



Detailed paper C – Who we are and what we do

Submission to IPART for prices from 1 July 2021 for water management services provided by the Department of Planning Industry and Environment—Water and the Natural Resources Access Regulator on behalf of the Water Administration Ministerial Corporation

June 2020



Published by NSW Department of Planning, Industry and Environment

Title: Detailed paper C – Who we are and what we do

Subtitle: Submission to IPART for prices from 1 July 2021 for water management services provided by the Department of Planning Industry and Environment—Water and the Natural Resources Access Regulator on behalf of the Water Administration Ministerial Corporation

First published: June 2020

Department reference number: PUB20/521

More information

Department of Planning, Industry and Environment—Water, and the Natural Resources Access Regulator

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Detailed paper C – Who we are and what we do

Each of the Department of Planning, Industry and Environment Water group (DPIE Water), the Natural Resources Access Regulator (NRAR) and WaterNSW carry out water management activities under Chapter 3 of the *Water Management Act 2000* and in relation to the services listed under the *Independent Pricing and Regulatory Tribunal (Water Services) Order 2004*. We call these water management activities throughout this submission.

IPART regulates the prices these agencies can charge to recover the prudent and efficient costs of delivering these water management activities, which are taken to be supplied by WAMC for the purposes of the IPART Act.

Other agencies involved in carrying out water management activities include the Dumaresq-Barwon Border Rivers Commission (BRC) and the Murray-Darling Basin Authority (MDBA); DPIE Water and WaterNSW also carry out water management activities on behalf of these entities.

WaterNSW will make its own separate submission regarding its water management activities.

This Detailed Paper provides information about the entities that are responsible for water management functions, how they are delegated and how the delivery of these functions has changed since the last price determination.

Water Administration Ministerial Corporation

The Water Administration Ministerial Corporation (WAMC) is the statutory body constituted by s371 of the *Water Management Act 2000*, with functions in relation to water management set out in s372 of the *Water Management Act 2000*, that are to:

- construct, maintain and operate water management works, gauging stations and other monitoring equipment,
- conduct research, collect information and develop technology in relation to water management,
- acquire rights to water, whether within or beyond NSW and
- do anything for the purpose of fulfilling the objects of the *Water Management Act 2000*.¹

WAMC has no staff itself but is authorised to use the staff of any government agency to perform its functions and achieve its objectives, under s376 of the *Water Management Act 2000*. Its activities are managed by the Minister administering the *Water Management Act 2000*, who is currently the NSW Minister for Water, Property and Housing, and its functions are delegated under s377 of that act to either DPIE Water or NRAR or conferred on WaterNSW. Further information on these delegations is provided later in this Detailed Paper.

