

INDEPENDENT PRICING AND REGULATORY TRIBUNAL

REVIEW OF WAMC'S WATER MANAGEMENT PRICES
REVIEW OF WATER NSW'S BULK WATER PRICES

Tribunal Members

Ms Deborah Cope, Acting Chair
Ms Sandra Gamble, Tribunal Member
Mr Mike Smart, Tribunal Member
Ms Liz Livingstone, IPART CEO

Members of the Secretariat

Mr Matthew Edgerton
Mr Matthew Mansell

Held at various locations via Zoom

On Tuesday, 17 November 2020, at 10.00am

1 SESSION A - Review of WAMC's water management prices

2
3 MS LIVINGSTONE: Good morning, everybody. We will make a
4 start now. My name is Liz Livingstone, and I am the CEO of
5 the Independent Pricing and Regulatory Tribunal. I will be
6 managing our public hearing today and just wanted to start
7 with a few housekeeping notes.

8
9 Given we have such a large number of people on Zoom,
10 it would be really helpful if you keep your microphone
11 muted while you are not speaking and that avoids a lot of
12 feedback and background noise for us. But we would like to
13 see you, so if your internet connections are up to it and
14 you are comfortable with it, please keep your camera on.
15 That helps us to connect a little bit better, even if we
16 can't be together in person.

17
18 I want to let you know this hearing is being recorded
19 live to YouTube, so that we have an accurate record of the
20 proceedings today. However that recording won't be made
21 publicly available until after the event.

22
23 We are also using a transcriber for today's events and
24 we will place a copy of the transcript of what is said
25 today, as well as a link to the YouTube recording, on our
26 website in a few days' time.

27
28 I want to check whether we have anybody on the phone.
29 I'm not sure that we do, but if you are on the phone, if
30 you could unmute yourself now and let us know who you are,
31 we can keep track of you and make sure you're included in
32 the conversation today. Is there anyone on the phone? It
33 doesn't sound like there is at this stage, so we'll keep
34 going.

35
36 I want to give you a brief overview of how the agenda
37 will work today. We have two sessions. Session A this
38 morning is about the Water Administration Ministerial
39 Corporation - or WAMC - price review. After a lunch break,
40 we will have session B, and that's about the review of
41 Water NSW's rural bulk water prices.

42
43 For each session, we will have an introduction from
44 our Acting Chair, Deborah Cope. She will provide some
45 welcome remarks and an update on where our reviews are up
46 to.

1 You may have already read our issues paper and the
2 utilities' pricing proposal, but to make sure everyone is
3 on the same page today, we are going to have some brief
4 presentations. So the utilities will present key facts
5 from their pricing proposal and give a short presentation.
6 That means for session A we'll hear from the Department of
7 Planning, Industry and Environment - or DPIE. We'll hear
8 from the National Resources Access Regulator - NRAR - and
9 Water NSW as they present their pricing proposal on behalf
10 after WAMC.

11
12 After that we will have a short Q&A discussion and
13 give everyone the opportunity to ask DPIE, NRAR and
14 Water NSW questions or provide comments on their pricing
15 proposal.

16
17 We will then have another short presentation on key
18 issues and things that we - IPART - have identified for the
19 review. After our presentation, we will open a broader Q&A
20 discussion for everybody to participate in. We have
21 allowed up to an hour and a half for that second open
22 discussion session and in that time you might have
23 questions for IPART or the utilities again.

24
25 We encourage everyone to share your views or ask your
26 questions. You can use a chat box function in Zoom to let
27 us know you have a question or comment, or use the "raise
28 your hand" function. But we will come to you after the
29 presentation, so you can ask your question or make your
30 comments in person.

31
32 I'll now hand you over to Deborah Cope, IPART's Acting
33 Chair. Thanks, Deb.

34
35 OPENING REMARKS

36
37 MS COPE: Thank you Liz. As Liz said, I am Deborah Cope.
38 I am the Acting Chair of the Independent Pricing and
39 Regulatory Tribunal. With me today are my fellow tribunal
40 members, Sandra Gamble and Mike Smart. We are also
41 assisted by the secretariat staff, Matthew Edgerton,
42 Matthew Mansell and members of the pricing review team.

43
44 IPART acknowledges the traditional owners of the lands
45 on which we meet and the traditional owners of the lands
46 and waters from which we are all dialling in today. We
47 respect their elders past and present and acknowledge the

1 ongoing connection that Aboriginal people have to the land
2 and recognise the Aboriginal people as its original
3 custodians. We would also like to acknowledge any
4 Aboriginal and Torres Strait Islander people who are here
5 today.

6
7 Welcome to this public hearing. It's great to have so
8 many people here today, and we recognise that rural and
9 regional communities have had to endure quite a lot of
10 hardship through an extreme drought, bushfires and the
11 ongoing COVID pandemic, so we really appreciate your time.

12
13 We would like to open by saying that we do very much
14 welcome and value your input into these reviews. We
15 appreciate the time and expertise that we gain from your
16 participation, and thank you very much for your involvement
17 in the review and in the hearing today.

18
19 As you know, we released two issues papers in
20 September following the receipt of the pricing proposal
21 from the utilities in June this year. This public hearing
22 is a very important part of our consultation process.
23 We'll consider the views that you provide us today when we
24 make our decisions on costs and prices for WAMC and
25 Water NSW's rural bulk water services.

26
27 We will release the draft report and draft decisions
28 for public comment in March 2021 and then our final report
29 and decisions will be released in June 2021 and they'll
30 contain maximum prices to apply from 1 July 2021.

31
32 In general our price review will be looking to
33 consider in detail:

- 34
35 What WAMC and Water NSW costs are efficient;
36 How these efficient costs should be shared between
37 water customers and the New South Wales government on
38 behalf of the community; and
39 How the customer share of efficient costs should be
40 recovered through prices.

41
42 So these are the questions that we will be looking for
43 your feedback on today.

44
45 I'll now hand over to Liz again for session A.

46
47 MS LIVINGSTONE: Thank you, Deborah. In a moment I'll

1 hand over to Jim Bentley from DPIE, Grant Barnes from NRAR,
2 and Andrew George from Water NSW to present WAMC's price
3 proposal.
4

5 Just a quick reminder that if you have any questions
6 or comments during the presentation, use the chat box to
7 let us know or use the "raise hand" function to indicate
8 that you would like to speak and we will come to you after
9 the presentation is finished.
10

11 When you type in the chat box, it's really helpful if
12 we have your name and the organisation that you are from
13 and you might want to include the topic that you wanted to
14 talk to. You don't have to write your question in full if
15 you don't want to because we will come to you in person and
16 you can ask that.
17

18 This is a public hearing, so everybody including the
19 media is free to report what is said here today. That
20 said, we really want to hear your thoughts and hope you
21 will all participate in the discussion.
22

23 I will now hand over to Jim, Grant and Andrew to
24 present on behalf of WAMC. Thank you, Jim.
25

26 WAMC PRESENTATION

27

28 MR BENTLEY: Thank you, Liz, and thank you everyone for
29 the your participation today. Could I also acknowledge
30 that we are meeting on Aboriginal lands (indistinct) and
31 pay respect to elders, past, present and future. We will
32 keep our presentation as brief as possible. I think the
33 most important thing is that we have the opportunity to
34 hear from the stakeholders.
35

36 MS LIVINGSTONE: Jim, can I just say you are a little bit
37 faint, so if there is anything that can help to up the
38 volume at your end, that might help us hear you better.
39 Thank you.
40

41 MR BENTLEY: Thanks, Liz. I'll speak as loud as I can in
42 this super-duper facility until someone finds out which
43 button you're supposed to press. Can you hear me now okay?
44

45 MS LIVINGSTONE: That's better. Thank you.
46

47 MR BENTLEY: It's incredibly loud now (indistinct), but

1 there you go. Anyway, I'll try to keep you my comments as
2 brief as possible, and I am sure Grant and Andrew will do
3 the same, so that we can maximise the time we have for
4 responding to questions and comments.

5
6 If we could go to the next slide, please. Obviously
7 the cost of the services that we're providing through WAMC
8 have increased significantly since the last price
9 determination in 2016. There are a number of things on
10 this slide, which I am not going to read out to you, but
11 I think, as we set out in our proposal, it's important to
12 note that the services we are providing have increased
13 significantly and, we would argue, have improved
14 significantly. But we do, of course, acknowledge that the
15 costs of those services have increased.

16
17 It is important to know that I think that in
18 respecting the view of people who are questioning whether
19 government is doing everything it can and as efficiently as
20 possible, that is a very valued question at all times, and
21 certainly at times when costs of services and, therefore,
22 the prices that we are proposing will increase
23 significantly.

24
25 What I would say is that in recognition of the need
26 for us to be as efficient as we can be and to ensure that
27 we are not passing on costs or duplication of services, if
28 such exist between us, there are two things that we have
29 done in that regard. One is we've withheld from DPIE
30 \$9 million per year of costs. We just looked at the costs
31 of us providing these services. That \$9 million per year
32 would be on top of what actually is in this proposal.

33
34 If you like, we have accepted a \$9 million a year
35 efficiency challenge. To support us in that, we were
36 looking at areas of potential duplication and things where
37 we may be able to things more efficiently and, in
38 particular, the licensing approvals and functions that we
39 carried out. Nevertheless, if we don't find as many
40 efficiencies as we hoped from that, we have removed
41 \$9 million per year of cost from what we are proposing.

42
43 The other thing to say is I think that we recognise
44 that it has been a very difficult challenging time for
45 water users - a combination of very severe drought,
46 followed by bushfires, followed by COVID. In recognition
47 of the difficulty with that, the government took the

1 decision to limit the increase in pricing which we were
2 requesting through this proposal to a cap of 5 per cent in
3 real terms per annum. Again we recognise that that is a
4 material increase but government has chosen to pay a larger
5 share of the costs of providing these services itself.
6

7 Could we go to the next slide please. One of the
8 things I think is important to say is that some 64 per cent
9 of users will still pay only the minimum annual charge, and
10 that is increasing according to our proposal by about 5 per
11 cent per annum.
12

13 Could we have the next slide, please. What this is
14 chart is trying to display to us is the left-hand bar
15 represents the last price determination, so the prices that
16 have been in place during this last period and, under that,
17 the percentage of those costs that would be passed through
18 to users is 73 per cent of the total.
19

20 Under the new proposal with the 5 per cent cap, not
21 only are we taking on board the efficiency challenge
22 delivered to government, the users would only required to
23 pay 62 per cent of that total. So the increase in costs
24 that would be, under our proposal, passed on to users is
25 \$6 million. As you can see from that chart, those costs
26 have doubled to the tune of \$18 million. I think those
27 probably are my opening comments and I'll pass to Grant.
28

29 MR BARNES: Thank you, Jim. Next slide, please.
30

31 MR BENTLEY: Sorry, I passed too soon, but I think
32 probably most stakeholders are aware of the roles of the
33 three parts of the system that make up our agency. DPIE,
34 as the government agency, makes the rules; Water NSW, as a
35 state-owned corporation, implements them, and NRAR
36 regulates them. I think I am fairly certain now I can
37 pass to Grant.
38

39 MR BARNES: Thank you, Jim. Next slide please. The state
40 of the compliance pre-formation of NRAR in April 2018 is
41 best described by the independent inquiries undertaken by
42 Matthews and by the NSW Ombudsman in 2017. Both concluded
43 that compliance and enforcement in New South Wales at the
44 time had been "ineffectual", "required urgent improvement",
45 noted that there was a substantial loss of public
46 confidence, and that the activity itself was significantly
47 under-resourced and wasn't adequate in protecting New South

1 Wales' water resources.

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A further assessment was done of the function concluding that compliance being performed in 2017 was absent in most elements of best practice. Mr Matthews concluded in his 2017 interim report that all parties agree that there is a requirement for "a demonstrably effective compliance and enforcement scheme."

10 Next slide, please. NRAR can report now two full
11 years of operation commencing in April 2018. This graph
12 shows, by virtue of the red columns and the blue columns
13 how our activity has increased over those two years.

14
15 The volume of suspicious activity reports - these are
16 notifications that come through from members of the public,
17 typically relating to suspected water laws that are being
18 breached - increased by 70 per cent between 2018-2019 and
19 2019-2020. The volume of investigations that NRAR
20 conducted over that period increased by almost 70 per cent.
21 The number of property inspections that staff at NRAR
22 conducted over that period increased by 88 per cent, and
23 compliance actions taken as a result of those
24 investigations all increased considerably from the first
25 year of operation and our second.

26
27 I note, in concluding on this slide, that NRAR, since
28 formation, has commenced 25 prosecutions of which 10 have
29 now concluded, nine of which resulted in convictions on
30 charges.

31
32 Can we go to the next slide, please. We are committed
33 to providing a service that is both proven and efficient,
34 and we will continue to do more with the same resources.
35 This graph illustrates an index of compliance resources in
36 the red line, which is relatively static and unchanged from
37 the base year of 2019-2020 through to the end of price path
38 at 2024-2025.

39
40 We've seen significant increases in demand for our
41 services in our first two and a half years of operation,
42 and we project that to continue as the heightened interest
43 in compliance and the protection of water law amongst the
44 public in New South Wales continues. We will close that
45 gap, not through seeking more resources; rather we will
46 find efficiencies through further better use of analytics
47 and intelligence; through increasing the use of remote

1 satellite technology; through further investing in staff
2 capability; by continuing to improve our procedures; and
3 through our quality management systems and assisting users
4 who want to comply to do so voluntarily.
5

6 I'll conclude there and hand over to Andrew George,
7 CEO of Water NSW.
8

9 MR GEORGE: Thanks, Grant. Next slide, please. So by way
10 of context --
11

12 MS LIVINGSTONE: Andrew, just before we go on, quite a few
13 people are having trouble hearing from your end. I am not
14 sure if there's something that you can do to change what
15 your mic is picking up. It's picking up a lot of ambient
16 noise.
17

18 MR BENTLEY: We are sending someone to look into that, but
19 we will soldier on in the meantime and Andrew will speak as
20 loudly as he can and we'll sit really still.
21

22 MS LIVINGSTONE: Thanks, Andrew.
23

24 MR GEORGE: Thanks, Liz. To build on the comments from
25 Dr Bentley and Mr Barnes, our summary of key achievements
26 this year really does feed into our proposal for the
27 following four-year proposal to IPART.
28

29 2016-2020 was really dominated by responding to the
30 inquiries that Grant talked about earlier. We saw the
31 complete integration between the operational functions of
32 Water NSW. We responded to the water management regulation
33 and policy changes of government. What comes with that is
34 (indistinct) collaboration with NRAR and DPIE in
35 supporting, in particular, NRAR's compliance activities
36 using our out-field (indistinct).
37

38 Sorry, I am just changing the settings. We know also
39 that this period has been dominated by drought. We saw a
40 record number of inquiries and applications - over 7,000
41 applications, and that's more than double what we saw
42 historically. 95 per cent of WALs were approved within 90
43 days, despite that volume. So we are actually doing a lot
44 more and often with less.
45

46 Those water monitoring activities we undertook before
47 and that has now translated into \$2 million in savings

1 passed on directly to customers as a result.

2
3 The next slide, please. This is really building upon
4 the foundation that we have been working on in the past
5 four years. A big driver of our proposal is our technology
6 investments, built on the commitments of the New South
7 Wales government, particularly around greater transparency
8 in water information and data, and customers and the public are
9 already starting to see that through our Water Insight
10 portal that's available on our website, and that is a
11 progressive investment. That has not ended and it will be
12 continually added to.

13
14 There are far more investments that we need to make to
15 improve the customer experience, in particular around the
16 IT technology that we do have, which is life expired. Many
17 of those systems are more than 20 years old. We are
18 looking to consolidate over 40 of these systems. So to
19 achieve the outcomes that not only the government seeks to
20 achieve, but also our customers through their experience,
21 we need to invest in technology and we need to invest in
22 our capital, particularly around our field instruments data
23 that collects information or promote that transparency for
24 that function, and I'll leave my comments there.

25
26 Q&A SESSION

27
28 MS LIVINGSTONE: Thanks Andrew. Thank you, all for that.
29 I wonder if Jim, Grant and Andrew, at your end, if when
30 you're not responding to a question, you might just put
31 your room on mute, because it does seem that the noise is
32 bothering some people.

33
34 We have not had, as far as I can see, any questions
35 come through in the chat for DPIE, NRAR or Water NSW yet.
36 Please let us know if you do have a question by typing your
37 name and organisation in the chat box and we will come to
38 you.

39
40 While we wait for questions to come through, I might
41 ask Deborah if she has any questions for the agencies,
42 thanks.

43
44 MS COPE: Yes, I would like to start, thank you very much,
45 and thank you for the presentation. Given that there are
46 three agencies that are providing these services, can you
47 just talk about what sort of systems and governance you

1 have in place to make sure that there is not duplication
2 between what each agency is doing and that the costs are as
3 low as practicable?
4

5 MR BENTLEY: Thanks, Deborah. From the government's point
6 of view, NRAR has its own board and NRAR operates
7 independently of the department or of Water NSW in the
8 decisions that it makes in its regulatory function; but its
9 administrative services, its backroom services, if you
10 like, financial services, accounting, and so on, are
11 provided through to the Department of Planning, Industry
12 and Environment, and Grant sits on the water leadership
13 team within the department, which I head. We try to
14 minimise duplication and be as efficient as we can by
15 sharing those resources which do not compromise NRAR's
16 independence but allowing NRAR to operate independently in
17 the decisions that it makes in its regulatory practice.
18

19 Water NSW has its own board and it is important that
20 that corporation is able to go about its affairs, again
21 without interference from the likes of me in the matters
22 which should be the responsibility of the corporation.
23

24 What we have done to try and improve coordination
25 between the department, and not just Water NSW but the other
26 two state-owned corporations, and our colleagues in
27 Treasury, is we have formed a thing called the water
28 leaders group, where the heads of those corporations, me,
29 Treasury, and one or two of my senior team, meet as a group
30 and make collective decisions and try and ensure that we
31 are coordinating our affairs as well as we can. I think we
32 are better coordinated without increasing the cost of that
33 coordination. We have appropriate levels of independence
34 where we can. We have, for NRAR, a sharing of those sort
35 of back-office functions, to be as efficient as we can be
36 there.
37

38 I think there is still a challenge for us of ensuring
39 that there is no duplication. As I referred to in my
40 remarks, and as I received a lot of feedback from
41 stakeholders, I think the area of licensing approvals is
42 one where the ball does get passed between the three of us
43 at different stages, and arguably that could be done more
44 efficiently. As I said, we do need to some work to work
45 out how to do that more efficiently and we are withholding
46 \$9 million this year in costs, which is significantly more
47 than any benefit, I think, achieved by becoming more

1 efficient there. So hopefully that answers your question
2 then.

3

4 MS LIVINGSTONE: Thank you. I think we now do have a few
5 questions coming through, and Jane MacAllister from the
6 Nature Conservation Council was the first cab off the rank.
7 She has a question for you, Jim, about the efficiency
8 savings that you've mentioned. Jane, do you want to take
9 yourself off mute and ask that question of Jim, please,
10 thanks.

11

12 MS MacALLISTER: Thanks, Liz. I just wasn't sure that
13 I heard - Jim made a point about \$9 million, I think it was
14 to do with costs and savings, and I'd like to hear that
15 again. I think I missed part of it, if you wouldn't mind,
16 thank you.

17

18 MR BENTLEY: Thank you, Jane. What I said was that we
19 decided not pass on all our costs. Of course, IPART makes
20 the determination in terms of what proportion of our
21 approved and efficient costs are passed on to users. What
22 I'm saying is that we have excluded \$9 million of costs
23 from that consideration because we think there is more
24 efficiency that we should be able to deliver before any
25 consideration by IPART.

26

27 So if I add up all the costs that exist within the
28 department, NRAR and Water NSW, because we think we should
29 be more efficient, and can be more efficient, we have
30 excluded \$9 million as an efficiency challenge, if you
31 like. That challenge is with us, as in government, not
32 with anybody else, and if I don't find \$9 million of
33 savings from this, I'm going to have to find it from
34 somewhere else. Hopefully that explains it, Jane.

35

36 MS MacALLISTER: Thank you, yes.

37

38 MS LIVINGSTONE: Thanks, Jim. We now have a question from
39 Jenny McLeod at Coleambally. Jenny, do you want to pose
40 your question now?

