

Submission to Review of Metropolitan Water Agency Prices from 1 July 2006 - Gosford City Council and Wyong Shire Council

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Elissa Freeman
Policy Officer

The Public Interest Advocacy Centre (“PIAC”) is an independent, non-profit legal centre based in Sydney. PIAC has established the Utility Consumers' Advocacy Program (“UCAP”) with funding from the NSW Government. The work of UCAP includes developing policy and advocating for the interests of residential consumers, particularly low-income consumers, in the NSW energy and water industries. Broad policy direction for UCAP comes from a community-based Reference Group.

1. Background to IPART review

The Independent Pricing and Regulatory Tribunal (“IPART”) is conducting a review to determine water, wastewater and stormwater prices for customers of Gosford City Council and Wyong Shire Council over the 2006-2009 period. A one-year determination was delivered for 2005/06 due to uncertainty around the capital expenditure program required to secure the councils’ long-term water supply. A number of issues were raised during that review which will now be substantively addressed in the current determination.

Both councils have established a capital expenditure program in their water businesses in the realm of \$100 million and are looking to fund this expenditure through significantly higher water usage charges. It is in the public interest to ensure a safe and secure supply of water and PIAC looks to IPART to ensure that the councils have established a prudent capital expenditure program. Given the relatively high level of socio-economic disadvantage in the region and the low price elasticity of demand as a result of ongoing drought restrictions, PIAC is also concerned to ensure that the councils’ response to water security is matched with an equally responsible approach to social equity.

2. Customer impact mitigation

At the 2005-06 Determination and again in the Issues Paper for the 2006-09 Determination, IPART requested the councils in their 2006-09 submissions to articulate their policies on;

- *Debt and disconnection (including restricting water supply to households)*
- *Special payment arrangements for customers having difficulty paying their bills*
- *Financial assistance for purchase and installation of water saving devices”*

Neither council has provided details of these policies in their submissions. Gosford Council has reiterated the use of its Hardship Committee to address affordability matters, while Wyong Council’s submission to IPART is silent on these specific policies. PIAC had expected not only an articulation of these policies as they currently stand but some additional indication about how these policies were to be expanded to account for an increased incidence of debt and utility stress over the 2006-09 determination period. Given the substantive increases in water usage charges, the expectation was that these policies would specifically address households directly disadvantaged, such as tenants (who are responsible for water usage charges) and large and low-income households (who have a limited capacity to reduce water usage and manage price increases).

(a) Debt and disconnection

Earlier this year PIAC launched its research report, *Cut Off: The impact of utility disconnections*, which highlighted the financial, psychological and health impacts that utility restriction or disconnection can cause. PIAC looks to the councils' debt and disconnection policies to ensure that water restriction for non-payment is only a last resort and does not occur where households are experiencing financial hardship.

Gosford Council's position on debt and disconnection is articulated on their website as follows:

In the absence of a suitable arrangement for payment of an overdue account, Council may restrict your water supply and commence legal action for the recovery of the debt. Where such action has become necessary, the Council will seek to recover legal expenses and impose additional re-connection costs. Customers should be assured that such action is generally a last resort, and that Council will at all times work with their customers to resolve any disputes. (www.gosford.nsw.gov.au)

PIAC's view is that a debt and disconnection policy should contain details about what payment options are available (eg Centrepay, instalment plans, fee waivers, payment assistance vouchers, application of pensioner concessions etc). It should also include specific information outlining the process prior to cutting off a customer, ie what customer contact is made and in what form, and whether a payment plan is offered to the customer. Where there is an opportunity to seek reprieve from fees and charges on the grounds of hardship, the criteria should be made explicit.

Not all councils utilise the statutory provisions available to restrict or cut off water supply for non-payment. Those that do, such as Wyong and Gosford Councils should be required to report publicly on the circumstances in which the provisions are employed. The councils' debt and disconnection policy should therefore specifically include public reporting on the numbers of households cut off and the circumstances in which those households are cut off.