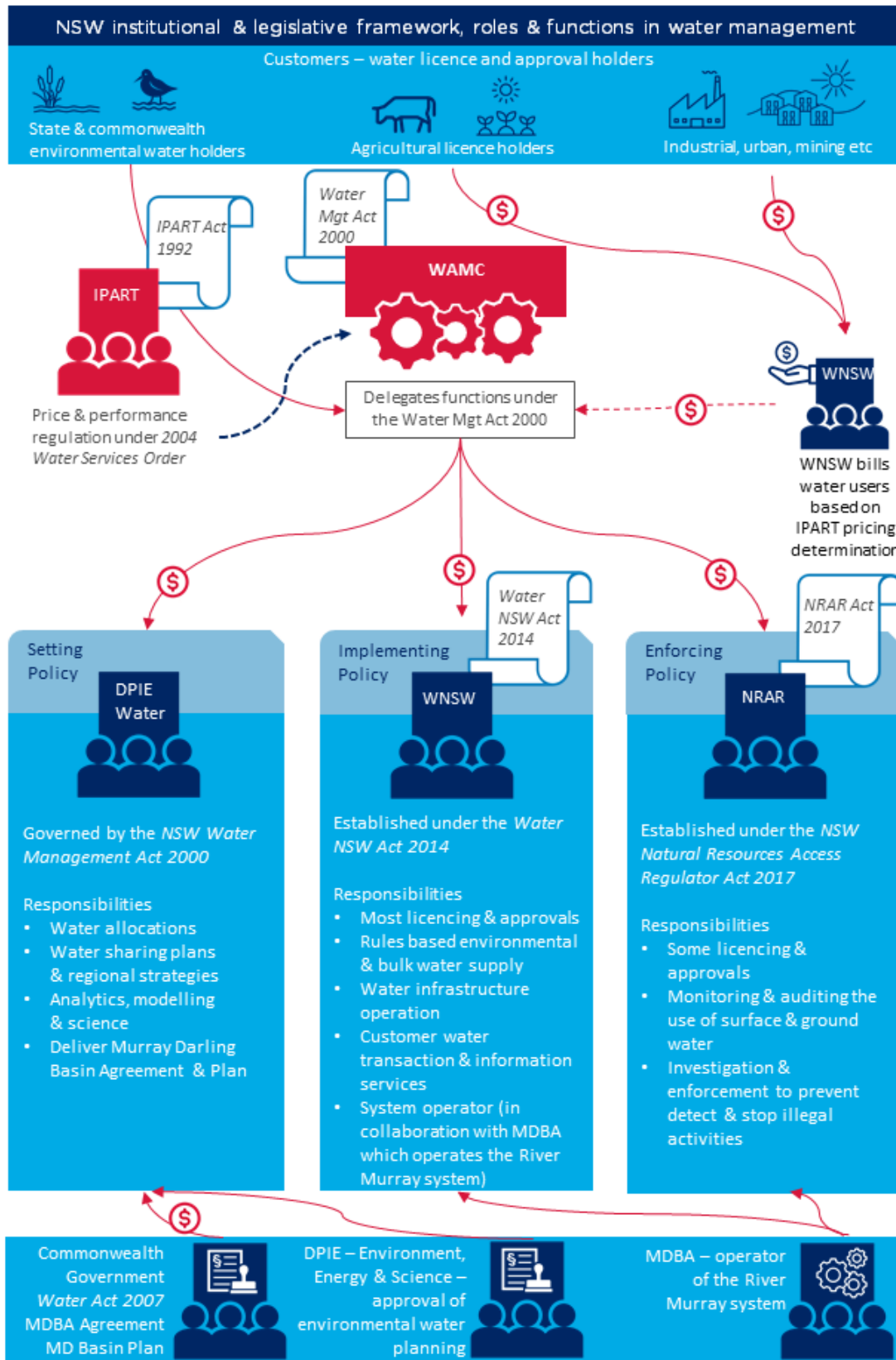
The WAMC functions conferred to WaterNSW are set out in Schedule A of the WaterNSW Operating Licence 2017-2022. WaterNSW is making its own separate submission regarding these functions.

Since IPART's last determination of WAMC prices, the roles and responsibilities of the three agencies in delivering water management activities have changed, which is described later in this Detailed Paper.

¹ *Water Management Act 2000*, s3.

Figure 1 sets out the institutional framework for water management activities that are funded through WAMC prices.

Figure 1: NSW institutional framework for water management activities



Broadly, DPIE Water is responsible for planning, policy development and establishing the regulatory frameworks for regional and metropolitan water in NSW, including setting mandatory licence conditions resulting from water sharing plans.

NRAR is responsible for compliance and enforcement actions within the regulatory framework for water, including managing rules and conditions of some licences and approvals. NRAR has delegated responsibility to administer licence and approval transactions for certain entities, including water supply utilities, government agencies, state owned corporations, irrigation corporations, Aboriginal communities and businesses, floodplain harvesting, public schools and hospitals and mining.

WaterNSW provides services to customers with respect to licensing and approvals not issued by NRAR, water allocation trades, water licence trades and water resource information. For these functions it is funded through WAMC prices.² It also supplies the state's bulk water needs and operates the state's river systems, for which it recovers the efficient costs through its bulk water determination.

Water Management Act 2000

The key piece of legislation for the management of water in NSW is the *Water Management Act 2000*. This act is based on ecologically sustainable development that recognises the need to allocate and provide water for the environmental health of our rivers and groundwater systems, while also providing communities and water users with more secure access to water and greater opportunities to trade water.