41

42 MS McLEOD: Thanks, Liz. My question is to Dr Bentley.
43 If I caught it correctly, you said other than your pricing
44 proposal, you would still have 64 per cent of licence
45 holders only paying the annual minimal charge. Can you
46 explain what proportion of your revenue that 64 per cent
47 would contribute to. And the second component of that

1 question: I assume it's only a relatively small amount,
2 therefore, does that raise questions about how the costs
3 are shared between government and water users?
4

5 MR BENTLEY: Thanks for the question. I am just going to
6 confer with a colleague to see if I've got that revenue
7 proportion. Maybe while I am conferring, we could move to
8 another question and then I will answer that one when I've
9 got the answer to that. Is that okay with you Liz? Does
10 that work?
11

12 MS LIVINGSTONE: Yes, sure. And I know Mel from Inland
13 Rivers Network has a question about fishways. Mel, that's
14 an issue that will come up in this afternoon's session for
15 Water NSW. Hopefully you're joining us for that because
16 Andrew will present Water NSW's proposal about that and we
17 will have more questions on that issue then. So hold that
18 thought and we will go through it this afternoon.
19

20 We do have some comments from George Warne from Murray
21 Irrigation. George, would you like to share your comments
22 now?
23

24 MR WARNE: Thank you. And thank you for running the
25 hearing. It's actually very clear here on the Murray at
26 Barham. My simple question is that irrigation corporations
27 were formed in New South Wales between 1995 and 2000, and
28 they have quite onerous internal compliance and reporting
29 requirements, including a fully audited take function in
30 terms of the works on the river to take water, and my
31 question is really why these water users, who represent a
32 very large proportion of the total use in New South Wales,
33 particularly in the Murray and the Murrumbidgee, should pay
34 one cent towards NRAR when the services of NRAR are largely
35 irrelevant to the customers within the irrigation
36 corporation areas?
37

38 MR BARNES: Hello, George. Thank you for your question
39 and it's a good one. Compliance works to protect both
40 the compliant and also to punish the non-compliant. This
41 is in order for the insurance of fair access to available
42 water to all with entitlements, whether they are irrigation
43 corporations, environmental water holders, local water
44 utilities, irrigators, Aboriginal and Torres Strait
45 Islanders or the public of New South Wales. In doing so,
46 our activities protect the value of the asset of the
47 water entitlement on the market, and I note that Murray

1 Irrigation Limited pays a lot for that.

2
3 Beyond that, George, your contribution to NRAR's
4 services helps to restore the public's trust and confidence
5 in water law generally. I note that a recent survey that
6 was undertaken independent of NRAR showed community
7 confidence across New South Wales at 67 per cent of the
8 public or 56 per cent of licensees, so there's a bit of
9 work to do there. Ultimately, George, we believe our
10 proven and efficient activities go to assisting water users
11 to restore their social licence to access what is a public
12 community resource.

13
14 In summary, I think that NRAR protects the property
15 rights in the same way that the police presence protects
16 safety and property. Even though you may not be visited by
17 the police officer in your house, you are a beneficiary of
18 the work of the NSW Police force, and that theory applies,
19 I believe, to water compliance and enforcement.

20
21 MS LIVINGSTONE: Grant, we have another question on a
22 similar theme from Chris Magner of the Richmond and Wilson
23 Combined Water Users Association. Chris, if you take
24 yourself off mute, would you like to share your questions
25 now?

26
27 MR MAGNER: Yes, thank you. Following on from George, the
28 concerns we have are roughly similar. However, coming from
29 the coast here, the question that we want to put is that -
30 the whole thing started with Four Corners and then the
31 Matthews report and I understand what the process is for
32 NRAR with their control and compliance. However, can
33 I just, for a second, take you back to prior to any of
34 those things happening and prior to the water sharing plans
35 even being developed.

36
37 The old water resources department assisted in forming
38 water user groups along all of the rivers and streams,
39 along the coast anyway, and I presume everywhere else in
40 the state, to assist them with compliance, and that worked
41 very, very well for many, many years. Once the water
42 sharing plans came in, the water user groups had no real
43 role anymore because they weren't recognised in the water
44 sharing plans.

45
46 Now, to run this cost of NRAR and throwing it all back
47 on to the licence holders, it seems to me that it has been

1 a public demand that we have something like NRAR formed to
2 control compliance, yet, the vast majority of it has been
3 weighted against the licence holders that used to look
4 after the system very well in conjunction with our water
5 resources.

6
7 I just don't see the need for us to have to fund NRAR
8 at all. It should be publicly funded rather than through
9 the licence holders.

10
11 MR BENTLEY: I note (indistinct) that question
12 (indistinct) to provide an answer. I think it would be
13 fair to say (indistinct), but our position is that there is
14 a very significant increase in the amount of work we have
15 been required to do and are required to do and we have set
16 out transparently how we feel, but that is a matter for
17 IPART.

18
19 MS LIVINGSTONE: Thanks, Jim. Just to note your sound
20 audio was not that great then, but thank you.

21
22 MR MAGNER: I couldn't understand a word he said, I'm
23 sorry. I couldn't understand a word he said.

24
25 MS LIVINGSTONE: Jim, do you just want to have another
26 quick go and then we'll move on? If you could just repeat
27 that briefly, that response,

28
29 MR BENTLEY: Okay, I'll try again. Really what I was
30 saying is that's an opinion we respect, but we just set out
31 how we set about the costs of the very increased amount of
32 compliance activity that we have been required to carry
33 out. We have set out how we feel that should be recovered,
34 but ultimately that is a matter for IPART to determine
35 through this process.

36
37 I am not going to disagree with what the questioner
38 posed - that's a matter of opinion - and we have set out
39 where we think it should lie and it's for IPART to
40 determine.

41
42 Liz, I have an answer to the previous question, the
43 question that I paused on, if I could share that.

44
45 MS LIVINGSTONE: Certainly, thanks Jim.

46
47 MR BENTLEY: The proportion of total revenue that is paid

1 by those 64 per cent of customers is 12 per cent, and the
2 methodology that is applied in terms of determining how
3 costs should be apportioned is the same as the previous
4 determination, but we have added prices there in the chart.
5 So we have not come up with a new way of doing it. We have
6 gone back to how it was done before and then capped any
7 increase by 5 per cent and it's 12 per cent of the total
8 revenue.

9
10 MS LIVINGSTONE: Thanks, Jim. I might just ask if someone
11 from the IPART team might put up a summary of that in the
12 chat box for people who might not have picked up all those
13 numbers. Hopefully someone captured what Jim said there
14 and can share it.

15
16 Deb, our Acting Chair, has another question. Deb,
17 would you like to ask that now?

18
19 MS COPE: I actually have two questions to follow up on
20 both of those, probably whilst given the discussion on the
21 minimum charge and the proportion of revenue from the
22 minimum charge. My question from that is: given that the
23 nature of the activities that the regulator is providing is
24 changing and the comments that were made about the broader
25 integrity of the system, have you given any thought to
26 whether that split between costs between those paying the
27 minimum charge and those paying above the minimum charge is
28 still appropriate?

29
30 MR BENTLEY: Sorry, that took a while to unmute then. We
31 are there now, I think. Hopefully you can hear me.

32
33 Yes, in the work building up to lodging our
34 submission, we did consider whether such things should be
35 changed, but our general response to that would be that the
36 IPART piece of work that was carried out in 2018 or 2019
37 that looked into how costs should be shared didn't
38 recommend changing so we just stuck with that. We
39 concluded that it was wise to stick with that methodology.

40
41 I don't think any of us could pretend that this is not
42 a complex area of pricing, so you could challenge many
43 aspects of this many times, as it were, but in doing our
44 work, we concluded that there was no particular reason for
45 a wholesale review of how those minimum charges should
46 work.

1 MS COPE: Thank you. And then my other question was:
2 there has been some discussion around sort of different
3 approaches to compliance and enforcement in different
4 valleys and different levels of compliance enforcement
5 required in different valleys. I was wondering whether
6 there was any experience to date, now that you've actually
7 got people undertaking this work, that tells you whether
8 the activity is vastly different in different areas across
9 the state and what are the drivers of those differences?

10
11 MR BARNES: So the tools that we deploy as a providing
12 regulator go from the provision of advice and guidance
13 to water users who find themselves challenged by compliance
14 or non-compliance, right the way through to using sanctions
15 and powers/enforcement that take a form of direction
16 of cautions, of penalty infringement notices and, in
17 25 instances to date, the commencement of prosecutions.

18
19 In our experience, Deborah, we find high rates of
20 non-compliance throughout New South Wales - in the north,
21 the south, the east, the west, on the coast, in the
22 Murray-Darling Basin, in the unregulated system, in the
23 regulated system, in surface water take and groundwater
24 take. We regularly encounter non-compliance when we are
25 engaging with water users. In most instances, however,
26 those water users are honest operators, who have simply
27 found themselves in non-compliance due to the complexity of
28 the regulations that they're confronting and the
29 obligations they have.

30
31 In those instances - and we've done this on hundreds
32 of occasions - we have provided advice and guidance to the
33 water user and they have responded positively and got
34 themselves into compliance. We do find some instances
35 across the two and a half years where water users' actions
36 are wilful and reckless and criminal, and it is in those
37 circumstances where we do deploy the full force of the law
38 and we use the powers of prosecution.

39
40 In those instances, Deborah, water users do not pay
41 the costs of the prosecution; rather, that's met by the
42 Attorney General through the core funds and the provision
43 of services by the Crown Solicitor's Office. Most of our
44 compliance and enforcement expenditure is on boots on the
45 ground, our staff engaging directly with water users
46 providing advice and guidance.

1 As I say, just to reiterate the point, that service is
2 statewide, across all system types. No-one, in our
3 experience, is more compliant than the other. There is a
4 large amount of work left for us to do to promote and
5 ensure voluntary compliance with water law throughout the
6 state.

7
8 MS LIVINGSTONE: Thanks, Grant. We do have a few more
9 questions for the utilities and agencies. Jenny McLeod,
10 you're next. I think you've got a question about Water NSW
11 and meter upgrades. If you would like to ask that now,
12 that would be great.

13
14 MS McLEOD: Thank you, Liz. My question relates to where
15 the source of funding will come from for bringing the
16 government-owned meters in the Murrumbidgee and Murray
17 Valley up to meet the non-urban metering standard.

18
19 MR GEORGE: Thanks for your question, Jenny. Perhaps a
20 two-part answer. First of all, we will be putting in our
21 supplementary submission on our costs, both the capital and
22 ongoing operating costs (indistinct) our approach to the
23 government's metering policy. Where that cost and the cost
24 shares arrive on that will ultimately be a decision for
25 IPART in their determination.

26
27 MS LIVINGSTONE: Thanks, Andrew. We will go to Mary Ewing
28 next from Lachlan Valley Water. Mary, do you want to ask
29 your question?

30
31 MS EWING: Yes, thanks, Liz. This is a question primarily
32 to Jim. The submission proposes significantly increased
33 higher planning costs for the next four years looking
34 forward - for example, the regional water strategy. But
35 our question is: to what degree are the regional water
36 strategies and some of the other planning mechanisms about
37 meeting government objectives for the long term rather than
38 things that customers have actually asked for?

39
40 MR BENTLEY: Thanks for the question. I acknowledge that
41 this is, to say the least, an interesting area. Is it what
42 government wants or is it what users require that we have
43 the strategies and plans in place for understanding how
44 sufficient water is to be made available? I think that's a
45 matter for IPART to determine through this process.
46 Clearly, we consider that it's part of our water management
47 responsibility.

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I also acknowledge the thinking behind your question. It is an area that is worthy of consideration, but I think that that is not something on which I can give you a well thought through academic response to the question, other than to say I don't understand how we would fulfil our water management responsibilities without such work, but it's for IPART to determine during this process where those costs should lie.

MS LIVINGSTONE: Thanks, Jim, and I might just invite Deb, our Acting Chair, to comment on that as well.

MS COPE: So, yes, we will definitely consider that through the process, Jim, but fundamentally it's a question about what is the purpose of the activities and that is a decision for government rather than for IPART.

Potentially if you could talk a little bit more about what are the objectives behind those activities, or we will need to talk to you about that because its not for us to determine why government is doing (audio cuts out).

MR BENTLEY: It is for you to determine whether it is appropriate for those costs to be user paid or government paid, and I would say government or we in the department are leading that work because, without that, we can't fulfil our water management responsibilities. We can't ensure that the water is available for users. So we see it as intrinsically linked with our water management responsibilities, but through this process we can provide you with whatever information would be helpful for the tribunal to make the decision.

MS COPE: Just so I understand, is your position that the two are so inextricably linked that you can't separate out what is done for the purposes of maintaining and sustaining the irrigation sector as opposed to whether there is additional activity that is a result of broader demands of the community?

MR BENTLEY: Certainly they are linked. We are not including all of the strategy work that we do - we are not including costs for the strategy work we did. For example, with the State Water strategy currently in development, which sort of works in harmony with the regional strategies, that is entirely being funded by government.

1 That is setting out, if you like, the philosophy and the
2 approach to managing water across the state, and that's a
3 document that we hope to be engaging with stakeholders
4 (indistinct) next year. We are not looking to recover the
5 costs of that from any user or a customer. We consider
6 that as a government objective kind of thing.
7

8 I think what the regional water strategies do is they
9 convert that philosophy, if you like, into more tangible
10 plans that are implemented. That's where the very close
11 linkage comes. I think we probably need to break that down
12 into more detail as we go through the remainder of this
13 process, so that you're able to see where we see that line
14 come.
15

16 Just one second, Deb. Amanda Chadwick will make a
17 comment on that.
18

19 MS CHADWICK: If I could add to the conversation, the
20 objectives of the regional water strategies are for better
21 water security, to manage environmental impacts and
22 community outcomes from water resources. I draw the
23 tribunal's and stakeholders' attention to the regional
24 water strategy that has been completed and to the other
25 strategies that are currently on exhibition to reach your
26 conclusions as to the extent to which they contribute on an
27 impactor pays or other basis.
28

29 I would also draw to everybody's attention that the
30 current cost share ratio that is in place from the last
31 determination is that 70 per cent of the costs of that
32 regional water strategy work would otherwise be paid by
33 users. So it is acknowledged that it is an activity that
34 reflects the impact to business and for environmental
35 purposes, but the majority of that impact is (indistinct;
36 distorted audio).
37

38 MS LIVINGSTONE: Thanks for that. We do have a couple of
39 questions about NRAR's cost recovery, and then there's one
40 more that we will ask. Then we will move on to the IPART
41 presentation and we will still have plenty of time for all
42 of the questions that have not been answered yet in that
43 second Q&A time.
44

45 Can I ask Christine Freak from the NSW Irrigators'
46 Council to ask her question about NRAR cost recovery,
47 thanks.

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MS FREAK: Thanks, Liz. So question and comment around the cost recovery with the establishment of NRAR. First and foremost, I wanted to highlight that water users obviously have zero tolerance for water theft, so we fully support the establishment of NRAR in order to restore confidence in the system and particularly the social licence of the irrigation industry. That said, the establishment of NRAR does involve significant set-up costs, so there are two comments that I would like to make around that.

The first one is that water compliance services are something that the irrigation industry has long paid for, but as has been highlighted through Ken Matthews' inquiry and others, these services were poorly delivered by government. I think it's important for IPART look at to what extent water users should be paying to make up for previous poor performance or under-delivery of these particular services.

The second part, which is a question directed to NRAR, is: I think it's important, given the objectives of NRAR are around building integrity and confidence in the system, that we manage any risk, and it's probably a perceived risk rather than a real risk, of industry capture in terms of the way the costs for NRAR are funded. I just wanted to hear the thoughts from NRAR around whether they think it's appropriate that water users are covering these costs.

MR BARNES: Thanks for your question to me, Christine. I want to be clear that water users have not largely contributed to the cost of NRAR's establishment; rather that was met by the taxpayers of New South Wales.

Across the first two years of our operations, our compliance expenditure was in the order of \$32 million, of which water users met \$9 million of that. That was as a result of a determination of IPART in 2016 that required water users to fund \$4.5 million annually for compliance management, and that has not changed since NRAR came into being in April of 2018.

In our first year of operation, we spent \$14 million in compliance costs, recovered \$4.5 million from water users. In the second year of operation - so 2019-2020 - we saved \$18.5 million and recovered \$4.5 million from water

1 users. Waters users have therefore paid less than 20 per
2 cent of NRAR's compliance costs since establishment and the
3 government has paid the rest.

4
5 I think, Christine, that water users have been getting
6 a pretty good deal from NRAR since our commencement, paying
7 the same now for a much enhanced compliance service, one
8 that I put to you is proven and efficient.

9
10 MS LIVINGSTONE: Thanks, Grant. And then a slightly
11 different question about NRAR cost recovery from Louise
12 Burge. Louise, would you like to ask that?

13
14 MS BURGE: Yes, thank you. How does or how will NRAR
15 separate compliance in difference valleys and/or coast or
16 non-water-related issues and how will these costs be
17 apportioned in proposed charging so that we can get a clear
18 understanding on the weight of NRAR activities, which
19 valley, and then how those costs are apportioned? Thank
20 you.

21
22 MR BARNES: And thank you for your question. Costs at the
23 moment are apportioned by receipt of alleged breach
24 notifications. That's information that's forthcoming from
25 the public that's indicative of a potential breach of
26 non-compliance. In the 2.5 years that we have been
27 operating, those alleged breach notifications have come
28 from the public throughout New South Wales in the coastal
29 areas, north and south and throughout the Murray Darling
30 Basin area. They have come from the regulated systems and
31 from unregulated system. So when we look at our
32 expenditure, which is aligned to where we are deploying
33 staff and where that staff is spending time on
34 investigations and compliance enforcement efforts, that
35 work is distributed quite evenly across valleys, across the
36 north, across the south, across regulated systems, across
37 the unregulated systems.

38
39 MS LIVINGSTONE: Thanks, Grant. There are more questions
40 there, and we will get to them, but I think it's helpful to
41 also hear from IPART staff about some of the key issues and
42 themes they have identified so we make sure we cover the
43 field, and then after that, we can use the rest of the
44 session to cover the questions that people have already
45 flagged that we have not so far and any additional ones
46 that you have. So I will now hand over to our IPART team
47 to present. Thank you.

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IPART PRESENTATION

MS SHIRLEY LAM: Thanks, Liz. We have prepared a few slides on the following themes:

- Services delivered and cost drivers;
- How costs are shared; and
- How proposed prices will impact customers.

We will then open the discussion about these key themes and issues.

I'll start by providing some context on the cost drivers for the proposed period. WAMC is proposing significant cost increases and these costs are driven by new and expanded water management functions for water planning, water implementation, compliance and enforcement and licence processing activities.

If we look at the graph, WAMC overspent its allowance by around 21 per cent over the 2016 determination period and it is proposing further increases of around 20 per cent above its actual spend for the 2021 determination period.

Now let's look at its proposed capital expenditure. Over the 2016 determination period, WAMC overspent its allowance by 69 per cent for its share of capital costs. For the 2021 determination period, WAMC is proposing further cost increases of around 67 per cent of its actual spend and these costs are driven by its proposed capital investment for its water monitoring program and its shared capital costs.

From the submissions to our issues paper, stakeholders are concerned that the higher costs may not result in better water management outcomes. Stakeholders do not want to pay for services that they have previously paid for and were not delivered or delivered poorly.

Another key theme raised in submissions is that stakeholders were not adequately consulted on the potential impact on costs from WAMC providing a higher level of service. We recognise stakeholder concerns with proposed cost increases and we are reviewing these costs as part of our expenditure review process.

1 We will now look at how costs are shared. WAMC's
2 costs are currently shared by water customers and the New
3 South Wales government on behalf of other users and the
4 wider community based on the impactor pays principle - that
5 is, those who create the need to incur the cost should pay
6 for that cost.

7
8 Many stakeholders have expressed concern about this
9 cost-sharing framework. Stakeholders were mainly concerned
10 about paying for services - activities that other users
11 benefit from; paying for activities where WAMC has
12 historically underperformed, such as compliance and
13 enforcement; and paying for activities whose scope is
14 expanding to achieve broader government objectives, such as
15 regional water planning. I will now hand over to Maricar
16 to discuss WAMC's proposed prices and their impact.

17
18 MS HORBINO: Thank you, Shirley. To recover its proposed
19 costs, WAMC has proposed prices to increase by 5 per cent
20 per year in real terms over the next four years and for the
21 New South Wales government to provide additional
22 contributions to fund the shortfall. According to WAMC,
23 this pricing package would help minimise the impact to
24 customers.

25
26 Submissions for our issues papers have indicated that
27 many stakeholders are concerned about what this pricing
28 proposal means for bills and affordability. In our issues
29 paper, we sought feedback on potentially setting separate
30 MDBA and BRC charges. Some stakeholders supported setting
31 separate charges while some questioned the purpose of this.

32
33 In terms of the affordability issue, we can address
34 this issue in a number of ways. Firstly, as Shirley
35 mentioned, we are assessing WAMC's efficient cost. We are
36 also determining how to share these costs between customers
37 and the government. Ideally we would set prices that
38 recover the efficient cost. However, we recognise the
39 potential impact of sharp price increases on customers.
40 Therefore, we may aim to transition prices to full cost
41 recovery levels over a period of time. For this public
42 hearing, we are seeking stakeholder's views on how we might
43 best balance cost reflective prices and customer
44 affordability.

45
46 I will now hand over to Liz for a Q&A session.
47

1 Q&A SESSION

2

3 MS LIVINGSTONE: Thank you very much, Shirley and Maricar.

4

5 So now we've heard the IPART presentation, we might go
6 back to some of the questions that we didn't cover earlier
7 to make sure we get across those. I think we have one from
8 Zara on the impactor pays principle. Zara, if you would
9 like to ask your question now, that would be great.

10

11 MS LOWIEN: Thanks, Liz, and thanks everyone for their
12 presentations so far.

13

14 Do not feel that that is directly targeted at NRAR,
15 but we have this ongoing discussion happening here now
16 around impactor versus beneficiary pays, and it has
17 obviously been a core component of some of our issues we
18 raised with the issues paper.

19

20 To go back to the example that Grant gave earlier -
21 I think we really do agree with the community's view and
22 the industry's view on the importance of NRAR and other
23 aspect of the department too - in the police example, and
24 we always go to the police example in this case, we share
25 those costs amongst the entire community, regardless of
26 whether you're at risk of speeding or at risk of doing some
27 form of activity that the police need to invest their time
28 on. They're there for the public's safety and the public's
29 interest and not just from those who cause the damage
30 against which the police are required to undertake
31 compliance.