(b) Special payment arrangements

The *Local Government Act 1993* (the Act) contains provisions to allow for an agreement to be made between the Council and a person for the periodical payments of rates and charges. The Act further allows for the Council to write-off or reduce interest accrued on rates and charges if the person complies with the agreement (s564(1) and (2)). The Act establishes the grounds on which pensioner concessions can be granted to eligible pensioners (who are solely or jointly responsible for the rates and charges and for whom that property is their primary residence), and an extension of the concession to certain ratepayers in the case of hardship (s577).

Gosford Council's "A3.15 Payment of Rates, Charges & Sundries" policy document explains how the Council implements some of these provisions. The policy includes information on the Council's requirements of an Agreement for periodical payment. For example, the policy specifies that an agreement should be scheduled so that any water usage charges are paid by the end of that financial year. With regards to applications to write off fees and charges, the policy allows for applications to be lodged where a person is compliant with an agreement or in the case of hardship, to be considered by Council's Hardship Committee established for the purpose.

While the same statutory provisions apply to Wyong Council, the Council's submission does not provide details as to how payment agreements are entered into, nor how hardship provisions are negotiated to waive fees and charges.

In order to ensure that robust special payment arrangements are in place, the following information is required:

- Details of the ‘hardship criteria’ used to determine eligibility for any waiver of fees and charges
- The membership of the Hardship Committee and a public report of findings
- Whether interest and/or charges continue to be accrued where a person has entered into a Payment Agreement
- What additional demand management support is offered to households in financial crisis to reduce the use of water
- Evidence to confirm that the Payment Agreements being entered into are realistic and do not cause undue hardship to households in financial crisis, for example, flexibility in payment agreements to allow a payment agreement to be entered into for more than one financial year

Additionally, we note that households currently receive water bills just twice a year. Typically low-income households have a limited capacity to manage large bills and consideration should be given to allowing greater flexibility in payment options as households adjust to new prices.

(c) Financial assistance for water efficient devices

While both councils are now working with Energy Australia to provide a Household retro-fit program, the submissions do not explain how this program or other initiatives could be extended to households who are experiencing difficulty managing increased water usage charges. Allocating funds to specific demand management activities has a number of community benefits. Councils can reduce the incidence of utility stress by targeting particular groups of vulnerable customers and reduce the overall reliance on limited water resources.

2.2 Community engagement

Wyang Council has indicated they would be willing to become a member of the Energy and Water Ombudsman of New South Wales (EWON) scheme, noting that ‘this will provide customers with an additional avenue to address issues and grievances that they may have’ (p16). PIAC supports both councils lodging applications to become members of EWON for this reason and to improve the transparency of complaint reporting. EWON’s services, including outreach programs to customers and local community welfare organisations, seek to improve access to essential services and could be beneficial to the Central Coast communities at this time.

3. Tariff Structure

(a) Implications of higher usage charges

Gosford and Wyong Councils have indicated their preference to recover their increased revenue requirement through higher water usage charges. The real increase in residential usage charges being sought is approximately 18% per annum over the determination period. We understand that the councils are under significant pressure to achieve compliance with the NSW Government’s “Best Practice Management of Water Supply and Sewerage Guidelines”, in order to be eligible for a dividend. The Guidelines require, among other things, that 75% of residential revenue is obtained through usage components. Clearly where such large price increases are required to cover capital expenditure the simplest way to achieve compliance is through applying the price increase to the usage component.

PIAC has been investigating the social impact of the Water Pricing Guidelines and will shortly be releasing a report titled, *NSW Water Pricing Guidelines and Country Town Communities: Assisting vulnerable residents*. The research finds that while affordability of water is not a significant issue for most Australian households, particular households are vulnerable to increases in consumption-based water bills, including households with low income, unemployed people or pensioners, large families and tenants.