Its objects are:

- a) to provide for the sustainable and integrated management of the water sources of the State for the benefit of both present and future generations and, in particular:
- b) to apply the principles of ecologically sustainable development, and
- c) to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality, and
- d) to recognise and foster the significant social and economic benefits to the State that result from the sustainable and efficient use of water, including:
- e) benefits to the environment, and
- f) benefits to urban communities, agriculture, fisheries, industry and recreation, and
- g) benefits to culture and heritage, and
- h) benefits to the Aboriginal people in relation to their spiritual, social, customary and economic use of land and water,
- i) to recognise the role of the community, as a partner with government, in resolving issues relating to the management of water sources,
- j) to provide for the orderly, efficient and equitable sharing of water from water sources,
- k) to integrate the management of water sources with the management of other aspects of the environment, including the land, its soil, its native vegetation and its native fauna,

² Further information on how these three agencies undertake their respective functions is set out in the document 'Roles of Water Management Agencies in NSW', available at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0019/166024/Roles-of-water-management-agencies-in-NSW.pdf

- l) to encourage the sharing of responsibility for the sustainable and efficient use of water between the Government and water users,
- m) to encourage best practice in the management and use of water.³

The *Water Management Act 2000* has largely replaced the *Water Act 1912*. Now that water sharing plans cover all water sources in NSW, we expect to have converted almost all licences issued under the *Water Act 1912* to licences under the *Water Management Act 2000* by the start of the 2021 regulatory period. Some licences with unique circumstances will take longer and will require work in the 2021 regulatory period, which means that the *Water Act 1912* will still be relevant in the 2021 regulatory period, but to a lesser degree than in previous regulatory periods.

The *Water Act 1912* will remain applicable to WAMC activities for:

- taking water from a water source outside water sharing plan areas,
- construction and use of water supply works outside water sharing plan areas,
- drainage works in all areas of NSW and
- aquifer interference activities in all areas of NSW.

At the heart of the *Water Management Act 2000* is a formal process for planning, which is designed to resolve competing interests for water at a whole-of-resource level and provide optimal water access for human uses within sustainable limits.

The *Water Management Act 2000* achieves this through a system of rights to water, specifically the following three types of rights:

- environmental water rights established either by a statutory water sharing plan (planned environmental water) or through an environmental water licence,
- basic landholder water rights, which are the rights to take water held by the occupant of land and
- water access licences, which are the rights held by a person or entity to take water.

The *Water Management Act 2000* also establishes a system for the water approvals required for the construction and use of water supply works, such as pumps, dams and bores.

The main tool in the *Water Management Act 2000* for managing the state's water resources are water sharing plans. These are used to set out the rules for the sharing of water in a particular water source between water users and the environment and rules for the trading of water in a particular water source. They establish environmental water rules, identify water requirements for all stakeholders in the management area, establish access licence dealing rules specific to the water source and establish a bulk access regime for the extraction of water under access licences.

Water sharing plans are now in place for all surface and groundwater sources in NSW. They must be audited at least every five years and remade every 10 years so that current data, methodologies and other content can be included, and the plans are kept up to date. Implementation programs set the framework through which water management plans are executed.

Water sharing plans are only one kind of water management plan under the *Water Management Act 2000* - there are also floodplain management plans. Transitioning of floodplain management from the provisions of the *Water Act 1912* to the *Water Management Act 2000* started in 2014 as part of the Healthy Floodplains Project. Localised floodplain management plans prepared under the *Water Act 1912* are superseded upon

³ *Water Management Act 2000* s3.

commencement of a floodplain management plan under the *Water Management Act 2000*, which coordinate the development of flood works on a whole-of-valley basis; three have been finalised at the time of writing and another two are in draft.

Department of Planning, Industry and Environment Water group

The NSW Planning, Industry and Environment Cluster (DPIE) was established with effect from 1 July 2019. It has responsibility for natural resources – water, along with land and mining – and for the environment, energy, infrastructure priorities, long-term planning, precincts, housing, property, open space and growing NSW industries, with a strong emphasis on regional NSW. DPIE assumed most of the activities of the former Department of Planning and Environment, Department of Industry, Office of Environment and Heritage and Office of Local Government.

All water planning and management activities that had been undertaken by our predecessor, Department of Industry, immediately prior to 1 July 2019 are now undertaken by DPIE. Within DPIE, DPIE Water is the group responsible for planning, policy development, and regulatory frameworks for regional water in NSW. Its responsibilities involve ensuring water availability for water users and the environment, including:

- developing statutory water management plans, which set the rules for sharing water between extractive users and the environment,
- determining the volume of water available for allocation each year to towns, water users and the environment, particularly important during times of severe water shortage,
- setting policies and procedures for the permanent trade of water entitlements and the annual trade of available water,
- monitoring the quantity, quality, and health of aquatic ecosystems and water extractions and
- leading negotiations with the Commonwealth and Murray-Darling Basin Authority and other jurisdictions.