32

33 I think we need to take some of that aspect into
34 consideration, particularly given the reforms we've seen
35 since the last pricing period, and have a discussion more
36 openly and honestly about impactor versus beneficiaries,
37 because we have seen a significant number of reforms happen
38 which have been driven by a very important community
39 interest in water. I think we need to recognise that, in
40 not every incidence, irrigators are responsible for that
41 required reform, there is some shared responsibility with
42 government here, and there's a beneficiary to the community
43 in having greater confidence that we think there should be
44 a re-consideration of beneficiary versus impactor.

45

46 Unfortunately for NRAR, NRAR is a great example of
47 that where we think there could be a review on the pricing

1 proposal. If they are the costs, let them be the costs,
2 but let's have a discussion about how we share that burden
3 amongst the whole community.
4

5 MR BENTLEY: Thanks for the question and the comments.
6 I may just make some additional comments and then see if
7 Grant has anything to add. As was pointed out in the IPART
8 presentation just now, WAMC collectively significantly
9 overspent compared with the costs allowed in the last
10 determination, which means those amounts are being paid by
11 government. If it's not coming from users, it must be
12 coming from government.
13

14 Also, as I said, we are holding back a further
15 \$9 million per year of spend going forward. But from the
16 past and from the reforms that you've referred to, one of
17 the reasons we've overspent compared with our price
18 determination from last time is that last time we weren't
19 envisaging the amount of work we were going to do in
20 reform; therefore, that was not recovered from users, that
21 was paid for by government.
22

23 I think it is fair to say there's a difference between
24 the work done to design reform, the work done to put those
25 reforms in place, and then the costs of servicing the
26 result from those, and those prior parts of that reform,
27 that's in the design and its initial implementation, those
28 costs have been borne by government. As Grant said, the
29 amount of IPART compliance charges recovered by users in
30 each of the last two years was \$4.5 million, which is
31 20 per cent of the total.
32

33 So be it metering reform, be it the establishment of
34 NRAR, several other of the water reform action plan
35 activities that were put in place, we did fund that through
36 government, even if that was not a part of the previous
37 price determination. These costs going forward is not
38 about us trying recover what we spent in getting those
39 reforms in place. It is about the costs of services going
40 forward. That is about costs and who paid for those costs
41 historically.
42

43 As for the matter going forward, in terms of impactor
44 or beneficiaries, I accept that that's a sensible question
45 to ask. We based our submission on the review that IPART
46 undertook not so long ago. That is why we didn't change it
47 (indistinct). Do you want to add to that, Grant?

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MR BARNES: Thanks, Jim. I made the point before about activities that we conduct distributed across the state, and I just wanted to explore that briefly a little bit more here, if I may.

What we are finding is that there is so much compliance work to be done across the state in enforcing the law against those who breach it in a serious manner through prosecution, but also, and in most instances, helping those water users who would like to get into compliance to do so by way of advice and guidance.

I believe that our activities are to the benefit of all water users, as it protects their access to a scarce resource, it protects the asset value of that resource, and it contributes ultimately to the restoration of social licence.

Just on the matter of taking water not entitled to, I want to give a couple of examples of what we are commonly encountering in New South Wales through our compliance activities. We commonly encounter on-farm dams that have a capacity that far exceeds the maximum harvestable rights - that's in the coast, it's in the Murray Darling, it's in the north, it's in the south. These aren't exceedances within margin of error; rather, these are three, four, 10 times the volume of water being held on-farm without entitlement.

We also regularly encounter water users who are not regularly and accurately accounting for the volume of water being used - again on the coast, in the Murray, north and south, surface and ground. We are commonly seeing water users whose water account balances are in deficit in many circumstances, not just one-off occurrences, but rather persistent practice involving large volumes of water.

We are also seeing on-farm flood management infrastructure that is not authorised under the Water Management Act. We are engaging in a compliance exercise where we commonly find water users, despite an intention to do the best thing, who find themselves in non-compliance. It is a lot of work for us to be doing in the space. We projected that volume of service increasing over the price path and, in doing so in a way that doesn't impart any further costs on the water user beyond what's described in

1 the price submission, we believe that it benefits all
2 users, as I said before, protecting the value of the asset
3 that's critical to delivering productivity on-farm.

4
5 MS LOWIEN: Just to respond to that, thank you, Grant, for
6 explaining some of the activities you do, but I still
7 question some of the examples, not all of those are in
8 water users' responsibility. They're on both dryland farms
9 as well and those that are taking over and above their
10 harvestable rights, which are not irrigated technically.

11
12 Again I go back, and potentially, Jim, I agree it is
13 probably not for you guys to make the decision. This is a
14 discussion we want to have with IPART - which is why we are
15 in a Q&A - about: there are other beneficiaries of that,
16 and those examples that Grant raised, there are issues not
17 only on water users' properties as well. Thank you.

18
19 MR BENTLEY: Could I just comment that I agree with you
20 there, Zara. I agree with you that that is a discussion to
21 be had through this process. If I sounded like I wasn't
22 agreeing with you, I am shouting to get heard with the
23 audio in this room. So, no, I am very happy that that's a
24 matter that this transparent process should discuss. I am
25 just simply explaining why we stuck with the methodology we
26 did because IPART has only recently done a review of it,
27 but very happy that that's a matter for this process.

28
29 MR BARNES: Zara, if I may in part agree with your
30 observation around who pays for those compliance
31 activities. In presenting what we believe is a prudent and
32 efficient pricing submission, we have sought to remove
33 \$1.88 million of cost that's incurred through enforcing
34 controlled activities of non-compliance. Work that's
35 occurring on waterfront land is not, in our experience,
36 exclusively undertaken by holders of water licences. We
37 think it is fair and reasonable, and therefore prudent, to
38 remove those costs out of the price submission. As I said,
39 we have done that to the tune of \$1.88 million per year.

40
41 MR BENTLEY: And that's not included in the \$9 million
42 I referred to. That's an additional amount.

43
44 MS LIVINGSTONE: Thanks, Jim and Grant. I might just
45 check in with Deborah whether she might want to make any
46 comment on that as well.

1 MS COPE: Thank you very much for the comment, Zara. It's
2 a really important discussion that we need to have. You
3 are right - the principle that we apply at the moment is
4 the impactor pays principle, and it's that those that
5 create the need for the regulation should meet the costs of
6 the regulation.

7
8 It's not an uncommon way of thinking about regulation.
9 Mining companies undertake the costs necessary to restore
10 land where mining; manufacturers undertake the costs
11 necessary to clean up groundwater and contamination; people
12 who get approvals for building, for pharmaceuticals, for
13 vehicle registration all pay for the inspections and
14 approval processes, and licensing fees are particularly
15 common across a whole lot of regulatory regimes, so I don't
16 think it's sort of true to say that this is necessarily
17 different from what happens elsewhere.

18
19 That said, it is complex within the rural water
20 environment - very much so - and the principle does not
21 mean that all costs are automatically passed through to
22 users, and that is really important. So we want to hear
23 the views, because we need to work through these issues in
24 quite some detail, and work out which of the costs are
25 efficient, what's driving those costs and therefore which
26 of them the government should be paying on behalf of the
27 broader community. And then we want to understand the
28 costs and which costs are related to irrigators and which
29 costs are related to other types of water use. Then also,
30 the affordability becomes a key issue and that we need to
31 think carefully about, where we can, how we manage the
32 price impacts.

33
34 MS LIVINGSTONE: Thanks, Deborah. I will go back to some
35 other questions and I know Melissa Balas, you've been
36 waiting quite patiently. Would you like to ask your
37 question now?

38
39 MS BALAS: Yes, sure. Can you hear me okay? Great. My
40 question was - and I guess it's a frustration for NRAR as
41 well - that we are being charged for NRAR's services when
42 they can't actually enforce the water sharing plan
43 conditions because of discrepancy between the licence
44 conditions and water sharing plan conditions. I am just
45 querying, given that there are those discrepancies in
46 place, that NRAR can't do their job properly because of
47 that problem. So, yes, I guess it's a frustration for NRAR

1 as well, but just wondering if we're paying for a service
2 they can't deliver on.

3
4 MR BARNES: With respect, I am not accepting the premise
5 of your question. I believe through our activities we are
6 demonstrating consistently that we are enforcing the law.
7 We do so through the provision of advice and guidance when
8 it is appropriate to do so. We also do it in the
9 applications sanctions, through directions, through
10 cautions, through PINs and in 25 instances through
11 prosecutions.

12
13 In saying that, though, I do in part acknowledge that
14 water law is complex and, in its complexity, it places a
15 challenge both to water users in having to understand their
16 obligations and comply with the law, but it also makes it
17 challenging for the regulator to monitor compliance, to
18 enforce compliance and, in instances where we prosecute, it
19 can be challenging in the sense of the costs incurred in
20 prosecutions. However, as I said before, those costs
21 themselves are not borne by water users, they're met
22 through the Attorney General.

23
24 In the final part of my answer I think I am again
25 acknowledging that water law is complex. We have an
26 important job, I believe, to provide our experience on-farm
27 back to our departmental colleagues and give them a sense
28 of what we see is working well and but also where water
29 users and irrigators are finding that is challenging. That
30 information feeds back into the water sharing planning
31 process so that those documents over time become more
32 effective than they already are.

33
34 MS LIVINGSTONE: Thanks, Grant. I should have mentioned
35 this earlier, but I know somebody has joined us by phone
36 since we started. Just to let you know, if you are on the
37 phone, you can let us know if you've got a question by just
38 pressing star and 9 on your phone and we'll come to you if
39 you have a question to ask. We do have plenty of time for
40 more questions, so keep them coming.

41
42 I know Zara has more questions about water planning
43 costs. Zara, if you would like to ask that now.

44
45 MS LOWIEN: Thank you. This question is probably to you,
46 Jim, in terms of the water planning costs but possibly also
47 the floodplain management planning costs that seem to have

1 increased.

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I noticed that in a submission you said "Business as usual for water sharing plans", so just focusing on five or 10-year reviews as required. But in the floodplain management plan up until July next year, the Commonwealth is covering those costs clearly outlined in the proposal. What is the department's justification for the additional costs going forward in that space and is there a work program that is yet to be communicated because all of the five northern basin plans would be rather quite current?

MR BENTLEY: Zara, I am not sure, just the last part of your question, you said "the five northern basins plans would be quite current"; what do you mean by that?

MS LOWIEN: In terms of this is the floodplain management planning proposals, so that is - let me just get the code - W0603. That is actually a plan development cost code and we are seeing the Commonwealth funding drop off and then a request for a significant increase in costs from current costing. What is the plan for the department to spend that? What are you planning to do with it, because are you rolling out floodplain management plans elsewhere? I would imagine that all of the northern ones which are funded by the Commonwealth would be finished and implemented by then plus licensing complete. I am just seeking some understanding of what the costs are for.

MR BENTLEY: Okay, thanks, Zara. It is the implementation of plans not the development of plans, so we don't get funded - we only got funding from the Commonwealth for that implementation. If you need more detail on what that means, I'll have to get you that, but that's the distinction. So we are funded to develop plans; we are not funded to implement the actions required by those plans.

MS LOWIEN: If we could get some more detail on that, I think that's important, because you're looking at six or so million dollars over four-year to implement plans that cost almost the same to develop.

MR BENTLEY: Amanda Chadwick is just going to add something.

MS CHADWICK: Zara, the only other thing I wanted to emphasise is that that activity code has a hundred per cent

1 government share. So these are the costs of the
2 implementation of the government management plans and all
3 the commitments that have been made in those plans. They
4 are costs that we propose to recover from government but,
5 through this process, the efficient level of expenditure
6 will be identified.

7
8 MS LOWIEN: Thank you, Amanda.

9
10 MS LIVINGSTONE: Thank you. Louise, you had a question
11 earlier about transparency of costs that we'll come to you
12 now. Would you like to ask that?

13
14 MR BURGE: Yes, thank you. I was just typing another
15 question there, but basically it's about the planning or
16 cost apportionment and the transparency around cost, both
17 in actual delivery of services, but also in the
18 implementation of government policy, whether that be
19 federal or New South Wales government policy, and whether
20 that relates to the Water Act 2007 and also the basin plan.
21 The question is that we've asked in many IPART hearings
22 for full transparency, particularly in 2016 on, and I am
23 asking the same question again. How do we get full
24 transparency on the policy-related costs and how are they
25 shown clearly and transparently within the pass-through
26 costs? That can be either New South Wales costs or indeed
27 MDBA costs.

28
29 Then I suppose the second part of it too, why it's so
30 important. We also are going to have a lot of project
31 expenditure in the SDL adjustment mechanism. At this
32 stage, one of the problems I see in many government
33 services is that we don't have a lot of stakeholder
34 collaboration in the design of government projects,
35 et cetera, and yet we have to pick up the costs.

36
37 So one is more generally about policy costs: how are
38 they transparently provided to us so we understand what are
39 real government user or government or user pays; and also
40 then any future costs coming out of the continued
41 implementation of government policy?

42
43 That also relates to how much money has government
44 received, where it has been expanded and what is coming -
45 you know, how all these things work out in terms of the
46 total costs applied?

1 MR BENTLEY: Thanks, Louise. I am going to throw it to
2 Amanda in a moment, but let me just say that, like you,
3 I support as much transparency as we can possibly achieve
4 around this.

5
6 I want to comment on the SDL (indistinct) projects.
7 They are Commonwealth funded, so they're not kind of a part
8 of this determination as such. Whatever work we do in the
9 department or in Water NSW to develop those SDL adjustment
10 projects is funded through Commonwealth. But on your
11 point about transparency, I am going to throw it to Amanda.

12
13 MS CHADWICK: Thank you. In relation to transparency,
14 through our submission, we have sought to be transparent
15 not only about the activities and the extent to which we
16 propose that users contribute to those activities. We have
17 also seen an increasing level of transparency compared to
18 the last price review about the other sources of funding
19 that come to water resource management, so you can see how
20 each of those components have come together.

21
22 If you read the first part of our submission, you can
23 see how those different sources of revenue have contributed
24 to services being provided so far and proposed to be
25 provided in the future.

26
27 Louise, I notice that your question online is in fact
28 also about the MDBA. Would you like me to address that
29 issue now?

30
31 MS BURGE: Yes, I am happy to, if --

32
33 MS CHADWICK: So we, like you, believe that there should
34 be increasing transparency in relation to the MDBA
35 activity, and that is linked to ensuring that all of those
36 activities are as efficient as they can be.

37
38 Since the last price review there has been an increase
39 in the level of transparency. There has been an
40 independent review - sorry, a commitment was made at the
41 Murray-Darling Basin Ministerial Council in 2019 that a big
42 component of that program would be subject to an
43 independent review and the results of that would be
44 published, and that has occurred.

45
46 In addition, there is ongoing work to ensure that
47 there is more transparency in the activities of the MDBA

1 and a commitment has been made for annual report cards and
2 evaluations to be published. So there has been an increase
3 in the level of transparency and through the ministerial
4 council and the basin officials group, we seek to increase
5 that level of transparency.

6
7 The other thing is in relation to ensuring that those
8 costs are efficient, and there are a couple of different
9 ways in which that occurs. All new activities as part of
10 that program are subject to cost benefit analysis, and this
11 is explained in one of the appendixes to our submission.
12 So a new program is subject to cost benefit analysis. It
13 is also subject to a programmed budget and performance
14 committee review, and it is also subject to each and every
15 single project being considered by basin officials.

16
17 We have sought to increase the level of transparency
18 as well as efficiency. It is in detail paper F, and we are
19 happy to take a call after this if there's anything I've
20 missed.

21
22 MS BURGE: Thank you.

23
24 MS LIVINGSTONE: We have noticed that the person logged in
25 as Stephanie Gowing has raised their hand. If you would
26 like to take yourself off mute now and ask that question.
27 Are you there? It might not be your own name that you're
28 logged in on but - no? Stephanie Gowing?

29
30 MS COPE: You're still on mute, speaking, but still on
31 mute.

32
33 MS LIVINGSTONE: Could you take yourself off mute? We
34 can't hear you at this point.

35
36 MR GOWING: Now can you hear me?

37
38 MS LIVINGSTONE: Perfect, thank you.

39
40 MR GOWING: It's David Gowing from the Peel Valley Water
41 Users Association, and we are questioning the 22 per cent
42 rise. We think that is unjustified in the current economic
43 climate. We, in our submission, have pointed out a whole
44 lot of IPART's other submissions, where this submission has
45 been nothing like that. If you want me to give the list of
46 them I can, but you've probably got them.

1 I also believe that there is a costing in there for a
2 return on capital works and as this is government funding,
3 I think that is probably highly unjustified. Basically my
4 question is: we don't believe that this 22 per cent is
5 justifiable and we would like to ask for any information on
6 this.

7
8 MS COPE: Do you want me to respond to that, Liz?

9
10 MS LIVINGSTONE: Go ahead, Deb.

11
12 MS COPE: So, yes, we have read your submission and the
13 list of other pricing decisions that we have made recently
14 that have been different. Our pricing decision is based
15 from the starting point that we're at the moment, which
16 is what has been proposed by the government, and we are now
17 looking at that. So the sorts of issues that you raise
18 about questioning whether the costs are efficient, those
19 are exactly the things that we are looking at now and
20 that's what this process is all about.

21
22 The other thing to say too is on rate of returns on
23 money that government has invested, if the government has
24 paid for the capital cost of something, we do not put it
25 into the asset base to get a rate of return on it. It's
26 only investment that's in the pricing. So things that
27 are - and I don't know if Matthew wants to make any comment
28 about that.

29
30 MR MANSELL: Sure. Thank you, Deborah. So basically,
31 we've got all the costs that go into setting prices and
32 they can involve some capital expenditure from the
33 business, from WAMC. If IPART determines that those
34 investments are efficient, we provide a return on capital
35 for those investments, like we would anyone else. There's
36 good reason for doing that in terms of making sure that
37 prices reflect the full efficient cost of providing the
38 service and are not effectively subsidised by the
39 government.

40
41 MR GOWING: That's what I am suggesting should not be
42 there. You might say it's an efficient cost, but it
43 increases costs for producers and other people. I would
44 suggest that if you push things, so that what you suggest
45 is the most efficient producer is the only one able to
46 purchase water then, in the long term, this probably is not
47 good for the country as a whole.

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You can get production of goods and then when they get overproduced, they collapse in a big way; whereas if you has general production of goods throughout the industry everyone would tend to be employed, and your most efficient user is not necessarily the person who is the best to the industry or the best for the locality.

MS LIVINGSTONE: Thanks for that comment, David.

MR BENTLEY: Liz, could I say something --

MS LIVINGSTONE: Sure.

MR BENTLEY: -- on that as well? We acknowledge that this is a significant price increase, and that is even with us proposing a cap of 5 per cent return. That is one of the reasons why we have withheld an additional \$9 million from these costs.

I think in terms of other determinations that IPART have made in recent times and the comparison with those - for example, Sydney Water, Hunter Water, and so on - they didn't have a significant rebasing of their activities between determinations, which is what we have had and we've talked about the reasons for that, basically which were related to - I think we talked about the Matthews report and so on.

So it was clear we had to rebase our activity. That has led to very significant price increases or cost increases, should I say. We, as in government, had statutory funding that changed during the last period, which is, we say, why NRAR's costs of compliance have been borne by government over the past two years. But the costs have increased significantly because of rebasing activity. Nevertheless, I - sorry, sir, I didn't catch your name. The screen is just saying Stephanie, but what was your --

MR GOWING: Stephanie is my daughter. It's David Gowing.

MR BENTLEY: Okay, David. I agree with your point. The government considered that. Of course, that is a significant increase.

There was an earlier comment made, I think it was from Deborah, or maybe from the IPART staff, about considering

1 whether we should phase in overtime a move to full cost
2 recovery or indeed a 5 per cent cap to be phasing in over
3 time because we don't get the full cost recovery during
4 this price determination.

5

6 I know where you're coming from, but also want to be
7 clear in terms of comparison with other determinations on
8 those other utilities, which I know very well have not been
9 rebasing their activities in the way that we have in the
10 last few years.

11

12 MR GOWING: Thank you.

13

14 MS LIVINGSTONE: Thanks, David. Thanks, Jim.

15

16 Christine Freak from the Irrigation Council has a
17 question about the impactor pays principle and the
18 environment in that mix. Christine, would you like to ask
19 your question.

20

21 MS FREAK: Yes, thanks, Liz. So just going back to the
22 cost share ratios and impactor principles that Zara raised
23 earlier, I fully agree that is important through the
24 process that we have a very robust discussion around
25 whether the impactor pays principle is still the
26 appropriate one moving forward.

27

28 But additionally to that, I also think it is important
29 that we have a discussion around what is the impactor of
30 present-day water management and infrastructure. I would
31 certainly argue that one of the main drivers or main
32 impactors at this present time is climate change and
33 increasing water scarcity in the system and the way that
34 government has a responsibility to need to provide more
35 secure water, particularly for towns and the environment in
36 that context, which is very much the public interest
37 outcome.

38

39 I guess I think it is important that there's a
40 discussion around how we can factor managing for climate
41 change into the impactor pays pricing framework and also
42 whether that may give ground to perhaps a broader question
43 around whether that framework is going to continue to be
44 suitable moving forward.

45

46 MS COPE: Thank you very much for that. I think there are
47 some really important questions that we need to work

1 through - the impactor climate variability and what that
2 means, and water security and what that means.

3
4 My question actually probably goes to Jim, and that is
5 what is the underlying reason for the current investment
6 that's occurring? Is it around trying secure water for
7 town water supply? Is it about trying to reduce the amount
8 of time that irrigators have very low allocations or no
9 allocations, or is it about trying to maintain
10 environmental water at a point in time when we are in
11 deepest drought, or is it a combination of all that?
12 What's the thinking at the moment?