Many Local Water Utilities across NSW have been implementing significant tariff reform involving increased consumption-based water charges. The Best Practice Guidelines require that “any large increases in non-residential customer bill [are] phased in over 5 years”¹. PIAC is currently in the process of seeking a similar provision for residential households. Our view is that, without substantial demand management, financial assistance programs or tariff relief, the 17.5% increase in water usage charges constitutes a price shock and creates an unnecessary burden on vulnerable households.

(b) Price signals

In the context of an ongoing drought, residents of the Gosford and Wyong Councils have already reduced their annual average residential water consumption to be among the lowest in the State. According to the 2003/04 Water Supply And Sewerage Performance Monitoring Report, annual average residential water consumption in Gosford was 193kL and Wyong 188kL, compared with the median annual average residential consumption of 215kL. The 2005/06 determination acknowledged that the price signal was somewhat blunted because of these conditions, noting that, “while sending a greater water conservation signal, the absolute reduction in water demand may be limited” (IPART 2005 p4). The councils’ submissions have established that in the current drought environment water restrictions are set to be in place until 2010, at a minimum. The price elasticity of demand has to be particularly low in this environment.

Wyong Council reiterated this position in their submission, observing that, “during the period of the proposed price path water restrictions will still clearly be the major driver of reduced consumption...the ‘two tier’ pricing is likely to have limited impact on consumption during this period”. (Wyong Shire Council 2005 p14) Gosford Council’s submission similarly states, “while it is generally considered that the price for water is rather inelastic, Council considers a pricing structure that includes a higher proportion of usage charges sends the appropriate demand management signals to the community”. (Gosford City Council 2005 p5) Where demand is considered inelastic, there cannot be a demand response. PIAC therefore urges the Tribunal to endorse the view that price signals will have a limited demand response among residential users in the Gosford and Wyong regions in 2006-2009.

(c) Split between Fixed and Usage charges

In the 2005/06 determination, councils were looking to obtain the full price increase from volumetric charges and IPART chose to allocate the price increase across fixed and volumetric to “better reflect the cost of water”. (IPART 2005 p2) It would seem that the same principle applies in the 2006-09 determination, ie splitting the price increase across both fixed and usage charges better reflects the cost of water. It could also be a more equitable recovery of capital investment.

¹ DEUS 2004, *Best-practice Management of Water Supply and Sewerage Guidelines*, Department of Energy, Utilities and Sustainability, Sydney May 2004

(d) Community consultation on tariff reform

At the 05/06 determination, the councils were asked to investigate the introduction of an inclining block tariff structure. However, given the limited timeframe, neither council was able to undertake the necessary analysis and consultation. Gosford Council had indicated it is willing to accept an imposed second tiered price if the Tribunal believes that to be appropriate. Wyong Council's submission identified some concerns with such a tariff, "it is clear that significant customer impacts are likely to result and considerable analysis is required to identify and address any undesirable impacts of alternative approaches to pricing." (Wyong shire Council 2005 p14)

The Best Practice Guidelines require suitable community consultation prior to the introduction of tariff reform. In Albury City Council, for example, the Council established a Customer Reference Group prior to the introduction of the price change which included representatives from business, industry, schools, real estate industry, local clubs and the general community including a large household user. The Group provided useful input into the process and enabled the local community's concerns about the pace of price change to be taken into consideration. PIAC recommends that community consultation of this nature take place prior to a substantial tariff reform as it allows the local community's values to be part of the decision-making, increasing the overall acceptance of the reform. This may mean that further consultation and analysis take place during the next regulatory period.

4. New debt and capital expenditure

The capital expenditure program is the primary driver for price increases in the 2006-2009 period. PIAC understands that IPART has been working with Wyong and Gosford Councils to ensure that this program is prudent and based on least cost planning principles. Even given its prudence, it is a substantial investment to be recovered through prices.