Our water management activities, and our charges for these activities, cover regulated rivers (i.e. rivers with a dam), unregulated rivers (rivers without a dam) and groundwater sources across NSW.

Water management charges apply to all categories of water access licences and are paid by licence holders, including irrigators, major developments such as mines, environmental water holders, local water utilities and major utilities supplying water.

Natural Resources Access Regulator

The Natural Resources Access Regulator (NRAR) is an independent regulator established under the *Natural Resources Access Regulator Act 2017*. Its current statutory remit is enforcement of water legislation in NSW (*Water Management Act 2000*, ~~and~~ *Water Act 1912*), but it could, with amendments to either the *Natural Resources Access Regulator Act 2017* or to regulations, potentially also enforce other natural resources management legislation in due course.

NRAR is tasked with building community confidence as an independent, trusted, credible, effective, efficient and transparent regulator of natural resource legislation.

It has specific responsibility for determining whether the Government should bring proceedings for offences under natural resources management legislation.

It has an independent Board of three members that may be the subject of directions by the Minister of a general nature only, not in relation to a specific matter. Its day-to-day compliance operations are the responsibility of the chief regulatory officer who is accountable to the Board.

NRAR's legislative objectives are to:

- “ensure effective, efficient, transparent and accountable compliance and enforcement measures for the natural resources management legislation, and
- maintain public confidence in the enforcement of the natural resources management legislation.”⁴

NRAR's Regulatory Policy and Regulatory Framework states that to do this, NRAR will:

- “promote compliance with the objectives of the *Water Management Act 2000* and the *Water Act 1912*
- achieve best-practice management and regulation of surface water and groundwater
- take a risk-based and outcome-focused approach to regulation, and
- guide decision-making and action by officers through the adoption of a graduated and proportionate response to legislative non-compliance
- ensure decisions on enforcement action are transparent to the community”⁵

Application of this framework and its associated policies and strategies aim to better mitigate regulatory risks, deliver greater certainty for the regulated and wider community and achieve sustainable use of, and access to, natural resources.

To achieve these outcomes, NRAR must facilitate compliance of the regulated community with regulatory requirements of the water management framework. NRAR recognises that most of the regulated community want to voluntarily meet their obligations and want fair sharing of natural resources to achieve economic, environmental and social outcomes. NRAR will encourage and assist high levels of voluntary compliance with appropriate education, guidance and advice. However, when instances of non-compliance are detected, NRAR will take enforcement action, including prosecution for serious and deliberate breaches of the law.

NRAR is independent of, but aligned with, DPIE Water, in that while NRAR reports to its independent Board, its officers work closely with DPIE Water staff to ensure a consistency of approach and to ensure that policies and rules are based on evidence about on-ground risk to water resources and can be enforced in an effective manner. For example, NRAR advises DPIE Water on the drafting of water sharing plans and related mandatory licence conditions. NRAR has collaborated with DPIE Water on regulatory capability innovations including for more effectively deploying staff during field campaigns, such as protection of environmental flow releases from dams and s324⁶ orders to protect tributary rainfall or runoff events from consumptive take.

Similarly, NRAR is also independent of, but works closely with, WaterNSW.

NRAR is constituted under the *Natural Resources Access Regulator Act 2017*. Section 11 of that act sets out NRAR's functions, which include those listed in schedule 2 of that act. The functions listed in schedule 2 include some of the water management activities that NRAR is responsible for. At the time of writing, 32 functions relating to specific sections of the *Water Management Act 2000* are listed, which relate to compliance and enforcement requirements within that act.

⁴ *Natural Resources Access Regulator Act 2017* s10

⁵ As set out in NRAR's Regulatory Policy and Regulatory Framework. Available at <https://www.industry.nsw.gov.au/natural-resources-access-regulator/about-nrar/what-we-do>

⁶ *Water Management Act 2007* s324 Temporary water restrictions.