13
14 MR BENTLEY: That's a big question, Deborah. The obvious
15 answer has to be that it's a combination of all of those
16 things - why are we doing the work that we are doing in
17 regional water strategies and in water sharing plans and
18 all of that? The Water Management Act makes it clear that
19 there are objectives that we have to meet and the things
20 that you mentioned, including cultural water, which is
21 probably not the right phrase for it, but I am speaking off
22 the top of my head. Hopefully people will understand what
23 I mean by that.

24
25 There are a number of priorities that we have to meet
26 under the Water Management Act in terms of how we manage
27 water. It is very difficult for me to say, therefore, this
28 is about town water or this or this is about water for
29 producers or this is about water for the environment. It
30 has to be about all of those things, and by no means are
31 all the costs of what we do in the department put into this
32 submission (indistinct).

33
34 So it's all of those things, and I don't think it's a
35 very easy exercise to say, "Well, that particular activity
36 wouldn't be there if you weren't looking at water for
37 irrigation, or this particular activity wouldn't be there
38 if it was about water for the environment." It is a
39 collection of all of those things.

40
41 MS COPE: In the past when we have looked at this, the
42 description that has come from the government from a policy
43 context has often been around, "This is about managing the
44 water because we've got consumptive use in these systems."
45 It sound to me that that reasoning - are you saying that
46 reasoning has shifted because we've got broader problems
47 that we're trying to deal with?

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MR BENTLEY: No. I was answering your question in a general sense about what we do in the water department, and by no means is all of that cost included in this submission. We try to be careful in terms of what we include in this submission as being related to those portions of those costs that are relevant to water users. That was a general answer to the question.

But clearly there are other things we do in the department which are not included in what we are seeking to recover through WAMC pricing, including, as I said, the fact that we've withheld \$9 million and (indistinct) from all that, all our costs are in terms of what we actually think. Are costs directly related to that activity? We are saying we should (indistinct) varying those portions. So we have been careful to try to include only those things which are relevant to the functions of WAMC (indistinct) to the service. I guess in the time remaining in this process, there will be an opportunity to consider those things in more details if you want.

MS COPE: I think, as expected, these are going to be issues that we will need to tease out in a bit of detail as we go through this process and --

MR BENTLEY: I think so, Deborah. I think my economists, who have sort of worked on the detail of the submission, of course, will be able to answer any detailed questions around that. I am giving you the more philosophical approach.

MS COPE: And we will feed all of that information into the draft report so that will give people another opportunity comment on where we come from. It's a little bit difficult at the moment to really understand the concepts people are raising. But we are at the very beginning of the process and we are trying to sift out all of the stuff.

So very much take the point; we will need to work through this as part of this review, and we will put the information into the draft report and allow people to comment on it again to make sure that we have really heard your views and have been able to take them into account.

MS LIVINGSTONE: Thank you --

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MR BENTLEY: Sorry. Perhaps I can just say, speaking on behalf of government, we very much appreciate the transparency of this process. We think it is really important that the questions are heard and that we explain our answers transparently and in as much detail as is required, so we look forward to this ongoing process over the next few months.

MS LIVINGSTONE: Thanks, Jim.

We have another question related to impactor pays from Michael from the Murray Regional Strategy Group. Michael, would you like to ask that now?

MR PISASALE: Thanks, Liz. Hi, everyone. Michael Pisasale from Murray Irrigation Limited.

I guess there's a theme around this morning and it's about that principle of what's fair and reasonable. From what I see water users, or the consumptive users, use about a third of the water that flows in. Especially coming from a regulated system down here in the Murray, we feel a lot of infrastructure now benefits the broader communities. There are enormous amounts of very valuable real estate all the way down the Murray - for example, recreation - but also the infrastructure is used for managing and regulating flows for environmental outcomes, especially important during a critical drought period that we have just been through. We do feel that there is no doubt there is a broader community benefit from a regulated system. We tend to use about a third of the water, but we see that we pay about 62 per cent of the overall charges.

I noted some interesting comments earlier. I think Grant talked earlier about where irrigators, I think, contributed about 20 to 30 per cent of the costs to set things up. I guess to me, it just seems to be aligning to more of a beneficiary pays system where perhaps a consideration is if we use 30 per cent of the water, we might contribute 30 per cent of cost instead of 62 per cent.

Just a note in relation to the Murray Valley, if, for example, there is a 5 per cent increase of fixed fees on water entitlements, the yield of our water entitlements up to 2000 was about 74 per cent. In the last 20 years, it

1 has been closer to about 50 per cent.

2
3 In real terms, against the actual water itself -
4 that's the bit that we need to irrigate to try to grow
5 crops and food and fibre out of - it is more likely closer
6 to a 7.5 increase against actual long-term water yield.

7
8 I guess to me what seems right and fair is that
9 consumers use about 30 per cent of the efficient and
10 relevant services, and I guess just more of a query or
11 question for Jim, Grant or Andrew about do you have any
12 comments or overall views about those cost share
13 principles?

14
15 MR BENTLEY: Thank you, Michael. I am going to throw that
16 to Amanda and she can answer it.

17
18 MS CHADWICK: Michael, I guess I'd start with that we have
19 put forward a submission that sought to be as transparent
20 as possible to users by not changing any of the underlying
21 methodology of cost shares and the basic principles of
22 impactor pays.

23
24 Impactor pays starts from the premise that without a
25 consumptive use of water, the nature of the water resource
26 management activity would be completely different. But it
27 also acknowledges that there are activities that can be
28 assigned to that impact and there are activities that have
29 broader sets of consequences and should then be paid for by
30 the taxpayer.

31
32 I think the conversation this morning has been a bit
33 limited to kind of a binary of impactor pays or beneficiary
34 pays. If you look back at how we've thought about these
35 principles over time, there are two other things that ought
36 to join this conversation, and they're about the legacy
37 costs and the changing costs of doing business.

38
39 There are times where that impactor pays principle has
40 had costs assigned to taxpayers, where a decision was made
41 in the past that users should not contribute to. Maybe
42 what we need to do is deepen this conversation so we can
43 bring all of the perspectives in to think about whether or
44 not this is just the changing costs of doing business in
45 water resource management and, to take Christine's point,
46 that climate change is a real imperative, and that's one of
47 the things that the regional water strategies are shedding

1 information on; or whether or not some of the things that
2 are happening now reflect that the past was not adequate
3 and that we are lifting performance in response to
4 expectations.
5

6 In either case, what impactor pays tries to do is to
7 say that, through that consumptive use, the holders of this
8 entitlement should share.
9

10 Michael, I suspect that one of your underpinning
11 questions is in relation to water that has transferred
12 through to environmental water holders, and I assure you
13 that they too pay WAMC charges. Thank you.
14

15 MS LIVINGSTONE: Thanks, Amanda, I might ask Matt Mansell
16 from the IPART secretariat to make a comment on this as
17 well. Matt?
18

19 MR MANSELL: Thank you, Liz. In response to Michael's
20 comment about the various other water users or people that
21 are, potentially benefiting from the availability of water
22 throughout New South Wales, in 2018, we did a very
23 comprehensive review of our cost sharing framework between
24 both WAMC and Water NSW.
25

26 We looked through each of those activities and
27 carefully tried to identify which group was driving the
28 need for those activities to be undertaken. We weren't
29 looking at, for example, a beneficiary pays type framework
30 of looking at who benefits from the fact that water is
31 there. We were really looking at what costs had been
32 incurred by WAMC and Water NSW and who's driving the need
33 for those costs to be incurred?
34

35 We looked at everything that we could, including
36 recreational users. So some of the costs that are incurred
37 by Water NSW, for example, are directly related to the fact
38 that there are recreational users on these waterways.
39 Clearly we want to exclude that and make sure that water
40 licence holders are not paying those costs.
41

42 Similarly there are costs associated with flood
43 management activities that exist beyond - they're not
44 created by the licence holders; they're created by the fact
45 that there is a community living under a dam, for example.
46 We're trying to look at who is driving the need for these
47 costs to be incurred and, therefore, who should pay for

1 them.

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Of course, if the situation has changed from 2018 when we looked at that and the proportion of who's driving each of those activities has changed, we are very open to hearing that, but we really need to link it closely to what costs have been incurred, what efficient costs have been incurred, and who is responsible for those costs being incurred fundamentally.

MS LIVINGSTONE: Thank you very much, Matt. There will be opportunities throughout the rest of this review to offer up your views and evidence around that.

Deb, I know, has a question about regulatory activity. Deborah, would you like to ask that?

MS COPE: And the comment first that there has been some chat in the box about this is a really important issue, people are really interested in it. I think the comment was that a whole lot of detail embedded in an attachment is not the easiest way for people to get their head around where we get to.

We will give some consideration around what's the best way we can communicate back to you when we get to the draft report stage to let people know where we get to on this issue and why - the reasons for that - so that we make sure that we can be as transparent as possible.

Earlier on there was a lot of discussion about the increase in the regulatory activities and the level of non-compliance currently. I got a feeling that people were saying that both from the regulator's point of view and probably the industry's point of view that they didn't think that that level of compliance was what should occur and that something that is better than that going forward is what we are aiming for.

So my question is: does NRAR or the department think that once compliance is built to the stage that you would expect it to be long term in this sector that that could affect the costs long term? Have we got a blip in the costs at the moment as a result of dealing with historic non-compliance or do you think this is business as usual going forward?

1 MR BARNES: I think most of those costs you will see as a
2 consequence of the low levels of non-compliance that
3 existed prior to our formation, and now through re-engaging
4 with boots on the ground and deploying compliance staff
5 throughout the state, that comes with costs.

6
7 Some of those costs are also incurred by the large
8 volume of calls, of reports that we get from the public,
9 which in part is explained, I think, by the prominence now
10 compliance has in the public domain and also the confidence
11 that water users and the public in general can take that,
12 when they make a call, there is a compliance agency at the
13 other end that will take the call seriously, that will
14 triage the call, and that will deploy an investigator to go
15 out on site and to conduct an investigation.

16
17 Across the price path what we have incorporated is a
18 greater use of intelligence, a greater use of technology of
19 greater reliance on satellite imagery, so that when we are
20 deployed in the future, we're going into areas where we
21 have a greater understanding of the likelihood of
22 non-compliance as a means of being more efficient, more
23 targeted more intelligence led.

24
25 The net result of that is our projections are that we
26 will drive voluntary compliance rates up. We are at a very
27 low baseline at the moment, but we expect through our
28 prudent and efficient activities that voluntary compliance
29 will go up and the need for us to take extensive punitive
30 sanctions will go down.

31
32 I think that this will be a very different
33 proposition. At the next determination period, you'll see
34 a regulator more mature. You'll see a regulator that's
35 using greater use of technology in a more efficient and
36 effective way, and you'll see the regulated community with
37 higher rates of voluntary compliance because of the
38 interventions taken during this portion of the price path.

39
40 MS LIVINGSTONE: Thanks very much for that, Grant.

41
42 We do have a question about the MDBA from Jenny
43 McLeod. And we've also noticed that Angus Paton from the
44 MDBA is here and has his hand raised. We'll go to Jenny's
45 question first and then, Angus, you might have comments on
46 that particular question, or could make the comment that
47 you've had your hand raised for regardless. But, Jenny, if

1 we go to you first, would you like to ask your question?

2

3 MS McLEOD: Thank you, Liz. My question has two parts,
4 and potentially some of my question does relate to the
5 Water NSW component of the MDBA. The first part of the
6 question is Andrew Reynolds is on record as saying that
7 River Murray water costs have not increased and it is
8 actually a decision of the New South Wales government to
9 recover a greater proportion of those costs from water
10 users driving the increase in MDBA charges. So that's the
11 first component.

12

13 The second component is what criteria are being used
14 to determine how much of the WAMC MDBA charges are
15 collected from the Murrumbidgee Valley versus the Murray
16 Valley?

17

18 MS LIVINGSTONE: Thanks, Jenny. We might go to
19 Andrew George first actually on that one.

20

21 MR BENTLEY: Perhaps we will start with Amanda on the
22 general question.

23

24 MS LIVINGSTONE: Okay

25

26 MS CHADWICK: So, Jenny, as I think you'd know, we've
27 touched on already how the total - that is, the New South
28 Wales contribution - to the MDBA is subject to transparent
29 review of business plans and some new activities through
30 this last determination period to try to drive that as the
31 perspective of the state in terms of efficiency.

32

33 After that, what happens is that we look at those four
34 business programs from the MDBA and we characterise those
35 activities as either river operations or non-river
36 operations. The non-river operations are the ones that are
37 recovered through the WAMC prices. Those are things like
38 the Living Murray program, environmental monitoring, basin
39 salinity management, water resource management, aerological
40 water market and Indigenous engagement.

41

42 The other activities are regarding the river
43 management. So those river management costs then go
44 forward into the bulk water price determination and the
45 non-river management programs go forward into WAMC and then
46 are subject to review.

47

1 This time round, because both prices are being seen
2 together, you actually get to see the total and so it's a
3 good time ask questions about whether or not that
4 methodology is going to withstand the test of time. What
5 we have done is do what we have done last time - look
6 forward to the business plan, identify the activities that
7 are river management and identify the activities that are
8 non-river management. The difference this time is it has
9 not actioned an increase in the MDBA contributions by the
10 state because that has been now relatively static; the
11 difference is that there is more river management
12 activities in that water business program.

13
14 MR GEORGE: The only thing I'd add to that is the Water NSW
15 (indistinct) costs are to be passed through are to be found
16 in our submission (indistinct).

17
18 MS LIVINGSTONE: Thanks, Andrew.

19
20 Angus, we may come to you now because I know you've
21 had your hand raised for a while. It may well be a
22 different issue you want to cover but would you like to
23 speak now?

24
25 MR PATON: Thanks, Liz. I just wanted to touch on what
26 Amanda said earlier about transparency in response to
27 Louise's question. Certainly the MDBA is cooperating with
28 IPART and providing them with a lot of information about
29 historical budgets and actual costs and future budgets, so
30 fully transparent from that point of view.

31
32 Just talking about the MDBA costs remaining fairly
33 level, as Amanda said there was a cost review done early in
34 or towards the end of 2019. Those were done by independent
35 consultants and they found that MDBA costs were reasonable
36 and relatively static.

37
38 MS LIVINGSTONE: Thank you very much, Angus. Mary Ewing,
39 I know you've been waiting for a while too. Would you like
40 to ask your question?

41
42 MS EWING: Yes, thanks, Liz. This question is to all
43 three: given the increased costs in these submissions, why
44 didn't you try and discuss with it water users,
45 particularly around the programs that were included and
46 some of the levels of service and the costs involved?
47 I assume that you actually did most of your submission

1 prior to the COVID-19 restrictions coming in place.

2
3 MR BENTLEY: Thanks, Mary. I'll speak on behalf of sort
4 of DPIE Water, as it were. You are right that we didn't
5 engage directly on willingness to pay for these increased
6 services. We based our submission on the engagement we had
7 previously done and the feedback we had previously received
8 about aspirations towards better services, shall we say.

9
10 Whether they're acceptable to everyone or not, the
11 reasons are - you're right it was prior to COVID - it was
12 during drought and during a period of a lot of consultation
13 taking place from the department on a lot of things
14 including regional water strategies, water sharing plans,
15 water resource plans and so on. The judgment we took was
16 that another round of consultation was not warranted.

17
18 I accept the comment as well. I have nothing I can
19 push-back with that. Some think we should have been
20 more specific on the engagement, which is about "Would you
21 be prepared to pay extra for that and how much would you be
22 prepared to pay?" All I can do is explain that's why we
23 arrived at the position that we are in and if that's not
24 considered to be appropriate, I apologise.

25
26 Grant, have you got anything on the NRAR situation?

27
28 MR BARNES: Firstly, with consultation that we participated on, the
29 purpose we sought was to discuss with water users the types
30 of services that NRAR was proposing to deliver and obtain
31 water users' perspectives as to the value of those
32 services. The intention was then to follow up subsequently
33 with them the costs of delivery in doing so, and COVID,
34 while it wasn't an excuse, was a reason why, I think, we
35 weren't able to follow up in the manner that we had
36 originally intended. I note that many of the submissions
37 make reference to consultation and I think that's something
38 that NRAR is taking on board.

39
40 MR GEORGE: I support those statements certainly. We did
41 discuss with our CAGs in one of those CAG rounds the
42 broader approach to cost recovery, which I (indistinct)
43 broader support, but recognising that we weren't in a
44 position to have the detailed conversations, which all
45 three agencies should have done, of the total picture,
46 which was not to be. So I think that, you know, the
47 ability to engage was not achieved.

1
2 MR BENTLEY: The other thing I would say is that the cost
3 of standing up the additional services to be put in place
4 was being borne by government anyway. The nature of
5 consultation, I think would not have been about should we
6 do these things; it would perhaps be more about allowing
7 people to transparently see before now, and you can
8 transparently see now, what the cost of those things, the
9 increase in the cost of these things, has been and is
10 forecast to be.

11
12 Back in my days, where I was working for the water
13 utility, we were sometimes in a position where we could
14 engage with our customers. One example would be, for
15 example, when I was with Hunter Water, we engaged with our
16 customers around: would you be prepared to pay extra to
17 make the stormwater channels that run through central
18 Newcastle more attractive and more in keeping with the sort
19 of liveability standards that we're trying to achieve?
20 That was the kind of direct thing, but if you're not
21 prepared to pay extra, we won't do it; if you are prepared
22 to pay extra, we will do it.

23
24 It wasn't the situation we were in here, in that given
25 the reports we received - the Matthews report and all the
26 other things that we talked about before - we had already
27 had to stand up those services. So it wasn't about getting
28 cost-related information from customers or water users to
29 advise us as to whether we should change or increase the
30 service.

31
32 That doesn't mean we couldn't have been more explicit,
33 more transparent before we put in our submission to IPART
34 about the impact those changes we have already instigated
35 is making to water charges or proposed water charges.
36 We could have done that. Ultimately that would have been
37 the better thing to do. It doesn't actually alter the fact
38 that we already had to stand those things up.
39 Substantially it goes to the Treasury thus far.

40
41 I don't wish that comment to sound like explaining
42 away something that I think we should have done. I am just
43 saying it is not exactly the same situation as should we
44 increase our services as that kind of choice thing that we
45 could have done.

46
47 MS LIVINGSTONE: Thanks, Jim. I think one of our tribunal

1 members Sandra Gamble, has a question for you on that as
2 well. Sandra, would you like to ask that?

3
4 MS GAMBLE: Yes, thank you very much, Liz. Jim, just a
5 simple question. From what you're saying, all of the
6 expenditure that you propose for cost recovery, is that all
7 non-discretionary expenditure. Is there any discretionary
8 expenditure included in that?

9
10 MR BENTLEY: I can't think of anything discretionary in
11 that. If we look at what the government was criticised for
12 a few years ago, it's those things we have responded to.
13 Things like not having had the necessary reviews on the
14 water sharing plans, not having in place the strategies
15 that we needed to, and not having sufficient compliance
16 activity take place, all of those things are the things
17 that have driven the increasing costs back up over the last
18 few years. I can't think of any of those things going
19 forward which are discretionary.

20
21 Certainly there's a question: are we sufficiently
22 efficient, which again is why I kept \$9 million a year out
23 of the cost, not because I don't think we are efficient.
24 I just think we should err on the side of giving us too big
25 a challenge in that regard, rather than too small a
26 challenge.

27
28 MS GAMBLE: I guess what I am trying to ascertain is
29 whether, if there is discretionary expenditure, that's
30 discretionary around the scope or discretionary around the
31 timing. Are there things this year that could have been
32 done next year, that type of thing? I think that goes to
33 the question that our stakeholder raised in relation to
34 consultation. That becomes more of an issue when there is
35 an element of discretion about when things are done.

36
37 MR BENTLEY: I think that is a very fair question. My
38 response would be that we are playing catch-up from where
39 we should have been before 2016-2017. I really don't think
40 we had discretion to push things back to enable further
41 consultation. We have been playing catch-up, in reality,
42 because we should have things in place but we didn't. That
43 was a finding in those reports, it is not exactly breaking
44 news.

45
46 But the pleasing thing, I think, is that we have got
47 the water sharing plan in place. We have got the water

1 resources plan with the MDBA as required as part of the
2 Murray-Darling Basin arrangement. We have got six water
3 regional strategies on public exhibition. We have got NRAR
4 established and doing the good work that it is doing, and
5 so on, plus the drought and what have you.

6
7 The volume of activity and the pace at which we have
8 been working for the last couple of years, I think has been
9 really quite significant; yet we still have things that we
10 are trying to finish off or are trying to get in place so
11 that we can move into implementation. So I generally don't
12 believe we had discretions about getting everything done that
13 we can.

14
15 MS GAMBLE: Thanks for your answer.

16
17 MS LIVINGSTONE: Thank you. I am quite conscious that we
18 are getting very close to our scheduled end time. We can
19 extend the session for a few minutes. I know that people
20 probably have obligations after 12.15, but we will try and
21 get to a handful of questions before we close.

22
23 Chris Magner from the Richmond and Wilson Combined
24 Water Users Association had a question on cost sharing
25 between valleys. Chris, would you like to ask that? Given
26 the time it would be great if we could keep concise, both
27 the question and the answer, thank you.

