overflows to an approach based on targeting overflows with the highest environmental and public health risks. While the EPA supports this approach in principle, it is concerned that this proposal in its current form will not achieve the same or better environmental outcomes than would be achieved under the current frequency based approach. The EPA will shortly be responding formally to Sydney Water regarding this licence variation application and in the interim will be imposing targeted pollution reduction programs to reduce the environmental and public health impacts from overflows. The EPA notes that the \$127m allocated to this program for the next price path period may not be sufficient.

As previously foreshadowed, the EPA is currently developing a regulatory framework for nutrient discharges from sewage treatment plants in the Hawkesbury Nepean River catchment, to ensure that urban growth in the river's catchment does not compromise the community's expectations for the health of the river and to ensure that the environmental gains made through previous investments (including Government investment in environmental flows and sewage treatment plant upgrades) are not eroded. IPART has been invited to join the steering committee for this project. While the regulatory framework is intended to be in place by 2020 (for the 2020-2024 price path period), in the interim the EPA expects Sydney Water to minimise as far as practicable an increase in nutrient loads from sewage treatment

plant discharges as a consequence of urban growth. This is likely to result in higher servicing costs than a 'business as usual' approach.

Atkins Cardno recommends that Sydney Water develops a better understanding of customers' willingness to pay for improvements to enable more robust decision-making which reflects customer priorities and ensures that their views are adequately represented in the discussions about the needs and potential solutions agreed on by the EPA and Sydney Water. The EPA supports this approach.