NRAR also has licensing and approval functions under the *Water Act 1912* with respect to water rights and works, which are:

- under s5, Ministerial declarations of local areas, works, and rivers,
- under Part 2 with respect to the remaining licences issued under that act,
- under Part 5 with respect to artesian wells and
- conditions imposed under that act.

Water transformation project of 2016

IPART's last determination of WAMC prices from 1 July 2016 coincided with reforms within the water sector termed the 'water transformation project.' The reforms realigned functions between our predecessor, DPI Water, and WaterNSW when on 1 July 2016, most customer-facing and operational functions managed by DPI Water were transferred to WaterNSW, along with most compliance, enforcement and licensing functions, and over 200 staff.

The changes were aimed at improving responsiveness to customers, eliminating duplication and promoting efficiency by separating policy, planning and regulation from operational activities.

DPI Water retained responsibility for providing the strategic direction for water management in NSW and for the regulation (licensing and compliance) of some customers, including responsibility for the following water management activities:

- all policy development, policy planning and water resource management (long term strategic management),
- development of strategic frameworks and rule setting,
- amending relevant legislation and policies,
- water planning and allocation,
- state significant development,
- prescribing regulatory standards and outputs, and an oversight function in periodically auditing WaterNSW's performance against those standards and required outputs,
- determining and issuing licences and approvals to major utilities, water supply authorities, local water utilities, irrigation corporations and government agencies,
- enforcing compliance for all the entities it licensed,
- activities requiring approvals under mining legislation,
- controlled activity approvals,
- aquifer interference approvals,
- floodplain harvesting licences and approvals and licences related to Aboriginal water users and
- some customer transactions and service, particularly for the entities it licensed.

WaterNSW took responsibility for the following water management activities:

- operational management and delivery of surface water and groundwater resources, including maintenance and
- operational activities to support DPIE Water's regulatory function
- water quality monitoring,
- algal management,

- water efficiency,
- hydrometric assessment,
- metering operations
- assets transferred in order to undertake infield services such as hydrometric assessment and metering operations
- operating its water monitoring networks to collect, manage and make available data from its water monitoring networks,
- providing recommendations for improvements to resource regulation and trading,
- determining and issuing all licences other than those issued by DPI Water (listed above), which were in the main licences of irrigators and farmers,
- compliance and enforcement compliance for all the entities it licensed and
- customer relationship management, transactions and service, being most non-statutory, customer-facing administrative tasks including setting procedures relevant to those services.

The 2016 water transformation created joint responsibility for a number of functions between WaterNSW and the remaining regulatory functions of DPI Water, including issuing and ensuring compliance with licences (although it was clear which entities each agency licensed) and publishing temporary water restriction orders.

The water transformation project was effected by:

- amendment of the *Water NSW Act 2014* by the *Water NSW Amendment (Staff Transfers) Act 2016* and associated Staff Transfer Order under s28A of the *Water NSW Act 2014* dated 15 June 2016,
- amendment of Water NSW's Operating Licence (which conferred the functions to WaterNSW, the Operating Licence issued under s13(1)(b) of the *Water NSW Act 2014* taking effect on 1 July 2016
- letters of authorisation from the Deputy Director General of DPI Water to the CEO of WaterNSW dated 5 August 2016 and 29 August 2016
- the DoI Service Provision Deed and the WaterNSW Service Provision Deed and
- the Deed of Business Transfer 2016.

The letters of authorisation, Service Provision Deeds and Deed of Business Transfer are all confidential and will be provided to IPART during the course of its upcoming review.

Establishment of the Natural Resources Access Regulator

The NSW Government established NRAR under the *Natural Resources Access Regulator Act 2017* following independent investigations of water management practices in New South Wales that found water compliance and enforcement arrangements were inadequate.^{7,8} NRAR commenced operations in April 2018.

NRAR's compliance and enforcement functions were transferred from DPI Water and WaterNSW upon its establishment, to consolidate these functions in the new regulator.

⁷ NSW Ombudsman, *Investigation into water compliance and enforcement 2007-17*, November 2017

⁸ Matthews, K. Interim Report - *Independent investigation into water management and compliance in NSW*, September 2017

DPI Water transferred to NRAR responsibility for the following WAMC activities:

- determining and issuing licences and approvals to major utilities, water supply authorities, local water utilities, irrigation corporations and government agencies,
- enforcing compliance for all the entities it licensed,
- activities requiring approvals under mining legislation,
- controlled activity approvals,
- aquifer interference approvals,
- floodplain harvesting licences,
- approvals and licences related to Aboriginal water users and
- some customer transactions and service, particularly for the entities it licensed.