28
29 MR MAGNER: I'll try. The issues seem to sit around that
30 we are the highest priced water in the state, and it always
31 has been. From years and years of trying to work this out
32 as to why we are, there are two components I see that are
33 putting us out of kilter with everybody else, and it's the
34 formula that you use to come up with that. One is the
35 amount of river gauges that we have here compared to
36 everywhere else in the state. We believe that most of
37 those are dual-purpose gauges that can be used for not just
38 irrigation but for monitoring floods and all those sorts of
39 things, which we have more of rather than droughts.

40
41 The other one is the fact that we've got a lot of
42 small licences. The ratio that is used in your formula
43 between number of megalitres and number of licences seems
44 to throw us out of kilter with everybody else. We really
45 are concerned that this issue is pushing the price of our
46 water way above everybody else and we were wondering
47 whether there is a methodology of how to rectify this,

1 given also that most of those small licences are paying the
2 minimum charge anyhow, which is again pushing us even
3 further higher.
4

5 MS COPE: I was wondering whether one of the team has any
6 response to that.
7

8 MR BENTLEY: Off the top of my head, Deborah, I don't have
9 the details at hand for each valley and how the cost of
10 water is done. I would be very happy to provide a written
11 reply to the questioner and also to IPART.
12

13 MS LIVINGSTONE: Thanks Jim. I think in the interests of
14 time, we might take you up on that. The IPART team might
15 also be able to help with the answer to that question,
16 Chris, so we will get back to you after the session.
17

18 We're proposing, if it suits people, to have our lunch
19 break at 12.30. Does that suit people, because I know we
20 do have a handful of questions to get through? But I am
21 also conscious some might need to leave, but it doesn't
22 look like DPIE, NRAR or Water NSW are shaking their heads,
23 so we will definitely cut off by 12.30.
24

25 MR BENTLEY: It would be ungracious of us to say no.
26

27 MS LIVINGSTONE: Thank you. Jane had a question on how
28 the compliance allowance was spent over the 2017 period,
29 Jane, would you like to ask that?
30

31 MS MacALLISTER: I am just referring back to Ombudsman
32 reports and, in particular, the "Correcting the record"
33 report, which showed finally the actual amount of
34 compliance, or lack thereof, by Water NSW, whether any of
35 the profit from those years or any of the government
36 funding paid towards compliance has been passed on or
37 whether it has just been accepted as profit for no real
38 outcome?
39

40 MS COPE: When we set the amount that we allocate each
41 time for these types of costs, we do do the efficiency
42 assessment, and we look at whether the money has been
43 spent. I think, the team could correct me if I'm wrong,
44 one of the reasons why there was a low allocation, perhaps
45 significantly lower than what has actually been spent in
46 the last four years, is because our report questioned
47 whether the money had been spent in the past and,

1 therefore, was basing it on the past actual expenditure not
2 what was being proposed at the time. So we do look at
3 those issues, but I don't know if (audio cuts out).

4
5 MR BENTLEY: I might just add, Deborah, that very
6 significant additional settings that were made on
7 compliance in the last two years would have more than
8 dwarfed anything that we may have previously received for
9 compliance, if indeed it wasn't breached.

10
11 I don't have that data to hand, but what I do know is
12 the data that Grant shared with us earlier about the
13 contribution of the (indistinct) was \$4.5 million a year in
14 each of the last two years, which is that --

15
16 MR BARNES: 32 in total.

17
18 MR BENTLEY: 32 in total. So \$9 million was allowed for
19 in our last price determination for those two years and
20 \$32 million was spent. So the government has - even if
21 there was a problem and I am not saying there is, I don't
22 have any of that data to hand, it was more than made up for
23 by the government spending that money in the last two
24 years.

25
26 MS LIVINGSTONE: Jenny has perhaps a related question on
27 efficiencies that was expected to be achieved. Jenny, do
28 you want to talk to that?

29
30 MS McLEOD: Yes, just briefly, and at the risk of looking
31 backwards, the question is for Andrew. About the
32 assumptions, what went wrong with the assumptions for the
33 transfer of functions from DPIE and its predecessor to
34 Water NSW? What went wrong? Why were they so far out and
35 what lessons have we learned that will be useful going
36 forward to ensure that we've got efficient service
37 delivery?

38
39 MR GEORGE: Thanks, Jenny, and sorry I can't talk to the
40 detail about what might have happened back in 2016 at the
41 time of the transfer and the detail there, other than to
42 say that it was quite obvious that we were significantly
43 underfunded in trying to take over those functions, and it
44 was a huge amount of work to not only streamline those
45 functions but to look forward to how we might undertake
46 those functions in the future in a more efficient way.

1 In terms of lessons learnt, I think we are taking a
2 very-forward looking approach rather than going a long way
3 back necessarily in the past, recognising that we were
4 transferring functions from a department with a very
5 different business model and a corporation as well. So our
6 philosophy was very much about forward, and making sure our
7 forward costs are prudent and efficient.
8

9 MR BENTLEY: In addition to that, if I may, we are, as
10 I said before, looking at some of those functions that were
11 transferred. There are some functions in the licensing
12 approval world that DPIE, NRAR and Water NSW all play a role
13 in, and how those things can be streamlined and improved
14 and made more efficient going forward, and those are the
15 reasons why we have withheld such a large chunk of costs of
16 (indistinct) in the pricing submissions.
17

18 MR BARNES: And, Jenny, the results of the Ken Matthews
19 inquiry and the most recent one conducted by the NSW
20 Ombudsman led to the conclusions and subsequent
21 recommendations. They pertained to compliance and
22 enforcement and were accepted in full by the New South
23 Wales government, and the obligations that that created
24 rested with NRAR.
25

26 At this stage, two and a half years in, I can report
27 that those recommendations have either been completed or
28 now incorporated into business as usual operations and
29 we've reported those actions through to the Ombudsman and
30 also through to the Independent Commission against
31 Corruption.
32

33 MS LIVINGSTONE: Thanks, Grant. Douglas McCloskey from
34 PIAC has had his hand up for a while. Doug, would you like
35 to ask your question?
36

37 MR McCLOSKEY: It's more of a comment, I suppose, a little
38 bit than a question and it goes back to the engagement and
39 consultation issue, because I think it actually is a
40 fundamental one.
41

42 Listening in to a lot of the other issues that have
43 been raised today, it does occur to us that a lot of them
44 do flow from a lack of really clearly linked engagement
45 between what has been proposed and some of the principles
46 and what decisions are made.
47

1 That goes to things that we've been discussing around
2 impactor versus beneficiary pays, and who are beneficiaries
3 and how those things are regarded. It goes to cost
4 sharing. It goes to what activities are for broader
5 community benefit and what are for specific water user
6 benefits. There is a whole range of these issues which
7 I think really come back to, with due respect, a lack of
8 sufficient engagement that is clearly linked to the
9 decisions and the purposes that have been proposed in
10 processes like these price proposals.

11
12 I think that the example that you raised, Jim, around
13 relying on previous consultation processes around
14 aspirations and community wishes, is probably emblematic of
15 an issue that we have with a lot of engagement that has
16 been undertaken to date, that really is not clearly linked
17 to the purpose. It really is not acceptable to use other
18 processes to infer decisions or infer preferences from the
19 community and users, and it is really important that when
20 people are being engaged with it that they are very clear
21 about what is the purpose of the engagement and what the
22 outcome is going to be and how the preferences and opinions
23 that they raise are reflected in the decisions that are
24 made.

25
26 That is something that I think we can see through
27 these processes has really, not necessarily for a lack of
28 intent, been lacking. I think some of the potentially
29 problematic discussions that we are having today around
30 some of those principles are really a reflection of the
31 fact that people don't feel that they have had an
32 opportunity to engage with those topics previously. That
33 is something that we have focused on in our submission and
34 we probably will throughout the process.

35
36 MR BENTLEY: I might just quickly - sorry, Deborah, were
37 you going to say something?

38
39 MS COPE: I was just going to say that we probably won't
40 have time this morning, but it will still be relevant this
41 afternoon. I'd like to have a conversation with people
42 about what do they want engagement to look and feel like
43 going forward? So what are people's expectations there?
44 We won't be able to settle it today, but getting a feel for
45 how people would like engagement to work would be useful.

46
47 MR BENTLEY: I think that is a very good idea, Deborah,

1 and a good point. Let me say in general, I agree
2 wholeheartedly that our engagement has not been good enough
3 and we are taking steps to improve that. But let me say on
4 the specifics of this thing, we considered, rightly or
5 wrongly when we made the judgment call, that given that
6 IPART had just done the review around most of the things
7 that we're talking about today, actually, probably the
8 biggest topic of conversation has been about should it be
9 the beneficiary, should it be the impactor who pays? We
10 considered that, given that a review had been done on that
11 and IPART had arrived at a conclusion, it would be wrong to
12 now go out to the water users and re-engage on that topic
13 so soon after we had that ruling.
14

15 We may be right or we may be wrong in that judgment
16 but that is the judgment we made and that is why we didn't
17 want to engage with people on something that was
18 (indistinct).
19

20 The other thing I would say is that this is a very
21 open and transparent process, and even if we didn't engage
22 sufficiently on what we put into our proposal, our proposal
23 is laid bare for water users to now have their say on that.
24 We already had to implement those changes, prior to
25 consulting, or what to include in our pricing submission. So
26 some of that engagement would have been taking time up on
27 things that we couldn't actually influence as a result of
28 that impact. But I would accept the general comment and
29 put my hand up and say this is something we can improve,
30 but that's just how this (indistinct; distorted audio).
31

32 MS COPE: We are very much at the beginning of what we are
33 doing here, but we are going to need to work through, given
34 the step change in cost, how those two things mesh together
35 and whether the world is actually different from the one
36 when we were making the decisions in the past. Now, it is
37 your price proposal.
38

39 MS LIVINGSTONE: Thanks, Deb. We're just going to take
40 one more question. Sorry?
41

42 MR BENTLEY: Could you just explain that last phrase, "It
43 is your price proposal"; what are you saying there?
44

45 MS COPE: Well, fundamentally what we have been talking
46 with businesses and people we regulate in the past in quite
47 some detail is that we don't own price proposals; people

1 own their prices. We set an envelope of funding which you
2 then conduct your activities under and propose your prices,
3 not our prices. So for us it's actually quite an important
4 principle that they should be your prices you're putting to
5 us, not our prices.

6
7 MR BENTLEY: I one hundred per cent agree with that. I
8 was just explaining, and I think colleagues from IPART will
9 know from how I work that I one hundred per cent agree with
10 that. That's a really strong principle, and that's also
11 why the department significantly overspent since the last
12 pricing determination and we didn't say IPART had not
13 allowed it, that would be wrong. We had to put those
14 things in place, so we got the money from government to do
15 so.

16
17 But I think it is important that I respond to Douglas
18 about why we didn't consult specifically on that particular
19 topic, because you had already done a piece of work around
20 that. But here we are now in consultation. This is
21 consultation and engagement, and I think this is a very
22 open and transparent process where we can talk about that.

23
24 MS LIVINGSTONE: Thank you. I think we will need to end
25 it there. We do have a record of all the questions and
26 comments people have made and our team will get back to
27 those people who have not been able to ask their question
28 or make their comments directly.

29
30 Thank you all for your participation. I'll just hand
31 over to Deb now to close this morning's session.

32
33 CLOSING REMARKS

34
35 MS COPE: Sorry about that; I am just trying to get my
36 system.

37
38 On behalf of IPART, I would really like to thank you
39 all very much for participating in today's session. We
40 will be back this afternoon as well. It has been of great
41 benefit to us to hear your views and we do really
42 appreciate the openness and the effort and the contribution
43 that everybody has made here today.

44
45 We will consider everything that has been said when we
46 are developing up our draft recommendations. As I said,
47 there will be a draft report coming out and then further

1 consultation on that will feed into the decisions for
2 prices from 1 July 2021.

3
4 If you would like to talk to somebody about IPART, if
5 you didn't get a chance to make a comment or you think of
6 something and also you have a question, you're very welcome
7 to contact one of our team members. Contact details are on
8 our website or in the inside of the front cover of the
9 issues paper. So we will now take a lunch break and we
10 will start session B at 1pm. Thank you very much.

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12 LUNCHEON ADJOURNMENT
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1 SESSION B - Water NSW's prices for rural bulk water

2
3 MS LIVINGSTONE: Okay, everybody, let's make a start on
4 session B for this afternoon, which is the public hearing
5 on Water NSW's prices for rural bulk water.

6
7 For anyone who wasn't with this morning and has
8 just joined us for this session, welcome. My name is Liz
9 Livingstone and I am the CEO of the Independent Pricing and
10 Regulatory Tribunal.

11
12 I am going to go through some housekeeping, so
13 apologies for those who heard it this morning, but just so
14 we are all on the same page, it would be great if, during
15 this afternoon's session, you could keep your microphone
16 muted when you are not speaking. That helps us avoid
17 feedback and background noise. But we would love to see
18 you, it helps us better connect. So if your internet
19 connection is up to it and you are comfortable with it
20 please keep your camera on.

21
22 We are recording live to YouTube today, so that we've
23 got an accurate record of the hearing, but it won't be made
24 publicly available until after today. We also have a
25 transcriber, who is recording the session, and we will
26 place a copy of the transcript as well as a link to the
27 YouTube recording on our website in a few days.

28
29 We do have a couple of people who have joined us by
30 phone and I wonder if they could speak now just to identify
31 themselves so that it's easier for us to include you in the
32 conversation. If anyone's on the phone, could you let us
33 know now?

34
35 We haven't heard you yet, but if you do want to speak
36 at any time during the session, press star 9 on your phone
37 and we will be able to tell that somebody on the phone
38 would like to speak.

39
40 I'll just give you a brief overview of the agenda for
41 this afternoon's session. We are going to start from some
42 opening remarks from IPART's Acting Chair, Deborah Cope.
43 We'll invite Water NSW to give a short presentation on some
44 key points and elements of their pricing proposal.

45
46 Following that, we will have a shortish Q&A
47 discussion, which is open to everyone to ask questions or

1 provide comments on Water NSW's pricing proposal, and then
2 the IPART secretariat will give a short presentation on the
3 key issues and the themes that we've identified for this
4 review. After that presentation, we will then have a
5 longer Q&A session open to everybody. We have allowed
6 about an hour and a half, so we hope that gives you plenty
7 of time ask your question or make comments.
8

9 Everyone is encouraged to participate in the session.
10 You can use the chat box function in Zoom to let us know
11 that you'd like to speak or use the "raise your hand"
12 function and we'll keep an eye out for that.
13

14 I'll now hand over to Deborah Cope, IPART's Acting
15 Chair.
16

17 OPENING REMARKS 18

19 MS COPE: Thank you very much, Liz. As Liz said, my name
20 is Deborah Cope. I'm the Acting Chair of the Independent
21 Pricing and Regulatory Tribunal. For those who have just
22 joined us this afternoon, with me are my fellow tribunal
23 members Sandra Gamble and Mike Smart. We are assisted by
24 the secretariat staff, Matthew Edgerton, Matthew Mansell
25 and members of the pricing review team.
26

27 IPART acknowledges the traditional owners of the lands
28 on which we meet and the traditional owners of the lands
29 and waters from which we are all dialling in to this
30 videoconference today. We pay our respects to the elders
31 past and present, and we acknowledge the ongoing connection
32 that Aboriginal people have to the land and recognise
33 Aboriginal people as its original custodians. We would
34 also like to acknowledge any Aboriginal Torres Strait
35 Islander people who are here today.
36

37 I'd like to open by saying how very much we welcome
38 and value the input of everybody to our review process and
39 we appreciate your time and expertise in participating in
40 the review and hearing today.
41

42 The public hearing is a very important part of our
43 consultation process and we will consider the views of
44 people when we are putting together our prices for
45 Water NSW's rural bulk water services.
46

47 In general terms, similar to what we were discussing

1 this morning, the key issues for us are going to be around:

2
3 What are Water NSW's efficient costs;
4 How should these efficient costs be shared between
5 customers and the New South Wales government on behalf of
6 the community; and

7 How should customers' share of the efficient costs be
8 recovered through prices?

9
10 We will be seeking your views on these prices and I'll
11 now hand back to Liz to start session B.

12
13 MS LIVINGSTONE: Thanks very much, Deborah.

14
15 Before I ask Andrew George from Water NSW to present,
16 I wanted to provide an update first on the consultation
17 that many of you participated in on the length of the
18 determination period.

19
20 Thank you for your input. The tribunal has considered
21 your submissions and decided to set a four-year
22 determination period, so that would run from 1 July 2021 to
23 30 June 2025 for Water NSW's rural bulk water prices.

24
25 The tribunal considered all your submissions and the
26 circumstances that Water NSW is facing and decided, on
27 balance, that a determination period of four years was
28 likely to deliver the best outcomes for stakeholders,

29
30 I wanted to share that because I think that's
31 important context for what we discuss today that that
32 decision has now been made.

33
34 Also just to remind you that if you have any questions
35 or comments during Andrew's presentation, please use the
36 chat box or use the "raise hand" function in Zoom to let
37 us know that you'd like to speak and we will come to you
38 after the presentation has finished.

39
40 When you type in the chat box, let us know your name
41 and the organisation that you're from. You don't have to
42 put your question in full, but we will come to you so that
43 you can ask it in person.

44
45 I just remind everyone that this is a public hearing,
46 so everyone including the media is free to report what is
47 said here today. With that said, we really want to hear

1 you thoughts and hope you'll all participate in the
2 discussion. I'll hand over to Andrew now. Thanks, Andrew.

3
4 WATER NSW PRESENTATION

5
6 MR GEORGE: Thanks very much, Liz, and good afternoon,
7 everybody. Andrew George sitting here on your left as you
8 view on your screen. I am joined here by our chief
9 financial officer, Joe Pizzinga, and some of our team are
10 also joined with us on the Zoom meeting as well. If
11 required, they may participate in the Q&A later today. And
12 thank you, Liz, for setting some opening context for the
13 discussion today around the pricing period. No doubt that
14 will be the focus of discussion as well.

15
16 I'll make a few short introductory comments - if we
17 could just go to the next slide please - so that we can
18 spend most of our time on Q&A.

19
20 A bit of an overview. There are some other slides in
21 the appendix, which I won't speak to today, but they are
22 available to digest during the course of this afternoon's
23 discussion.

24
25 The next slide, please. Very briefly who we are, we
26 covered this a little bit in the earlier WAMC discussion.
27 We are a state-owned corporation with an operating licence issued
28 and monitored by IPART. In essence, we operate the State's
29 rivers and water supply systems under the rules set out by
30 the regulators, most importantly, for us that being DPIE.

31
32 Next slide, please. By way of operating context and
33 background to our proposal, importantly prices for rural
34 customers have been held static over the previous three
35 years - that is, our costs have been influenced,
36 however, by a number of external factors, most notably
37 drought, which has included emergency infrastructure in
38 some valleys, as well as a surge in groundwater
39 applications, which has spanned both across WAMC and our
40 rural valley pricing requirements. Urgent licensing assessments,
41 we are a big part of that, and, also most relevantly,
42 responding to the New South Wales Government water reform
43 agenda since 2016.

44
45 Next slide, please. The pricing period we're
46 currently in has been dominated by a number of challenges
47 as well as achievements. By way of challenges, there has

1 been significant organisational change since 2016.
2 Relevant to that has been the harmonising of our ICT
3 systems, consolidating a number of systems and building
4 upon a reform agenda as well, focusing on improved
5 transparency and the availability of water information,
6 which customers and the communities are starting to see
7 transpire with initiatives such as our Water Insights portal,
8 which we referred to also earlier this morning.

9
10 We have been making great strides in improving or
11 investment governance as well and our review of our labour
12 sourcing models, which has driven efficiencies across the
13 business. We referred to earlier our water monitoring
14 function, for example, has seen a 12 per cent improvement
15 in efficiency to date for all three pricing determination
16 envelopes that we have.

17
18 In terms of our achievements this year, it has been
19 one of the worst droughts on record since 2016. It has
20 been a significant focus of the organisation to adapt and
21 respond to that external circumstance and it has resulted
22 in additional costs. We have seen projects stood up, many
23 of which have actually been defunded by the government, but
24 there has been lots of other work as well operationally
25 that are less (indistinct).

26
27 Our assets are better maintained. We have seen a
28 significant improvement in the life of our assets due to
29 the significant capital investment that we have had in this
30 current period. Improved investment and governance,
31 I mentioned. We have also seen those efficiencies flow
32 through our operating model changes as well, with
33 the labour sourcing. Those improvements are continuing to
34 flow and form a big part of our pricing proposal going
35 forward.

36
37 Next slide, please. Importantly - and this is the
38 last slide by way of introduction: "Key dimensions of our
39 proposal" - obviously, we came into this proposal
40 recommending, or proposing rather, a one-year pricing
41 period which was, in effect, a deferral by one year,
42 conscious that 12 months ago we were in grips of one the
43 worst droughts on record and we wanted to respect the
44 priority focus for our customers in engaging in a complex
45 pricing proposal such as that for our rural valleys.

46
47 As Liz mentioned at the opening, that has now been

1 determined by IPART, so it will be a four-year period. We
2 are still committed to consulting with our customers on
3 what our costs are for that forecast four-year period. We
4 will be commencing with our next round of CAGs in a couple
5 of weeks and continuing the conversation that we're having
6 today. Our response to IPART's request for the two to
7 four-year period of prices or costs has been submitted as
8 part of our response to the issues paper and we look
9 forward to continuing the discussion.

10
11 We believe we must continue to prioritise our
12 investment in dam safety and technology mainly to support
13 greater modernisation and transparency, not unlike the
14 conversation we had in the WAMC discussion, we need to
15 replace significant ageing IT assets if we are to live up
16 to the expectations that our customers have of us for
17 providing modern systems that are (indistinct) and transparent in
18 the information that it provides.