The councils have indicated they have a limited capacity to use new debt to fund this expenditure. Yet the investment scheduled for the next few years will provide water supply security for the next generation of businesses and residents in the region. The absence of new debt would, in effect, result in current ratepayers paying the full cost of infrastructure which will also be of benefit to future ratepayers. The cost of providing this resource should therefore be recovered on the basis of the inter-generational equity it will deliver. Appropriate borrowings for capital investment are an important mechanism for balancing water security with the costs to be eventually borne by customers. If the councils were able to reschedule the recovery of costs over a longer period of time or expand their debt programs, the burden to current consumers could be lessened and the expenditure more equitably recovered. We would ask IPART to review the councils' schedule of debt to achieve this balance.

5. Dividends

In the 05/06 determination IPART noted that changes to the *Local Government Act 1993* means the councils are now allowed to pay a dividend from their water and sewerage business surplus to their General Fund in addition to the tax equivalent dividend. The Tribunal suggested that these monies could be used to help fund the major new investments foreshadowed for the next few years. (IPART 2005 p44)

In its submission, Wyong Council has included a tax equivalent dividend of \$170,000 and has indicated it will not be seeking to pay a dividend from surplus in the short to medium term. Gosford Council, however has indicated that it will be seeking a dividend from both its water and sewerage businesses. Gosford Council has suggested, "customers will benefit from the additional funds available to the General fund of Council via a dividend payable from the Sewer Fund".

Compliance with the best Practice Guidelines secures eligibility to pay a dividend but does not guarantee a capacity to pay a dividend. In 2003/04, while 15 water supply businesses were eligible to pay a dividend, only 5 were actually able to pay one.² The change in legislation allows for a dividend to be paid but payment of a dividend should not be considered a mandatory requirement. We note that the Best Practice Guidelines state that “LWUs facing major capital expenditure for new or replacement infrastructure should defer paying a significant dividend from their surplus as such a payment would directly increase the required typical residential bill”. (DEUS 2004 p11) While both councils will be eligible for dividends in future years, as they have been already been, it would seem inappropriate to build a surplus dividend into IPART’s building block approach to pricing, given the major capital investments facing the councils and the impact on customers’ bills.

6. Demand management

PIAC’s research suggests that groups of consumers, such as tenants, often miss out on water efficiency information and opportunities to participate in programs. Non-price measures can make an important contribution to reducing demand for water but require a financial commitment from the Water Utility. There are a number of initiatives that could be introduced including No Interest Loan Schemes to purchase water efficient appliances, subsidised re-fits, working with tenants and landlords to refit rental premises and working with Department of Housing to refit premises.

The councils should give a clear indication of the financial commitment to demand management programs over the 2006-09 period, including what proportion of funds is being directed towards the residential sector. Given the environmental, social and financial benefits that flow from good demand management programs, the community should feel confident that there is a sufficient program of funds allocated.

7. Conclusion: Recommendations to address the social impacts of the determination

Gosford Council has suggested that customers were not impacted by the 05/06 price increases due to reduced residential consumption in 2003-05. Residential bills are now back to the level established prior to 2002. Any bill increases at this point will not be able to be offset through reductions in discretionary water use nor through savings on previous years’ bills. For the reasons outlined above, it cannot be assumed that a demand response will be possible for the average household. Households will not be able to offset 18% volumetric price increases with corresponding demand reductions.

The councils have not established a program to manage an increased incidence of utility stress, debt and disconnection over the 2006-09 period. There are a range of activities that could be implemented to address these issues including; introducing a payment assistance scheme for households in short-term financial hardship; working with public and private tenants to reduce water consumption; and, providing no interest loans to large households with low, fixed incomes to purchase water efficient appliances.

PIAC is of the view that more could be done to improve the equity outcomes of the capital investments required by the councils, including rescheduling debt to better reflect the allocative benefit of the investment; and, allocating part of the price increase to the fixed component to better reflect the cost of water and reduce the social-impact of higher water charges in an environment of ongoing community-wide water restrictions.

² Samra, S & McLean, C, *2003/04 Water Supply and Sewerage: NSW Performance Monitoring Report*, Department of Energy, Utilities & Sustainability, Sydney