WaterNSW transferred to NRAR responsibility for compliance and enforcement of licences of all the entities it licensed. WaterNSW continues to determine and issue the licences it had been doing this for since the 2016 water transformation project.

Under its Operating Licence, WaterNSW retained some limited compliance and enforcement powers to support its billing function in protecting its revenue.

DPI Water retained its key role of regulatory policy and regulatory legislative reform.

NRAR's water management activities since its establishment and proposed for the 2021 regulatory period are described extensively in the Detailed Paper E that forms part of this submission, under activities W08-03, W09-01 (water consent transactions service delivery) and W10-01, and in Detailed Paper J under water consent transactions (other revenue), which is a fee for service activity.⁹

In preparation for the establishment of NRAR, some amendments were made to the revenue allocations that IPART had decided when determining WAMC prices in 2016.¹⁰ IPART advised the WAMC Minister (then the Minister for Regional Water) in a confidential letter in March 2018 of its view that all of the allocation of funding for the compliance and enforcement activities in W08-03 and 15% of the funding for customer management activities in W10-01 should be transferred from WaterNSW to the Department of Industry (on behalf of NRAR.)

Departmental changes

The previous submission to IPART for WAMC prices was made in June 2015, when the regional water resource management activities for WAMC were undertaken by the Office of Water within the Department of Primary Industries (DPI)

The Office of Water became DPI Water on 1 July 2015, with the establishment of the Department of Industry, Skills and Regional Development, which incorporated DPI as an operational division.

The Department of Industry, Skills and Regional Development became known as the Department of Industry and was formally renamed to that from 1 April 2017, still incorporating DPI as an operational division (and DPI Water within DPI.)

⁹ Water consent transactions are also referred to under the WAMC code W09-01.

¹⁰ IPART, 2016, *Review of prices for the Water Administration Ministerial Corporation from 1 July 2016 – Final report*. Available at <https://www.ipart.nsw.gov.au/Home/Industries/Water/Reviews/Rural-Water/Prices-for-WAMCs-water-management-services?qDh=2>

The Department of Industry established a Lands and Water division in September 2017, to which water management was transferred from DPI.

The Department of Industry was abolished on 1 July 2019 when most of its functions were merged with those of the Department of Planning and Environment to form the new Department of Planning, Industry and Environment. Water resource management activities for WAMC are now undertaken within the water group of the Department of Planning, Industry and Environment.

Instruments of delegation of functions

The Deed of Business Transfer 2016 between the Department of Industry, Skills and Regional Development (on behalf of DPI Water) and WaterNSW was executed in September 2016 and effected the water transformation project. The Deed of Business Transfer 2016 governed the transfer of the majority of compliance, enforcement and licencing functions from the Department to WaterNSW. It includes a description of the tasks DPI Water and WaterNSW would carry out on a day to day basis in respect of functions where both entities have a role to perform and is an operational guide to both entities on processes required for significant tasks.

The Deed of Variation No 1 from October 2018 between the Department of Industry (Dol) and WaterNSW was an interim arrangement to effect changes to the way Dol and WaterNSW operated, reflecting the functional realignment caused by the establishment of NRAR.

The Water Management Instrument of Delegation No 3 2018 from December 2018 is made under s377 and s389 of the *Water Management Act 2000*. It revokes two earlier delegations that had been made in July and August 2018, and delegates functions under the *Water Management Act 2000*, the *Water Management (General Regulation) 2018* and the *Water Act 1912* to levels of staff of the Department of Industry, including the Secretary, Deputy Secretary Water, Executive Director Water, Chief Regulatory Officer and staff who report to them.

The *Water Management Instrument of Delegation (Minister to the Natural Resources Access Regulator) 2020* of April 2020 is made under s377 and s389 of the *Water Management Act 2000* and delegates water management activities under the *Water Act 1912* and the *Water Management Act 2000* from the Minister to the NRAR Board. The NRAR Board, under s14 of the *Natural Resources Access Regulator Act 2017*, has subsequently delegated these activities and other functions under the *Natural Resources Access Regulator Act 2017* to the NRAR staff (staff of DPIE-Water) by way of the *Natural Resources Access Regulator Instrument of Delegation 2020*.