19
20 As we've talked about before, there are several
21 external factors that are also putting upward pressure on
22 customer charges. The lower historical water volumes and
23 the lower 20-year rolling average is putting up the
24 pressure on prices. The New South Wales Government cost
25 shares are rising, from the 2019 cost share review, it
26 is contributing. We are also proposing, as we have done in the
27 2017 determination period to simply pass through the MDBA/BRC costs
28 on the advice of the Department. But, importantly, as I said,
29 we are committed to continuing to engage with our customers
30 on those updated four-year costs which (indistinct). I'll
31 leave it there, Liz, and hand over to you.

32 Q&A SESSION

33
34
35 MS LIVINGSTONE: Thanks very much, Andrew. I know Mel,
36 from the Inland Rivers Network, has been waiting patiently
37 since this morning's session to ask her question about
38 fishways. Mel, would you like to ask that now?

39
40 MS GRAY: Yes, thanks, Liz. I was a little keen to get
41 going on that one.

42
43 For almost a decade, or in some cases about a decade,
44 there has been a legal requirement under section 218 of the
45 Fisheries Management Act for Water NSW to fund and construct
46 11 dam safety offset fishway projects. I understand that
47 there was a reprieve granted to Water NSW for the 2011-2013

1 IPART determination period and the reason given was the
2 millennial drought, the global financial crisis, but, to
3 the best of our knowledge, we cannot see that there was a
4 further reprieve granted for the 2014-2017 period, which
5 ACCC handled. We want to know really why these fishways
6 weren't funded in the 2014-2017 period, even though I know
7 that was an ACCC process.
8

9 Also with the issues paper that we're all here
10 commenting on, there was \$72 million for environmental
11 capital works and no detail at all about what those
12 projects were, how many fishways, were they all fishways,
13 and, really importantly, those long overdue 11 s218 dam
14 safety offset fishway projects, are they included in that?
15

16 MR GEORGE: Thanks very much for the question, Mel. I'll
17 give you the short answer and then the long answer.
18

19 The short answer is, yes, those 11 fish passage
20 offsets are included in the \$72 million that you referred
21 to. That's the short answer, which I hope is welcome news
22 for you.
23

24 The long answer is, winding back to the ACCC period
25 that you referred to, there was a significant representation
26 made to Government at the time that the cost of
27 implementing fish passage was too expensive, the costs
28 were increasing. As a result, Water NSW at the time was
29 requested to work more closely with fisheries to see if we
30 could come up with lower cost technology to implement fish
31 passage before putting forward an investment program, which
32 would be more than just the 11 sites, presumably but
33 ongoing as well as those obligations continue to accrue.
34

35 In this current pricing period, we were given the
36 allocation of operational expenditure to work with DPIE,
37 fisheries and industry to undertake a pretty intensive
38 program to do that work to find out how we might able to
39 design and deliver fish passages in a much more cost
40 effective and efficient manner.
41

42 That work is now nearing its completion, and I might
43 say at the same time as that, we were invited to
44 participate in a ministerial task force on fish passage,
45 which was established complementary to that work program to
46 find lower costs but also to identify where the priorities
47 were across the basin and across New South Wales.

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What that has meant is that we are now in a position, as part of our forward four-year of cost forecasts, to include our estimate of \$72 million to bring all 11 of our existing obligations to fruition. So that's our proposal. That includes four sites on the Gwydir River, three sites on the Lachlan, one site on the Namoi, and three sites on the Macquarie River.

MS GRAY: Sorry, four on the Gwydir, one on the Namoi?

MR GEORGE: Three in the Lachlan.

MS GRAY: On the Lachlan?

MR GEORGE: Yes. Three in the Macquarie.

MS GRAY: Three in the Macquarie. Are there any other fishway projects in that \$72 million, or any projects at all, or is it just those 11 legally mandated fishways?

MR GEORGE: So \$72 million refers to our obligations under section 218 of the Fisheries Management Act. We are also working with Government, as an outcome of the fish passage task force, to identify further opportunity for state or federal government funding to accelerate fish passage on a prioritised basis. That is being reflected through things such as the Northern Basin Toolkit discussions, as well as the current discussions that the ministerial council are having around the southern basin as well. So wherever there is an opportunity to leverage, particularly Commonwealth funding, we are absolutely investigating that together with the New South Wales Government.

MS GRAY: Thank you. I do have another question. Should I wait or go?

MS LIVINGSTONE: You may as well ask it while you've got the floor, Mel, and then we'll move on, thank you.

MS GRAY: Thank you. Back in the 2014-2017 ACCC paper, there was \$18.3 million for the Gwydir, \$24.92 million for the Lachlan, \$21.21 million for the Macquarie, which included \$13 million worth of taxpayer money that was earmarked for fishways. To the best of our understanding, we haven't been able to find where that over \$60 million was spent on the fishways. Clearly it wasn't. Was that

1 money raised and what was it spent on?
2
3 MR GEORGE: So, no, it wasn't spent on fish passage. As a
4 result of that ACCC determination, which included broader,
5 if you like, cuts to what we were proposing, we had to
6 undertake a relatively radical re-prioritisation of the
7 capital program, so that capital wasn't around for the fish
8 passage and that was re-prioritised. Those conversations
9 were had back in the day, but I don't think it was
10 (indistinct), it has been quite some time.
11
12 MS GRAY: Could we have that on notice to find out what
13 that over \$60 million was spent on? Is that something that
14 can move into the public domain?
15
16 MR GEORGE: That information is available. We'll make
17 that available.
18
19 MR PIZZINGA: Our proposal outlined where we overspent our
20 capital investment over the last four years and the reasons
21 for how we prioritised that capital investment. So that
22 historical income is in our pricing proposal, which talks
23 about the historical spending in this period.
24
25 MS GRAY: I am not sure if that was a yes. Are you saying
26 that information is out there somewhere?
27
28 MR PIZZINGA: Yes, if you go to our pricing proposal,
29 there's a section on what we spent our capital allowance
30 on.
31
32 MR GRAY: Right.
33
34 MR PIZZINGA: We would be happy to provide more
35 information if need be, but, as Andrew said, given we are
36 asked to work within an allowance and an envelope and we
37 had to re-prioritise our investments to where we saw risks.
38
39 MS LIVINGSTONE: Thanks very much, Mel and Joe and Andrew
40 for that. We do have a question from Don White of the
41 Nature Conservation Council. Don, would you like to ask
42 your question now, thank you?
43
44 MR WHITE: Thanks for that. My name is Don White, from
45 the Nature Conservation Council. I was on the morning
46 session too and I am finding it just a little bit difficult
47 to clearly get my head around what is being proposed.

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We had lots of discussion about the costs, the justification, the equity and all that sort of thing, but it is quite difficult to see from an executive point of view what effect this is going to have on customers and so on.

I've been referred to a report. I've been diving around in that report to find the answer and I believe it's buried on page 27, but it just goes to the complexity of the system that it is extremely difficult to find your way around this when you're not familiar with it. I am surprised that none of the presentation slides have provided a summary of this in the presentations that we've heard today. So that's really what I was asking for.

MS COPE: I was wondering whether Water NSW could make any comments about what they're proposing means for prices for rural water.

MR GEORGE: Sure. So thank you, Don. Your observation is an astute one; it is an incredibly complex regulatory field that we do operate in. If you look at our capital costs, our capital costs are not too dissimilar to prior periods, in terms of levels.

Our operational costs over the 10 years, if we go back to 2010-2015 period, are not too dissimilar to what we had in that period, although there is an increase since the last period just gone by, the period that we're in now.

Our costs are one part of the cost build-up that goes to the total cost base that IPART reflects on in terms of what gets allocated to users and in government. Obviously the complexity there is that there is no simple one answer, because it is different for every valley across the State, and those costs are variable. In fact, in some valleys, in the first year, there's a saving. In some valleys, I think it's up to a 12 per cent potential increase. That is cost; that doesn't mean that is what the price impact would be on end users, but that is something that IPART will reflect on.

As I've talked about in my opening, there are some other external factors that are driving pricing outcomes, not costs. The 20-year rolling average which influences the variable component of our pricing, if you like, that

1 has been impacted by drought, so the lower variable price
2 on the 20-year rolling average means that we need to now
3 recover more through our fixed charges, for example. That's
4 not increasing our direct costs; that's a function of the
5 regulatory formula.

6
7 Obviously there's the pass-through costs, such as the
8 MDBA, as we heard this morning and the MDBA have talked to
9 before. Again no changes necessarily to the cost base, but
10 there are changes to the cost share arrangements, either
11 through the IPART cost share review that was undertaken or
12 the recent decisions of the New South Wales Government as
13 to who should bear what costs between the regulat-ed river
14 operations versus the management of the system itself.

15
16 I'm not sure if that is answering your question, Don,
17 but, yes, you're right, there are a lot of different
18 dimensions that to go into making up those costs.

19
20 MR WHITE: No --

21
22 MR PIZZINGA: Sorry, Don, I note later on in --

23
24 MR WHITE: With respect --

25
26 MR PIZZINGA: Sorry, Don, I note later on in IPART's
27 presentation there are one or two slides that outline the
28 drivers for the price increase also. Sorry, Don, go ahead.

29
30 MR WHITE: No, that doesn't answer the question at all,
31 I am sorry. I am trying to understand what the effect will
32 be on those that use water. What you have gone back to
33 is to explain all the factors that go into this, which
34 I understand, but I do not see a summary of or have a clear
35 picture in my mind of what impact this will make on those
36 that are using water.

37
38 MS LIVINGSTONE: Don, I might just jump in there because
39 we will have a presentation from IPART in a moment that has
40 a couple of slides on it that show the price impacts for
41 customers. Is that what you're after?

42
43 MR WHITE: Well, I've looked ahead and I don't see that
44 that's going to cover it.

45
46 MS LIVINGSTONE: So you're after something other than the
47 prices?

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MR WHITE: Well, we'll go with that and I'll come back.

MS LIVINGSTONE: So we will have that presentation in a few minutes. We have some other questions to cover first, but it is definitely a worthwhile question because if people aren't understanding what the impacts are for them, then that's an obvious lack of transparency.

George Warne, you've got a question on MDBA costs and efficiency.

MR WARNE: Yes, thank you very much. Just simply we heard this morning a quote from Deborah Cope that, "These are your prices not our prices." I am just wondering in the case of the MDBA charges, unlike other charges that Andrew claims are directly related or not very different to the charges in 2010-2012, the MDBA charge, in answer to Don's question, for an irrigator in the New South Wales Murray Valley using an average of 50 per cent, which has been the average water available for the last five years, the water prices are going up 28 percent. Most of that is a function of the MDBA charges.

The MDBA charges - I can see two key components - is the cost that the states charge for the works they do to run the systems; and then it is the proportion that New South Wales thinks is appropriate to be charged.

I think if we look at those two things, I'd just like confidence that IPART understands what the charges being applied by Victoria and South Australia are that go up to making that price and believe it's an efficient cost that they're asking for; and, secondly, for irrigators to get some sort of sense that the state has empathy or understanding, a clear statement of what other states pay towards their MDBA charges from their irrigators or their water users. I know the answer and it's going to upset a few irrigators in New South Wales, I think.

MS COPE: We will definitely be looking at the MDBA charges as part of the review and we will be doing an efficiency assessment of those charges in the same way as we will be doing for Water NSW charges, so there will be a lot more information available for that when that work is done. I don't know if that addresses --

1 MR WARNE: Yes, it does.
2
3 MS COPE: We are looking at those charges.
4
5 MS LIVINGSTONE: Thank you, George. Mel, I've noticed you
6 have some more detailed questions about the names of
7 fishways and the availability of the plans of the 11 s218
8 dam safety fishway upgrade projects. I wonder if I could
9 ask Water NSW South Wales if they might provide Mel that
10 information directly. I am not sure that you'd have all of
11 these details to hand, but it would be great if she can get
12 access to the names of those projects and the plans; is
13 that okay, Andrew?
14
15 MR GEORGE: Yes, certainly. I might just ask one of the
16 team members there on the Zoom meeting to perhaps drop that
17 into the chat.
18
19 MS GRAY: Thanks, and just while I've got the chance to
20 drop in to the conversation, this whole process lacks a lot
21 of transparency. It is very difficult to find any
22 information on these projects. I only just found out today
23 that there were some on the Namoi, so I would like to
24 highlight that there is woefully little information in the
25 public about these 11 dam safety upgrade fishways and it
26 would be great to have some more transparency on them.
27
28 MS LIVINGSTONE: Thanks, Mel. Now, we don't have
29 questions from others. I might just ask Deborah whether
30 she has any questions of Water NSW before we move on to the
31 IPART presentation.
32
33 MS COPE: I do have a number of questions, but they may be
34 better asked after we have had the IPART presentation
35 because they go to some of the detail of the issues that
36 we've identified that we'd like to talk about. So maybe if
37 we could move on to that and then I can ask my questions
38 then.
39
40 MS LIVINGSTONE: Terrific. Thanks, Deb. We'll now move
41 on to a short presentation from Scott Chapman, who will
42 kick us off from IPART, and then we'll return to the
43 questions. Thanks, Scott.
44
45 IPART PRESENTATION
46
47 MR CHAPMAN: Thanks, Liz. We have prepared a few slides

1 on the following themes:

2
3 Services delivered and cost drivers;
4 How those costs and risks of delivering those
5 services by Water NSW are shared; and
6 How the proposed prices will impact customers.

7
8 We will then open a discussion about these key
9 themes and issues.

10
11 Water NSW spent significantly more on operating
12 expenditure over the 2017 determination period than we used
13 to set prices in 2017. It has proposed operating costs
14 over the 2021 period that are higher again than what it
15 actually spent over the 2017 period. Proposed cost
16 increases are driven by higher ongoing maintenance,
17 including dam safety and higher overhead costs.

18
19 In submissions to our issues paper, stakeholders
20 generally indicated that they considered Water NSW proposed
21 operating costs were too high, but that it was difficult
22 for them to comment on whether levels of expenditure are
23 efficient and that consultation with customers on operation
24 expenditure had been limited. We have engaged expert
25 consultants, Atkins, to advise us on what Water NSW's
26 efficient operating costs should be.

27
28 Water NSW's actual capital expenditure over the 2017
29 period was significantly higher than what we used to set
30 prices in 2017 as well. In its pricing proposal, Water NSW
31 proposed around \$329 million in capital expenditure over
32 the 2021 determination period. This is around a 38 per
33 cent increase from what we used in 2017 to set prices.

34
35 Water NSW's proposed capital expenditure includes
36 increases in costs for dam safety, for fishways and fish
37 passageways and for drought related projects. In the
38 follow-up in its submission to our Issues Paper, Water NSW
39 has increased this by another \$34 million, mostly for
40 additional dam safety works.

41
42 In their submissions to our issues paper, some
43 stakeholders commented that the dam safety program is
44 unnecessarily risk averse in nature. We are currently
45 working with our expenditure consultants, Atkins, to assess
46 whether Water NSW's proposed and historical capital
47 expenditure is efficient.

1
2 I'll now hand over to Cameron Shields, who will now
3 discuss cost share.
4

5 MR SHIELDS: Thanks, Scott. As mentioned this morning in
6 our recent price reviews including the 2017 Water NSW
7 determination, the shared cost between water customers and
8 the New South Wales Government is based on the impactor
9 pays principle - that is, in this context, it is those who
10 create the need for Water NSW to incur the costs who should
11 pay for those costs.
12

13 We consider this approach achieves better efficiency
14 outcomes than alternative approaches, such as the
15 beneficiary pays approach, as it results in customers
16 facing the full costs of the services they received.
17

18 Many stakeholders raised concerns about the Water NSW
19 cost share framework. The key concerns were around how it
20 dealt with other users benefiting from Water NSW's services
21 and paying their share of the costs; who should pay for
22 major drought-related capital expenditure,
23 particularly government directed projects including new
24 dams; and who should pay for environmental expenditure,
25 particularly fish passageways, with some stakeholders
26 commenting that this should be paid for by taxpayers.
27

28 I will now hand over to Ian, who will discuss revenue
29 risk sharing.
30

31 MR DEHLSSEN: Thanks, Cameron. Water NSW's costs are mostly
32 fixed, but its revenue can vary widely from year to year
33 because most of its revenue comes from usage charges. In
34 years of high usage, Water NSW can generate surplus revenue
35 and in years of low usage, Water NSW can under-recover its
36 costs.
37

38 In the 2017 determination, the prices we set included
39 an allowance for Water NSW to reduce this risk by swapping
40 its usage charge revenues to a third-party insurer in
41 exchange for a fixed payment.
42

43 For the 2021 determination, Water NSW considers that
44 it is not practically feasible to outsource both its upside
45 and downside risks. It proposes outsourcing the downside
46 revenue risk to a third party insurer - that is, Water NSW
47 proposes to insure itself against lower than average water

1 usage while retaining any surplus generated when usage is
2 higher than average.

3
4 We are interested in stakeholder views about whether
5 and to what extent Water NSW should be exposed to revenue
6 where at risk and whether it should outsource part or all
7 of its risk to a third party insurer and, if so, who should
8 pay for this insurance?
9

10 I'll pass now on to Jess Forrest to talk about prices.

11
12 MS FORREST: Thanks, Ian. With the prices for MDB valleys
13 under the water charge infrastructure rules which require
14 us to set prices that are likely to raise revenue that
15 meets Water NSW's efficient costs. By contrast, we set
16 prices for coastal valleys under the IPART Act and have
17 more discretion.
18

19 Water NSW proposed, in its submission to our issues
20 paper, prices for 2021-2022 consistent with its 1 July
21 pricing proposal and prices for 2022-2023 to 2024-2025
22 based on a glide path whereby price increases are smoothed
23 over these three years to ensure charges fully recover
24 Water NSW costs.
25

26 Under these prices Water NSW bills would increase by
27 about 13 per cent per year, on average, excluding the
28 effects of inflation and MDBA and BRC costs. Bills would
29 increase by up to 110 per cent for higher security
30 customers in the Lachlan Valley and by up to 171 per cent
31 for general security customers in the Lowbidgee Valley
32 over the four-year determination period.
33

34 Water NSW proposes that the valley-based pricing with
35 fixed entitlement charges and variable usage charges for
36 most valleys be maintained, but charges in the north coast
37 and south coast valleys be held constant in real terms over
38 the 2021 determination period and that MDBA and BRC costs
39 continue to be passed through to customers with the current
40 price structure an 80:20 fixed to variable split.
41

42 Stakeholders had mixed views on cost reflectivity and
43 price structures with most supporting full cost recovery in
44 the MDB valleys and continuing the 2017 determination
45 approach to set prices for the north and south coast
46 valleys. Some stakeholders raised concerns that higher
47 fixed charges may impact water users, particularly in times

1 of reduced or zero allocations and that re-balancing fixed
2 to variable ratios with lower fixed charges may be more
3 appropriate.
4

5 Tamworth Regional Council prefers a 40:60 split for
6 the Peel Valley and for postage stamp pricing to apply to
7 rural and bulk water charges, with all users across the
8 state contributing; or, alternatively, merging the Peel and
9 Namoi valleys for pricing purposes.

10
11 Stakeholders also support more active customer
12 engagement by Water NSW to allow consideration at an
13 individual valley level of the appropriate mix of fixed and
14 variable charges.
15

16 I will now hand over to Carol Lin, who will discuss
17 billing impacts.
18

19 MS LIN: Thank you, Jess. We also received feedback from
20 stakeholders on bill impacts and affordability concerns.
21 Stakeholders' submissions indicated that the prices and
22 bills presented in our issues paper are not affordable for
23 customers, given drought, leading to low or no water
24 allocation in recent years, bushfires and COVID-19. The
25 increases are well above CPI and customers may also be
26 affected by increases under the WAMC review, which was
27 discussed at an earlier session today.
28

29 Under the requirements of the water charge
30 infrastructure rules, any decrease in the user share which
31 would reduce bill impacts for customers must be offset by
32 increase in revenue from the government share. Water NSW
33 noted in submissions to our issues paper that this can be
34 achieved by modifying the existing cost share ratio
35 determined by our 2018-2019 rural water cost shares review.
36

37 Stakeholder submissions agreed on the importance of
38 having support measures in periods of drought and no water
39 allocation. However, PIAC noted that these measures should
40 be implemented transparently rather than in the form of ad
41 hoc subsidies.
42

43 We agree that we must be transparent in the prices we
44 set. Our preliminary position is to set prices at full
45 cost recovery for the MDB valleys and then consider options
46 to address affordability for customers, rather than
47 modifying the existing cost share ratio to increase the

1 government share. Thanks, Liz.

2

3

Q&A SESSION

4

5 MS LIVINGSTONE: Thanks very much, Carol. I might just
6 throw back to you, Andrew, given the earlier question, if
7 there was any other comments you would like to make on
8 those price impacts on customers before we go back to
9 questions.

10

11 MR GEORGE: No, not a direct response.

12

13 MS LIVINGSTONE: Okay. But hopefully, Don, that helped a
14 little bit to get to the issue you were concerned about of
15 not being able to see the impact on customers.

16

17 MR WHITE: Yes, thank you.

18

19 MS LIVINGSTONE: Thanks, Don. Jenny McLeod had a question
20 and Jenny is from Coleambally Irrigation. Jenny, would
21 you like to ask that?

22

23 MS McLEOD: Thanks, Liz. The question is for Andrew.
24 I've had a little bit of trouble hearing some of the
25 answers, so you may have already answered this question,
26 but I just wanted to clarify the process for attributing
27 the Water NSW component of MDBA costs between the Murray and
28 the Murrumbidgee Valley, so who makes that decision? Is it
29 Water NSW or is it DPIE, and on what basis do you make that
30 decision or is the decision made?

