



New South Wales

**INDUSTRY & INVESTMENT NSW**



DGO09/854

30 OCT 2009

Mr James Cox  
CEO, Independent Pricing and Regulatory Tribunal  
PO Box Q290  
QVB Post Office NSW 1230

Dear Mr Cox

**REVIEW OF PRICES FOR STATE WATER CORPORATION FROM JULY 2010**

The Department of Industry and Investment (I&I NSW) is lodging this submission in response to the Independent Pricing and Regulatory Tribunal (IPART) Issues Paper and the submission by the State Water Corporation (SWC).

In regard to water management in NSW, I&I NSW is responsible for ensuring appropriate access to, and wise management of, natural resources, including accountability in relation to the *Fisheries Management Act 1994* (FM Act). I&I NSW interest in this review therefore focuses on appropriate cost recovery for fisheries ecosystems and aquatic habitat protection actions.

I&I NSW is responsible for ensuring that fish populations including threatened species are conserved and that there is "no net loss" of key fish habitats upon which they depend. To achieve this, I&I NSW ensures that activities comply with the requirements of the FM Act, in respect of aquatic habitat protection and threatened species conservation (Parts 7 and 7A of FM Act) and the associated *Policy and Guidelines for Aquatic Habitat Management and Fish Conservation (1999)*.

Many fish species, populations and aquatic ecological communities have suffered declines in abundance and distribution over the last 100 years and many species are now listed as threatened under State and Commonwealth legislation.

The construction and operation of water infrastructure affects riverine fish populations in four main ways:

1. Modifying flow regimes of rivers by capturing and storing high flows and releasing water when natural flows would otherwise be low. This impact is termed 'seasonal flow reversal'.
2. Facilitating the removal of large volumes of water from rivers and thereby dramatically reducing both the monthly and annual discharge. This impact is termed 'flow deprivation'.
3. Modifying the thermal regime of river ie 'cold water pollution'.
4. Obstructing fish passage.

Under the FM Act I&I NSW has a regulatory role regarding the operations of SWC. On 1 July 2002 I&I NSW and SWC entered into a Memorandum of Understanding (MoU) to assist SWC to achieve compliance with the FM Act. The MoU was also established to assist SWC in its overall performance with regard to management of broader aquatic environmental issues including fish passage and aquatic habitat management.

Managing the impacts of water infrastructure operation on fish communities, threatened species and aquatic habitats comes at a significant cost. Such activities include:

- Investigation of the extent and impacts of cold water pollution.
- Research into fish community responses to altered flow regimes and cold water pollution.

- Development and implementation of management responses to altered flow regimes and cold water pollution including development and implementation of water sharing plans and environmental flow rules, participation in the Cold Water Pollution Inter-Agency Group, responses to fish kills caused by dam operation and flow manipulation etc.
- Research and development in relation to fish passage at weirs.
- Threatened species recovery planning and implementation.
- Aquatic habitat restoration.
- Environmental assessment and approvals of instream works associated with maintenance of river channel capacity and dam operations (eg bank stabilisation and snag management in the Tumut and Murray Rivers).

Recent and prolonged drought has resulted in low river flows and levels and water management activities have an increased potential to cause harm to threatened fish species or habitat during critically low flow periods. For example, in 2004 during a critical water shortage, the reinstatement of flows into the regulated Lower Darling River resulted in an extensive fish kill that extended over 160km and resulted in the deaths of up to 5000 Murray Cod. In the Lachlan River, critical water management this summer will create conditions of high risk to affected fish populations. A fish management strategy for the Lachlan has been developed by I&I NSW to identify critical fish habitats, monitor water quality in real time and implement fish rescues and relocations as required.

These activities are not currently funded under the SWC "cost of river operations" or the MOU. The costs can be substantial, amounting up to \$300,000 per event. The total cost across the state will depend on the number of events. I&I NSW considers it appropriate that the pricing mechanism provides the capacity to fund emergency operations at times of critically low flow periods as there is currently no available source of funds for fish management activities under these conditions.

In relation to specific questions raised in the Discussion Paper and State Water Corporation's submission, I&I NSW makes the following points:

- Cost sharing arrangements: The arrangements currently in place for environmental management activities including fish passage and cold water pollution (ie 50:50 cost share with Government) remain. However, the determination needs to clarify that the sharing goal should apply over the longer term rather than in relation to each stage or action within a plan that may take many years. That is, the sharing arrangement should apply to the total cost of investigations, design and construction of a multi-level offtake to address cold water pollution, rather than each of the individual stages.

If you require further information, please contact Austin Whitehead, Director Natural Resources Policy on 8289 3910.

Yours sincerely



**RICHARD SHELDRAKE**  
**DIRECTOR-GENERAL**