The Deed of Business Transfer, Deed of Variation and Instruments of Delegation are all confidential and will be provided to IPART during the course of their upcoming review.

Efficiencies

In early 2020 DPIE Water commenced a program across the whole NSW water sector that will identify, understand and resolve interface issues across the sector that interfere with its ability to deliver its shared statutory water resource management obligations efficiently. In looking at these interfaces - where two systems, subjects or organisations meet and interact to achieve a common outcome – the program aims to minimise duplications and operational inefficiencies.

While this program covers multiple NSW government agencies, state owned corporations and local water utilities, the two priority issues identified as materially impacting the water

sector that are the initial focus of the program are specifically relevant to DPIE Water, NRAR and WaterNSW. They are:

- water sector models: governance and accountability of the water sector's hydrological models, which applies mostly to DPIE Water and WaterNSW and
- licensing and approvals: end-to-end licensing and approvals functions, systems, procedures, which encompasses water management activities of all three agencies.

With respect to the second issue, we acknowledge that issues in delivering licensing and approvals functions across three agencies has caused some:

- customer confusion and service delays
- unnecessary costs due to duplication, inefficient processes and out of date systems and
- reduced accountability due to unclear roles and responsibilities

and that is why this is a priority issue for the program.

A working group made up of DPIE Water, NRAR and WaterNSW has been established and is advising on the two interface issues now being explored.

Information on resolutions arising from the investigation of these priority issues (and other relevant interface issues that are identified by the program) will be provided to IPART in confidence during its upcoming review.

Agreements with Commonwealth and State Governments

Murray-Darling Basin Plan

The *Water Act 2007 (Commonwealth)* provides the legislative framework for ensuring that the Murray-Darling Basin is managed in the national interest. It recognises that Australian states in the Basin continue to manage Basin water resources within their jurisdictions but in an integrated and sustainable way. It established the Murray-Darling Basin Authority (MDBA) and requires the MDBA to prepare the Murray-Darling Basin Plan.

The Basin Plan determines the amount of water that can be extracted annually from the Murray-Darling Basin for consumptive uses, including urban, industrial, and agricultural uses. This volume - the Sustainable Diversion Limit - represents the amount of water that can be used while ensuring the environmental outcomes and functions of the rivers, waterways, groundwater, and wetlands of the Basin, with additional limits applicable to individual valleys and catchments. To meet the sustainable diversion limits, water will be managed through Water Resource Plans (WRPs), which will incorporate NSW water sharing plans that set out the rules and arrangements under which water is managed, including annual limits on water take, the delivery of environmental water, management during extreme events, and strategies to achieve water quality standards.

We are close to finalising new water resource plans for catchments within the Murray Darling Basin, to meet our obligations under the Basin Plan. Water resource plans incorporate the water sharing plans in these areas, which have been updated to reflect changes arising from the Basin Plan limits.

Further information on our development of water resource plans and how we meet the requirements of the Basin Plan are set out in Detailed Paper E that is a part of this submission.

MDBA Joint Programs

The Joint Programs are activities managed by the MDBA that are separate to the Basin Plan. The Joint Programs are conducted through the Murray-Darling Basin Joint Venture, which is an interjurisdictional unincorporated body under the control and direction of the Murray-Darling Basin Ministerial Council. The governance arrangements for this collaboration by the Basin states are set out in the Murray–Darling Basin Agreement 2008, which is a schedule to the *Water Act 2000 (Commonwealth)*.

The NSW contribution to the MDBA Joint Program is separated into bulk water storage and supply operations (undertaken by WaterNSW¹¹) and water resource management, which DPIE Water undertakes.

Further information on our MDBA Joint Programs activities is set out in Detailed Paper F that is a part of this submission.

MDBA Compliance Compact

The Murray-Darling Basin Compliance Compact is a joint commitment by the Australian Government and Murray-Darling Basin states to restore public confidence in water resource management in the Basin by providing transparency, accountability and consistency to compliance and enforcement practices by governments.