31

32 MR GEORGE: Thank you, Jenny, and I believe in the last
33 WAMC session as well they elected to provide further
34 information. The short answer is the department makes that
35 decision and we get advised on the basis upon which to
36 split those costs in our submission that goes into IPART.

37

38 The basis for that and how there is a split is
39 something that Amanda Chadwick spoke to in the WAMC session
40 and I believe there might have been a question on notice, I
41 think, to provide more information. Certainly if you look
42 at the IPART website and our submission, the letters that
43 we have received from the New South Wales Government
44 advising us on how to do that, may go somewhere
45 to answering your question.

46

47 MS McLEOD: It's welcome, Chairman, that IPART is going to

1 look further at this issue. We need a lot more granularity
2 around the decision-making process, and we also need
3 confidence that - in view of the fact that the costs that New South
4 Wales is contributing don't appear to be increasing, but the
5 costs that are to be paid by water users are - that we are not
6 getting a shift in how programs are being aligned so
7 that users are paying a greater share.

8
9 We also need confidence that the costs are in a basket
10 of costs that should be recovered from water users and we
11 are not seeing, say, for example, River Murray's costs area
12 or area of influence increase to things that we would argue
13 are actually a government activity. So we welcome a lot
14 more scrutiny and detail on those issues - on those MDBA
15 costs.

16
17 MS LIVINGSTONE: Thanks, Jenny. I think we'll now go to
18 Shaine Baker or Jon Maree from Namoi Water. Shaine, do you
19 want to ask that question?

20
21 MS BAKER. It was not really a question, more of a
22 statement that the Namoi customers reject any concept of
23 the amalgamation of the Peel and Namoi valleys. We should
24 not be required to pay for the mistakes in pricing
25 determinations that have resulted in the Peel pricing issue
26 of low entitlements and high usage charges now pushed on to
27 the higher security customers in the Peel. I would just
28 ask that to be on the record that we do not support the
29 amalgamation of those two valleys.

30
31 MS LIVINGSTONE: Thanks very much, Shaine, for that
32 comment. Mel Gray, we've got another question from you,
33 this time about Wyangala Dam. Would you like to ask that?

34
35 MS GRAY: Yes, thanks. There were some comments in the
36 issues paper about the costs of Water NSW. It implied that
37 there are already costs being incurred by New South Wales
38 due to these fast-track dam proposals - Wyangala Dam wall
39 raising, Dungowan Dam and the Mole River Dam. I wonder if
40 there is any further information we could have on that.
41 There were just a few comments through the issues paper
42 about the unknown impact of those major infrastructures and
43 on costs moving forward as well, so any comments on that to
44 make?

45
46 MR PIZZINGA: So Water NSW has started to incur, and has
47 included in its proposal, costs relating to the business

1 casework in some early capital construction works for
2 Wyangala and in part Dungowan. Those costs have been
3 allocated to the government, so they sit on the government
4 RAB. We're not, in our pricing proposal, intending to
5 have those being allocated to customers.

6
7 MS GRAY: I just read a sentence in the issues paper,
8 page 15:

9
10 We are unsure if the NSW Government will
11 subsidise the ongoing operation and
12 maintenance costs for these dams.

13
14 So if there is any further information you can give us on
15 what your expectations are about the maintenance costs for these
16 dams moving forward? I include the Macquarie Gin-Gin re-regulating
17 storage project in that as well.

18
19 MR PIZZINGA: First of all, we are yet to finalise the
20 business cases, so they will give us some indications as
21 to what the ongoing maintenance costs might be for those
22 dams. It is fair to say that given the duration to build
23 these dams, the funding and maintenance costs will be
24 considered not on this determination but in the next
25 determination.

26
27 MS LIVINGSTONE: Thanks, Joe. Deb, can we go to you now.
28 You've got a question about managing revenue risk.

29
30 MS COPE: This is going to be quite an important question
31 for us when we are working out what to put in prices and
32 how to structure prices. Water NSW have said to us that
33 their cost structure is predominantly fixed and therefore
34 they should be protected against the volatility in revenue
35 that occurs when the amount of water that is available goes
36 up and down and therefore how much water is sold.

37
38 Irrigators have told us, a lot of small businesses in
39 a large extent, and a lot of private businesses, that they
40 are not in a good position to manage that volatility and
41 pay for that water, pay for those costs in times when water
42 is not available. So there is a question that we need to
43 reconcile about how we manage that risk.

44
45 Now, it is clear as we would all know, as people who
46 are running businesses, that, on average, we are going to
47 have to cover the costs one way or another. You can't have

1 a business going broke because they are not able to cover
2 the costs in the low availability times. In the past, the
3 way we have approached that is if we have a price structure
4 that has a high component of fixed charge, we've said that
5 that addresses the issue because there won't be a lot of
6 variability in the amount of revenue that Water NSW gets
7 when there is not a lot of water available.

8
9 In regions where there is a pricing structure that has
10 a lower fixed charge and higher variable charge, then some
11 form of mechanism to accommodate for that to pay for the
12 management of that risk is legitimate to build into
13 Water NSW's charge and it is that insurance concept that was
14 talked about earlier.

15
16 So my question is, basically to everyone - Water NSW
17 and town suppliers and the irrigators - what are people's
18 views on how best to manage the system so that it is
19 sustainable during periods of high water and low water in a
20 way that works for people?

21
22 MR PIZZINGA: Deborah, I might just make a couple of
23 comments, if that's okay. First of all the product, the
24 way it works at the moment, as previously presented, is
25 Water NSW is only hedged or covered up to 80 per cent, so
26 that is asymmetric. We need to be clear that at the moment
27 that product is only covering us up to 80 per cent and, on
28 top of that, there's a \$2 million deductible that Water NSW
29 needs to pay to get access to any insurance proceeds.

30
31 It's fair to say that we transferred that risk to the
32 insurance market. The insurance market, we are working
33 with at the moment, but obviously they are looking at their
34 risk appetite and whether or not the cost of that product
35 is able to be supported at their current price, which is
36 about \$1 million a year higher than what we have an
37 allowance for.

38
39 We entered into that product after hearing from
40 customers who were at that time concerned about increasing
41 the fixed component. I think for Water NSW, we would be
42 happy to look at any mechanism that's out there that
43 ensures that we can fund our fixed costs, including
44 mechanisms around revenue caps and we're conscious too that
45 a revenue cap creates price volatility for customers, so we
46 would need to work with IPART and customers as to how that
47 option - it is only one option; there are many out there -

1 could be put in play to minimise price volatility for
2 customers.

3
4 From the Water NSW perspective, we just want a price
5 mechanism that allows us to cover our fixed costs to ensure
6 we have a sustainable revenue profile that allows us to
7 meet customers' expectations. We're not wedded to one
8 product, we're open to other options, whether it's a
9 revenue cap, just as an example, and very much keen to hear
10 from customers and IPART as to what those other options
11 are.

12
13 MS COPE: The question for me is you say "to cover the
14 fixed costs", so there are a couple of issues packed into
15 that. One is cover the fixed costs individually for each
16 year, which does put a lot of that impact on to the
17 customers. There is the issue of covering it on average
18 and the extent to which Water NSW can manage that revenue
19 stream to do that. Then I suppose the concern is: well,
20 what happens if you have a period of time which is out of
21 the ordinary and not consistent with what the original
22 projections were?

23
24 So there is a real question here about who manages the
25 risk? The estimates at the front of what the amount of
26 water availability is going to be over the four years, who
27 manages that risk and who is in the best position to be
28 able to carry and manage that risk?

29
30 MR PIZZINGA: Obviously it's a very difficult one to
31 manage because you are in some respects at the mercy of the
32 environments and you're cutting across multiple valleys in
33 a very large state. So, Deborah, I don't have an answer to
34 that. The only thing I'd say is whatever we put in place,
35 Water NSW is very conscious around price volatility for
36 customers, and how we would be able to smooth that over
37 time would be important for us and, I suspect, our
38 customers.

39
40 I guess the other thing regarding managing the risk that you
41 spoke about is there are elements of that being shared
42 between us and the customer. I don't have an answer to
43 that, but how we over time manage some of that by
44 incrementally increasing the fixed component, not doing it
45 overnight and helping manage that over time - but, yes.

46
47 MS COPE: My next bit of the question then probably goes

1 to perhaps maybe the Irrigators Council. What is most
2 significant for people in terms of the risk on the farms of
3 price volatility or high costs in periods of time when
4 there is very low water availability? What is it that is
5 most problematic and that irrigators find the biggest
6 issue?

7
8 MS FREAK: I can start that one, so I might open it up to
9 other delegates who are on the call. I think one of the
10 issues is around the certainty around the costs. I guess
11 a lot of these costs, in our view, should be foreseeable in
12 terms of the management of long-term assets and
13 long-term planning. From our perspective, a lot of it is
14 the predictability and certainty aspect. But I'll open it
15 up. I know we have a lot of our other council delegates on
16 the call, so they might be able to add to that too.

17
18 MS LIVINGSTONE: Any others who want to comment on that
19 one?

20
21 MS LOWIEN: Hi, Liz. It's Zara here from Gwydir Valley
22 Irrigators. I think historically we've always preferred
23 the fixed to variable approach to give some opportunities.
24 So the idea is when there is plenty of water availability,
25 there is a likelihood of having a future income of
26 which you can then pay for the fees and charges at a
27 slightly higher rate.

28
29 I think what has been disappointing somewhat is some
30 discussion about moving forward to having clearer certainty
31 on that and some have changed their budgeting approach and
32 they look at a more long-term budgeted approach for each of
33 their businesses, similar to maybe Water NSW as well. But
34 we need more information on understanding the true fixed
35 costs - we have seen in the drought there is quite a
36 discrepancy between what you might have asked for and
37 considered fixed and then what was expended - to really get
38 a handle on how much volatility there is there and how much
39 needs to be fixed. I think then maybe if we had some
40 objective information, we could have a new conversation
41 about that split, but at the moment we've always preferred
42 to pay the higher charges when there is a likely chance of
43 that income coming forward.

44
45 MS EWING: Mary Ewing here, if I could just add to that
46 comment. I think there is quite a variation between
47 valleys. We need for each valley to have the information

1 available about prices so that there's an opportunity for
2 us to analyse it and actually talk with our members and get
3 feedback on what option they would prefer.
4

5 Certainly, I think Zara's correct, there has generally
6 been a support for greater usage-based pricing, but again
7 it depends on where that balance ends up. So I think more
8 provision of information and time to consult with our
9 members is really important for this.
10

11 MS LIVINGSTONE: Thank you. Thank you, everyone, for your
12 comments on that question. We do have quite a few other
13 questions. Michael, were you wanting to add something
14 there?
15

16 MR MARTINSON: Sorry, Chair, if that'd be okay, just a
17 couple of comments to add into that.
18

19 MS LIVINGSTONE: Sure.
20

21 MR MARTINSON: Sorry, my little hand-raising thing isn't
22 working on here. This is a very good discussion and
23 excellent points that are being raised by everyone and
24 appreciate that.
25

26 I am Mike Martinson from Water NSW, for those I have
27 not met.
28

29 I guess there are a couple of the points that I want
30 to flag. It is not a straight-forward proposition; it is a
31 fairly complicated kind of arrangement to manage
32 volatility. One of the areas that is really driving this
33 to be an even bigger issue is the fact that the 20-year
34 rolling average that IPART has traditionally used to set
35 volumes over the regulatory period really is not tracking
36 very closely with what actual volumes have been.
37

38 As an example, in FY20 our overall volumes were about
39 70 per cent below what was in the 20-year rolling average.
40 So the fact that the forecast, to begin with, is materially
41 out from what the actuals were is contributing to the fact
42 that there is a significant volume issue.
43

44 I think ultimately the answer in terms of where maybe
45 we need to go on this is really there may not be a silver
46 bullet in terms of one solution, but the fact is it may
47 need to be a competition between tariffs, and again,

1 I think as Joe highlighted, with the current RTP that's in
2 place, it is still something that's capped at 80 per cent
3 in terms of the fixed variable, so there is still 20 per
4 cent variable exposure for Water NSW.

5
6 In terms of the RTP product itself, again the costs -
7 particularly given that volumes have been low and there's
8 likely to be some significant settlements with the
9 insurance company on that - of the RTP product are likely
10 to be higher moving forward.

11
12 So whereas four years ago the answer might have been
13 things are maybe looking fairly stable, maybe having an RTP
14 with an allowance of about \$1.3 million-ish may have been
15 sensible over the current period, but I think what we are
16 finding is volumes continue to depart from the 20-year
17 rolling average and we are finding that the costs of the
18 RTP product are going up.

19
20 Maybe the answer is something in terms of looking at
21 something that could be done on the fixed variable tariff
22 perspective with some combination of an RTP or, as Joe was
23 flagging, maybe even revisiting what the ACCC had said in
24 terms of an unders and overs mechanism to kind of address
25 this risk.

26
27 I'll stop talking there, but I think it is not a
28 simple answer and I think it has been a really good
29 discussion here in terms of understanding where people are
30 coming from.

31
32 MS LIVINGSTONE: Thanks very much, Michael. Louise Burge,
33 you've got a few questions there. I wonder if we can go to
34 you now to ask those. Louise, are you there, off mute?

35
36 MS BURGE: Yes, coming. Sorry, Liz.

37
38 MS LIVINGSTONE: Thank you, you're right.

39
40 MS BURGE: I am not sure how many I can ask, but just in
41 relation to, say, the question on how can Water NSW improve
42 its collaboration with the stakeholders who pay the costs,
43 I am referring to projects and a good example is the
44 20-year infrastructure plan. No doubt there were
45 significant costs incurred, either internally or
46 externally, with the development of that 20-year
47 infrastructure plan and there was a lot of concerns about

1 the quality of what was proposed. But, more importantly,
2 going forward, how can we ensure effective stakeholder
3 collaboration in the design or preparation pre-design to
4 get these decisions right, if there is a process of full
5 cost recovery? So that's the first one - how can we get
6 that increased collaboration and more involvement in the
7 planning?
8

9 The second point is could you explain in some of the
10 costings why Murrumbidgee is referred to separately when
11 talking about prices of inland systems?
12

13 And the other one - there was a question I had also
14 about a note in the submission to IPART. There was
15 reference to floodplain harvesting plans for the north of
16 the basin, but then it also refers to proposed costs to be
17 incurred, Lachlan, Murray and Murrumbidgee, with floodplain
18 management plans. Now, given in the Murray there's already
19 a comprehensive floodplain management plans that cover
20 licensing and everything, could you explain what the
21 intention of Water NSW or DPIE is in relation to that?
22

23 And the final question was about fees and charges with
24 the southern basin metering project, given that the New
25 South Wales government has now accepted that it will keep
26 those meters in public ownership as per the request of the
27 stakeholders affected.
28

29 MS LIVINGSTONE: Thanks, Louise. I wonder, Andrew, if you
30 would like to make a start on those questions, in the first
31 instance.
32

33 MR GEORGE: Yes, thanks, Liz. And thanks, Louise, you're
34 going to test my memory to remember all your questions.
35

36 MS BURGE: Okay, that's all right.
37

38 MR GEORGE: In your first question, I think you made by
39 reference to a 20-year study. I acknowledge, as we've
40 talked about before, I think that the Murray has been a
41 benefit of a different experience for all of us compared to
42 the rest of the valleys around the state, where that
43 consultation has been a little bit different and it is
44 little bit muddled, because of the, if you like, broader
45 water management roles and responsibilities as it affects
46 the Murray.
47

1 I would point out, though, we did do some consultation
2 across the other valleys on the back of that study to
3 identify what options or business cases, if you like, we
4 might carry forward into the next period, our intention
5 being that we were planning, as you know, as part of our
6 submission this was a one-year proposal. We were then
7 going to go into the consultation period for the subsequent
8 four years. IPART's decision has meant we're not able to
9 do that four-year consultation, so we are going to have
10 that conversation very quickly in the next couple of months
11 with all the valleys.
12

13 At the same time, what you're seeing is the water management
14 planning framework in New South Wales is undergoing quite a
15 radical evolution. Dr Bentley talked a bit about it
16 earlier today. Starting at the apex document, that's the
17 state water strategy, forming each of the regional water
18 strategies, we contributed into those regional water
19 strategies. The work we did as part of our 20-year
20 structure strategy has fed that work, that's where the dominant
21 consultation will occur for everybody - that's users and including
22 Water NSW and the other water utilities, and local water utilities.
23 As I said before, I encourage everybody to engage in those
24 conversations as they start to roll out.
25

26 MS BURGE: Just on that point, we have actually been
27 trying - I suppose the point of raising this example is
28 that we have asked for collaboration not at the end of the
29 process, but at the start, which is very important in a
30 user pays process. So how can we get assurances that
31 stakeholders who pay will actually be able to point out
32 early on some of the issues that need to be addressed or
33 some of the project proposals that may have had incorrect
34 information. Even basic stuff like that, if it is not
35 correct, well, there is no collaboration at the start to
36 make sure if there is any preliminary investigations that
37 you're actually working on the right information.
38

39 MR GEORGE: I hear your point, Louise, and we have talked
40 about this before, that the departments right at the
41 beginning of that journey, part of the current reform
42 agenda for water management in New South Wales is about
43 very much a more joined-up collaborative approach to water
44 planning. That is not just amongst the agencies and the
45 SOCs, but also the users.
46

47 Unfortunately it has been difficult in recent times

1 with COVID, but hopefully you're seeing that, in the latter
2 half of this year, in particular into next year, there is a
3 very genuine desire to (indistinct) management, both at a
4 strategic level, and obviously these things come to life on
5 a project-by-project basis.

6
7 I might answer some of your other questions, Louise.
8 Just on the floodplain management one, I am not sure, that
9 might come out of the WAMC submission. I suspect that that
10 is more of an issue for DPIE. It is not something that
11 I am really in a position to talk to. That's one for the
12 department.

13
14 I am not doing this in the right order, I appreciate.
15 On metering --

16
17 MS BURGE: No, that's okay.

18
19 MR GEORGE: On metering, obviously we're adjusting to the
20 change in policy direction that we received in August
21 around the shift in approach to how that's costs recovered.
22 We are rapidly finalising our, if you like, supplementary
23 submission to go to IPART at the end of this month, on what
24 that will look like for the government. So again,
25 unfortunately not a lot of time to have consulted in
26 advance on this, although it has been the subject of lots
27 of conversations at other CAGs, and we are committed to
28 continuing that conversation. We know we have CAGs
29 starting in the next couple of weeks, the next round, for
30 example, and we are preparing a lot of material to have the
31 conversation in those forums from about a fortnight away.
32 So information will be very shortly on the way.

33
34 On your Murrumbidgee question, I'd have to --

35
36 MR PIZZINGA: We might have to take that on notice.
37 Sorry, Louise, are you able to run that question by us
38 again?

39
40 MS BURGE: I noticed that in the submission - I haven't
41 actually got the page number with me - it talks about costs
42 and it has Murrumbidgee listed separately. A couple of
43 times it appears as inland systems, but Murrumbidgee
44 appears as a separate line item and I just wondered why.

45
46 MR PIZZINGA: Louise, we might take that on notice and get
47 back to you specifically on that question. Unless Mike has

1 the detail, I am not quite sure we can answer that
2 appropriately at the moment.

3
4 MR MARTINSON: I think we'll take that on notice and come
5 back to you. As far as I am aware, we have not treated it
6 separately from the costing perspective, but we will take
7 that one on notice and come back to you, if that's all
8 right.

9
10 MS BURGE: Thank you. And the other question was around
11 the transparency of Water NSW's costs in relation to
12 government policy changes which, of course, does include
13 the basin plan. Is there somewhere you could direct me to
14 so that I could look at the cost centres and see how those
15 costs are apportioned?

16
17 MR GEORGE: Sorry, Louise, I'm not a hundred per cent sure
18 what you would be referring to there. Implementation of
19 the basin plan is funded by the Commonwealth Government
20 and --

21
22 MS BURGE: Yes, I understand that, but I suppose there are
23 a whole lot of different components. And what we have been
24 asking for for a number of years was the basin plan was
25 meant to be implemented to the state at no cost to the
26 states, but the question is we have not been able to
27 ascertain exactly what those costs were, how they've been
28 attributed, what income was received and expenditure. It's
29 not transparent. It may be from your perspective but, it's
30 not from irrigators' perspective and so therefore my
31 question is how do I find that information?

32
33 MR GEORGE: It is possibly not a question for Water NSW.
34 We have not received any income. We have not incurred
35 expenses. The only thing we have been involved in was some
36 of the earlier business cases on the Yanco SDL project,
37 which was funded by the department a number of years ago.
38 So it's not that there is a lack of transparency, there
39 just isn't actually --

40
41 MR PIZZINGA: In answer to the question, unless it's
42 sitting in the DPIE WAMC submission, we are unable to --

43
44 MR GEORGE: I suspect your question would be better
45 referred to the department, the costs and revenue they've received.

46
47 MS LIVINGSTONE: Thank you for that. And, Louise, Kate

1 from DPIE has provided a little bit of information about
2 your floodplain management question and we are happy to
3 follow up with you on that one as well.

4
5 Doug McCloskey from PIAC had a question. Doug, can we
6 go to you now?