NSW is a party to the Murray Darling Basin Compliance Compact, which sets out a series of actions and work programs for each of the parties. Under the Compact NSW has committed to undertake various actions related to transparency and accountability, compliance and enforcement, metering and measurement, finalising water resource plans and protecting and managing environmental water.

National Water Initiative

In June 2004 the Commonwealth and all State and Territory Governments signed an inter-governmental agreement on a National Water Initiative (NWI). The NWI is a shared commitment to achieving greater certainty for investment and the environment through clearly specified water access rights, addressing over-allocated water resources, delivering a nationally compatible water market and improving economic efficiency and sustainability of water resource management for rural and urban water systems.¹² It commits those governments to

- clear and nationally compatible characteristics for secure water access entitlements,
- transparent, statutory-based water planning,
- statutory provision for environmental and other public benefit outcomes, and improved environmental management practices,
- the return of all currently over-allocated or overused systems to environmentally sustainable levels of extraction,
- progressive removal of barriers to trade in water and meeting other requirements to facilitate the broadening and deepening of the water market, with an open trading market to be in place,
- clarity around the assignment of risk arising from future changes in the availability of water for the consumptive pool,

¹¹ This is not a WAMC activity so does not form a part of WaterNSW's separate submission to IPART for WAMC prices

¹² Productivity Commission, 2020, National Water Reform Issues Paper, p3
<https://www.pc.gov.au/inquiries/current/water-reform-2020/issues>

- water accounting which is able to meet the information needs of different water systems in respect to planning, monitoring, trading, environmental management and on-farm management,
- policy settings which facilitate water use efficiency and innovation in urban and rural areas,
- addressing future adjustment issues that may impact on water users and communities and
- recognition of the connectivity between surface and groundwater resources and connected systems managed as a single resource.

Border Rivers Commission

The Dumaresq-Barwon Border Rivers Commission (BRC) was created by the NSW and Queensland Governments to control and coordinate the water available from the rivers around the border of the two states. It was constituted under the New South Wales-Queensland Border Rivers Agreement made between the New South Wales and Queensland Governments on 27 August 1946. This agreement was ratified by NSW by the New South Wales-Queensland Border Rivers Act 1947 and is a schedule to that Act.¹³

Further information on our role with the BRC and the WAMC activities we undertake through the BRC is set out in Detailed Paper F that is part of this submission.

IPART's role in relation to WAMC

IPART sets the maximum prices for WAMC's government monopoly water management services.

IPART's reviews are conducted under s11 of the *Independent Pricing and Regulatory Tribunal Act 1992*, which gives IPART a standing reference to conduct investigations and make reports to the Minister administering that act on the determination of the pricing for a government monopoly service supplied by a government agency specified in Schedule 1 of that act. WAMC is listed in Schedule 1 of the *Independent Pricing and Regulatory Tribunal Act 1992*.

IPART's approach to its review of our prices in 2016, including the matters it considered, can be found in section 2.2 of its 2016 final report.¹⁴

Under the *Independent Pricing and Regulatory Tribunal (Water Services) Order 2004*, WAMC's activities in relation to making available water, making available water supply facilities and the supply of water are monopoly services that must be price regulated by IPART. The government monopoly services specified in clause 3 of that order are services supplied by WAMC that involve:

- (1) the making available of water;
- (2) the making available of water supply facilities; or
- (3) the supplying of water, whether by means of water supply facilities or otherwise.

Under s4(6) of the *Independent Pricing and Regulatory Tribunal Act 1992*, WAMC's activities are monopoly services that must be price regulated by IPART.

¹³ Available at <https://legislation.nsw.gov.au/#/view/act/1947/10>

¹⁴IPART, 2016, *Review of prices for the Water Administration Ministerial Corporation from 1 July 2016 – Final report*, p28. Available at <https://www.ipart.nsw.gov.au/Home/Industries/Water/Reviews/Rural-Water/Prices-for-WAMCs-water-management-services?qDh=2>

WAMC is the supplier of the services for which fees and charges are payable under Chapter 3 of the *Water Management Act 2000* and are made as charges under licences, permits, approvals or authorities granted by:

- (1) the Minister under Chapter 3 of the *Water Management Act 2000* (in areas of NSW in which proclamations under s55A and s88A of that act are in force); and
- (2) WAMC under the *Water Act 1912* (in other areas of NSW).