7
8 MR McCLOSKEY: Thanks very much. I'll first describe it a
9 little bit in two parts. The first one is just some
10 questions around - and noting there the previous answer
11 around the initiation of this investment in what's been
12 characterised as drought expenditure - I'm just concern about the
13 composition of that expenditure since it does appear that
14 at least some of those measures, though they are initiated
15 by the Commonwealth and state government, could possibly be
16 more accurately regarded as supply augmentation
17 expenditure, just because that has ongoing implications for
18 operational costs potentially.

19
20 That kind of leads into my second question, which sort
21 of a little bit goes back to the revenue and the risk
22 management discussion. It's a little bit tangential, but
23 just where one of the issues is that the underlying
24 assumptions - and I think Michael alluded to this - for
25 what is a sustainable yield for a lot of the systems, it
26 appears that that is creating revenue risk, that basing
27 assumptions for revenue on long-term averages is creating
28 revenue risk particularly when there is a fairly known
29 unknown when there will be periods - extended periods -
30 where supply will not meet that long-term average.

31
32 I think that there's possibly a bigger discussion to
33 be had around the re-basing of assumptions because we do
34 feel that it is not, on principle, appropriate for users to
35 be bearing the weight of the risk that Water NSW has, which
36 may stem from the fact that the assumptions underlying
37 their proposals for revenue are actually known to be
38 incorrect.

39
40 We know that increasingly supply isn't meeting those
41 long-term averages and is increasingly unlikely to meet
42 those long-term averages, and that is over time,
43 notwithstanding periods of extreme supply shortage or
44 availability. We think that it is a much more appropriate
45 and effective revenue risk management tool to actually have
46 a serious discussion around a more appropriate base of
47 assumption upon which that revenue should be based, rather

1 than having to buy market insurance products or increase
2 fixed costs, which then essentially put a lot of that risk
3 onto users, which we feel is probably not appropriate since
4 they are not capable of managing that risk themselves.
5

6 Again it is a bit of a very wide comment rather than a
7 question, but just really keen to see that discussion
8 played out in this process, if not finished, but definitely
9 commenced. Thanks very much.
10

11 MS LIVINGSTONE: Thanks, Doug. I might just ask Matt
12 Edgerton if he has thoughts on this or on that topic and
13 comments.
14

15 MR EDGERTON: Thank you, Liz. Douglas, I think you'll
16 find that the real source of the revenue risk to Water NSW
17 is the disconnection between its cost structure and its
18 price structure. Its costs are largely fixed - that is,
19 largely independent of how much water is taken - yet, for
20 reasons we have discussed, in terms of basically allocating
21 risk between customers and Water NSW, its price structure in
22 many valleys is likely variable. So it is not so much the
23 disconnect between actual water sales and forecast water
24 sales per se that is creating this risk; it is really the
25 disconnect between the price structure and the cost
26 structure, and hence I guess Deborah raised that potential
27 trade-off.
28

29 We could look at a price structure that's closest to
30 the cost structure, and that would potentially avoid the
31 cost of Water NSW having to purchase some sort of insurance
32 product and customers would avoid that cost, but the
33 downside for customers would be that they would be exposed
34 to a higher proportion of fixed charges.
35

36 MR McCLOSKEY: Just super quickly, I do understand that.
37 I suppose one of the questions that we raised, and why we
38 think it's a larger issue, is that we understand that
39 IPART's focus has reasonably been to have pricing
40 reflecting the recovery of costs. What we are increasingly
41 looking at is that, as time goes on and we notice the
42 variance between the ways that costs are incurred and the
43 way that the pricing system works and the impacts -
44 particularly in periods of shortage, but over extended
45 periods of shortage, as we are likely to experience - we
46 feel it is probably worthwhile considering whether just
47 pricing on cost recovery and having pricing matching cost

1 recovery is going to be appropriate moving forward.

2
3 Obviously the recovery of Water NSW's cost is a key
4 consideration and has to date been the primary and almost
5 only consideration, but I think now when we are talking
6 about the ability for that to sustainably be supported by
7 users whose costs and ability to use that water is
8 sometimes completely independent of the cost structure that
9 Water NSW has, I think there is a real need to work out a
10 way that we can match the cost recovery and the way that
11 those other factors can be synthesised.

12
13 MR EDGERTON: In this space in setting prices for
14 Water NSW, we have largely been focused on cost recovery,
15 while also taking into account potential impacts on
16 customers and affordability. In terms of broader
17 considerations - for example, in the urban water market, a
18 broader conversation is water conservation - we are very
19 conscious here that we are only part of the picture. There
20 is obviously a water market separate to our prices. There
21 is a market for tradeable allocations and entitlements that
22 also plays a very important role in, for example, sending a
23 signal about the scarcity of water and seeking to balance
24 supply and demand in available water allocations and
25 entitlements. I guess that's also just a relevant
26 consideration when we are thinking of the broader
27 framework, but we can certainly take all those comments on
28 board.

29
30 MS LIVINGSTONE: Thanks, Matt. We might move on now to
31 Jane MacAllister's question. Jane's from the Nature
32 Conservation Council. Do you want to ask your question
33 now, Jane?

34
35 MS MacALLISTER: Thank you. I don't know if my head at
36 the moment is where it was when I wrote it, so I'll just go
37 back. I think my point was: if a lot of the focus is
38 around cost recovery, making profit, et cetera, who's
39 looking after the little guy and in fact the environment in
40 amongst all of this?

41
42 I cannot even find my question now, sorry. It is in
43 there somewhere, but it was something around about that.
44 There it is. What impetus is there for Water NSW to ensure
45 water is managed to ensure all users have access to secure
46 supply especially if the purpose is to make profit?
47 I notice down where we are, we don't seem to get the same

1 sort of "service" as where the money is, I guess.

2
3 MR PIZZINGA: I'd probably start by saying Water NSW's
4 financial position is actually we have been bleeding for
5 the last four years. We have not made anything near a
6 profit. That is the first thing I would say.

7
8 The regulatory framework does what it does well in
9 setting, within the calculation of the weighted average
10 cost of capital, what a reasonable return to the
11 shareholders should be in the way it derives its return on
12 equity. That return on equity is benchmarked based on the
13 risk that we, as an organisation, have in providing those
14 services. So it is fair to say that the customer really
15 comes first with Water NSW. We, as you've seen in our
16 pricing proposal, spent well over our operating cost
17 allowance to help customers at a time of need. Our motto,
18 just to be clear, is not around making a profit, it's
19 around supporting our customers and, hopefully, achieving
20 the IPART allowances to the return on equity.

21
22 MS LIVINGSTONE: Thanks, Joe. We've also got a question
23 from Daniel Buckens from Lithgow Council. Daniel, would
24 you like to ask that?

25
26 MR BUCKENS: Yes, thanks, Liz. I suppose we are one of
27 those little guys and the council is part of the Fish River
28 system. The last few years have presented some significant
29 challenges for council and we have looked to vary our
30 operations to align with the current or the pricing
31 determination, in that we looked to actually increase our
32 water take from Water NSW, but due to circumstances outside
33 of anyone's control, we weren't able to.

34
35 Unfortunately, what that has meant is that we pay
36 about \$200,000 a megalitre for the water we purchase from
37 Water NSW, where we have another source which can produce
38 the same water for about \$700 or \$800 a megalitre. So the
39 current pricing structure certainly does not work for us.
40 It punishes our customer base in that we have to increase
41 our charges just to recover the fixed component cost.

42
43 I know drought plays a significant part in this, but
44 the pricing structure also, given that this is a town water
45 supply system, doesn't necessarily mean that customers -
46 it's not a base where you would conserve water. Now the
47 customers of the Fish River system have worked together to

1 manage water in storage to get through prolonged drought
2 period, where what we probably should have done in the best
3 interests of the community was use as much as possible. So
4 for us, we'd like some consideration of that in that
5 pricing going forward. We're a little bit different. DPIE
6 basically tell us that, under those best practice
7 management requirements, we should recover 80 per cent
8 portion from usage charges. So we take on a fair
9 volatility and it just seems that Water NSW can pass that
10 on, it just increases that volatility.

11
12 We, like them, have good years where we will make a
13 surplus and in dry periods, when the community uses no
14 water, yet we still pay for that water, we run at a
15 significant deficit. Government and the OLG don't see that
16 too favourably and that's a risk that we wear. We have no
17 other option but to implement that pricing structure. For
18 us the 80:20 doesn't work and we would like some
19 consideration of what - and I don't have the answer - we
20 can do to flatten that out somewhat.

21
22 MS LIVINGSTONE: Thanks, Daniel. I might actually ask if
23 one of our IPART team, Scott Chapman, would jump in here
24 and talk about this issue. Scott, are you available for
25 that?

26
27 MR CHAPMAN: Yes. Thanks, Daniel. Just so we are clear
28 what we are talking about here is filtered water, that
29 Water NSW essentially sells you wholesale and then you
30 distribute it and retail it; is that right?

31
32 MR McCLOSKEY: That's correct.

33
34 MR CHAPMAN: So it is part of the water, unlike the rest
35 of Water NSW's bulk water services, this is basically
36 drinking water. It has already been filtered and treated
37 and you are basically distributing it and retailing it; is
38 that correct?

39
40 MR McCLOSKEY: When it is of a potable standard, yes.

41
42 MR CHAPMAN: Thank you.

43
44 MS LIVINGSTONE: And, Andrew, did you or Joe have anything
45 to add in response to Daniel's query?

46
47 MR GEORGE: I certainly acknowledge Daniel's comments and

1 the predicament that some of our valleys do find themselves
2 in, particularly if there is a lower denominator, ie, a
3 lower cost base to spread those charges across as a result.
4 He gave us an example. The charges that impact the council
5 are a disproportionate margin than you might find elsewhere
6 in some of bigger valleys across the state, and that is a
7 perverse outcome, and it is perhaps not the regulatory
8 framework that we were offering. But I certainly
9 acknowledge Daniel's comments.

10
11 MS COPE: This seems to be reinforcing some of the
12 comments that have been in the chat and some of the
13 comments more directly about the issues are very area
14 specific; people want to have conversations around and
15 engagement at that sort of level and a level of
16 consultation to work through the issues that are specific
17 to them.

18
19 I was wondering, Water NSW, what are your plans for
20 what consultation should look like in the future?

21
22 MR GEORGE: Certainly our plan was after this - our
23 proposal was a deferral and that we were going to commence
24 our 18-month consultation on our four-year proposal to do
25 exactly what everyone's asking about. I refer you to our
26 last consultation period for our current determination
27 period, there was some really terrific consultation. We do
28 that through our CAGs. At that time there was a reference
29 group, if you like, that chaired each of the CAGs - that's
30 the customer advisory groups - and we had some really good
31 discussions on a valley-by-valley basis. That did result
32 in some valley specific outcomes.

33
34 I think a good example is the Lachlan Valley - where
35 Mary might have been the co-chair at the time - which
36 agreed to a different tariff to many other parts of the
37 state to reflect that risk profile.

38
39 We are very open to doing that. We have done it in
40 the past. It was our intention to do it this time, given
41 the proposal that we did submit to IPART. But we find
42 ourselves in an interesting time now that we have a
43 four-year decision from the tribunal, which we respect.
44 We're still committed to consulting with our customers and
45 we're going to be starting that before the end of the
46 month. The challenge for us now is to undertake that
47 consultation in a compressed time frame, but we will manage

1 that.

2

3 MS COPE: We did take very seriously your submission
4 around the one year, but we also had very strong views
5 presented from a broad range of stakeholders which did
6 point out the cost impost of these processes on people, the
7 amount of time and effort to actually participate and that
8 a longer period was preferable for them. So, yes, we would
9 like to talk a bit further about what's the best way to
10 actually manage this going forward, so that we can get the
11 engagement that people need and want without having to put
12 them through the regulatory process too frequently.

13

14 MR GEORGE: Thank you, Deborah. And like us, and no doubt
15 everyone on the call, we really appreciate the fact that
16 IPART has initiated this as well. It is a great
17 opportunity.

18

19 MS LIVINGSTONE: Thank you. Just while we are on this
20 topic, we might go to Chris Magner because he had a comment
21 on the consultation as well. Chris, are you there? If you
22 come off mute.

23

24 MR MAGNER: Hello. Sorry, I am trying to do two meet-ups
25 at once. I've got the water strategy for the north coast
26 on another computer at the moment. The comment that I made
27 there regarding the recommendations, I think with the
28 amount of or lack of consultation that was done, they
29 should restart the whole thing and come back and do
30 meaningful consultation. It is just not good enough,
31 I don't think.

32

33 MS LIVINGSTONE: Thanks, Chris. I guess now the process
34 has started and a decision has been made to do a four-year
35 price determination, that's difficult, but Andrew has
36 indicated - I am not sure if you want to add anything else
37 Andrew about the consultation you'll do in the next couple
38 of months.

39

40 MR GEORGE: G'day, Chris.

41

42 MR MAGNER: Hi, Andrew

43

44 MR GEORGE: The comments I just made, I don't know if you
45 were on the other call, but obviously we're kicking that
46 off with the CAGs in the next couple of weeks again. So
47 now that we are on a four-year price path, as determined by

1 IPART, we have only just put those costs in and we are
2 dedicated to meeting (audio cuts out).

3
4 MR MAGNER: I'm sorry I missed what you did say there
5 earlier, Andrew, but you can blame the DPIE for clashing
6 with IPART. I understand where you are coming from, but
7 I really think that most people really feel that they
8 are not being consulted well enough.

9
10 MS LIVINGSTONE: Thanks, Chris. I think that's noted. We
11 will move on.

12
13 Mary, you had a couple of questions about topics we've
14 talked about recently. I am not sure if you've got further
15 questions or comments to make on those.

16
17 MS EWING: Thanks, Liz. I guess Scott did answer it, but
18 even reflecting on what Andrew has said there, I think the
19 whole question around the efficiency of Water NSW's costs is
20 a really important one. I found it difficult to get some
21 of that information out of the submission, so I think if
22 Water NSW, in the consultation with CAGs, can provide more
23 of that information, it would be useful.

24
25 My other question was when would IPART provide your
26 consultant's report? Again it would help us understand
27 whether the costs are efficient or not. If the
28 consultant's report could be available earlier than
29 next March, that would be really useful for us.

30
31 MS LIVINGSTONE: Thanks, Mary. One of the challenges for
32 us is that we need information from the businesses to
33 review before we can get the consultant started. So that's
34 part of the challenge for us in releasing our consultant's
35 report any earlier, but we will see what we can do there.

36
37 MS COPE: We will definitely look at that, but what we
38 want to do is make particularly sure that when we are
39 putting the draft decisions out, so you're actually able to
40 look at where we're coming out on the prices, the
41 information from the consultant's report is available then
42 to be able to put all of that information together.

43
44 MS EWING: Thank you.

45
46 MS LIVINGSTONE: Thanks. Michael Pisasale, I think you
47 have a question on fixed versus variable costs as well.

1
2 MR PISASALE: Yes, thanks, Liz. I guess also just a
3 couple of comments from the past half hour. Earlier we
4 discussed the drought cost burden and, I guess just for you
5 guys with IPART, knowing the irrigators make a loss because
6 there is no water to water crops, but the dry crops failed,
7 and also it is very expensive to own water entitlements as
8 well, so often there's actually interest to pay on the
9 capital of water entitlements. So from the irrigators'
10 perspective there is often a triple whammy with drought,
11 not just a single thing.
12

13 Also just a comment about usage. We think, if there
14 is a usage fee or a stronger usage fee approach, I guess
15 the general principle for any institutes involved in
16 delivering or as assessing a resource, that can actually
17 help, we feel, incentivise water efficiencies, which then
18 helps with our allocations, which then also, hence, helps
19 our farmers' capacity to pay. Having that usage component
20 in there can help with that, we feel, in terms of that
21 drive and that metric. It's very strong metric for Murray
22 Irrigation.
23

24 I guess also in relation to comments about
25 underwriting in tough times, I think government could have
26 that opportunity to back utilities like Water NSW in those
27 difficult times, because we understand those fixed cost
28 drivers, whether we get water or not. I guess if it is an
29 insurance-based model, either way we'll probably pay with
30 higher premiums, especially if it continues to be drier in
31 future. So just a few comments there. That's all, thanks.
32

33 MS COPE: Michael, can I just ask a follow-up question on
34 that? You were talking about the way usage charges can
35 drive efficiency. Historically in a lot of areas the usage
36 charge that Water NSW has charged has been quite low
37 compared to the amount of money somebody can get by trading
38 their entitlements and therefore the choice of retaining
39 the water yourself or selling it to somebody else has been
40 the choice that's kind of driven efficiency rather than the
41 usage charge. Do you think that is changing or is it
42 different in different areas or is it the usage charge is
43 just one of the things?
44

45 MR PISASALE: Certainly water markets can improve the
46 ability of farmers to either deliver water, be it to put it
47 onto a crop or to sell to another user, so that's certainly

1 a component of that. I guess it is really just more of a
2 consideration at the very high level with an overall
3 resource perspective and how that filters through to all
4 our customer, yes.

5
6 MS COPE: Thank you.

7
8 MS LIVINGSTONE: Thanks. I might pause there to check if
9 there's anyone on the phone who has a question who has not
10 had a chance to ask it. If you would like to, you could
11 take yourself off mute now and we will take questions from
12 those on the phone. No? There doesn't seem to be. If you
13 do have a question, you can also press star 9, if you are
14 on the phone, and we will know to come to you.

15
16 We might then go to Southern Riverina Irrigators on
17 Water NSW's internal efficiencies. Would you like to ask
18 your question now?

19
20 MS SOPHIE BALDWIN: Can you guys hear me?

21
22 MS LIVINGSTONE: Loud and clear thank you.

23
24 MS BALDWIN: My question was just pretty simple. What is
25 Water NSW doing in terms of cost cutting internally?
26 Obviously the area that I am from, we've got a shrinking
27 pool and I just was wondering is there any internal stuff
28 that you guys are doing to cut costs?

29
30 MR PIZZINGA: We are working very hard to do more with the
31 existing resources. So at the customer service area we are
32 rejigging processes to make sure that we're getting the
33 maximum efficient output - I'm just using
34 that as an example - from our customer service team.

35
36 I would also add that we have invested a fair amount
37 in our IT systems. If we hadn't done that, then our costs
38 would be even higher than they are today. Both in WAMC and
39 in rural valleys, we are looking to do and undertake
40 further improvements in our IT systems which will enable
41 efficiencies at the back end of this determination period.
42 But importantly, as we go into the next period, we've
43 ramped up our procurement team, who are strategically
44 looking at how we source materials and contractors, and it
45 is fair to say that some of the procurement strategies we
46 put in play have seen our contracting costs and material
47 costs being lower than they would have been if we had not

1 put that initiative in place. They're just a couple of
2 examples.

3
4 MS BALDWIN: Thanks.

5
6 MS LIVINGSTONE: Mel Gray, we might just check in with you
7 now because there is a range of information that you are
8 keen to get from Water NSW on fishways. It might just be
9 worth checking in to make sure that Water NSW can provide
10 that. Do you want to just speak to that now?

11
12 MS GRAY: Yes, thank you, Liz. In previous issues papers,
13 every project has been costed out with a budget. So for
14 the \$72 million, which is obviously 80 per cent users now,
15 20 per cent taxpayers, whereas before it was 50:50 in
16 previous determinations, can we have a breakdown of how
17 much is budgeted for each of those 11 projects?

18
19 MR GEORGE: Yes, of course. What I suspect we should do -
20 and I'll take this offline with the team - we will provide
21 all information around all of these projects. We will make
22 that available so that it is easy to digest rather than
23 trying to answer every specific question at this hearing,
24 which is not something to put on the chat easily. But we
25 will come back to you with some more, yes, and everyone
26 else with some more information.

27
28 MS LIVINGSTONE: Great. Thanks very much for that,
29 Andrew. Jane, from the Nature Conservation Council, you
30 have a question about environment and whether that's
31 considered a customer. Would you like to ask?

32
33 MS MacALLISTER: Thank you. I just noticed that there was
34 reference in ongoing consultation or with forward planning
35 in relation to consultation and adherence to an existing
36 CAG set-up. I am just wondering whether the environment is
37 represented on those and, if not, can it please be, because
38 there seems to be a voice that, although it may not
39 directly be a customer, it certainly is a stakeholder, and
40 quite a large one at that, and should certainly have a
41 voice in all matters to do with water management.

42
43 MR GEORGE: Thanks, Jane. I might actually point out that
44 the two environmental water holders are actually our two
45 largest customers and, in fact larger, if you look across
46 all our operations including Sydney, so we do engage with
47 them quite intensively. Through those two agencies, we

1 obviously do quite a bit about our costs and our services.

2
3 Those environmental water holders are the ones that
4 have the carriage of coming up with the management plans,
5 the operating plans to achieve those environmental outcomes
6 that are in place in agreements for New South Wales,
7 (indistinct) agreements. So a very close relationship
8 there and they are a customer; they do pay for their water,
9 just like everyone else.

10
11 MS MacALLISTER: That's government organisations. I am
12 speaking more to the non-government associations as Nature
13 Conservation Council is.

14
15 MR GEORGE: Sure. And, look, yes, great point, and we
16 welcome a conversation on that.

17
18 MS MacALLISTER: Thank you.

19
20 MS LIVINGSTONE: Thanks. Chris, did you want to share
21 your comment on usage charges, Chris Magner? Are you
22 there, Chris? No? You might be looking to your other
23 session this afternoon, so we will go to John Richards from
24 the Peel Valley Water Users. John, did you want to talk to
25 the comment that you have made?

26
27 MR RICHARDS: I did Liz, thank you. The Peel is a very
28 complicated system because the main customer is Tamworth
29 Regional Council. And, of course, Tamworth and the Peel
30 Valley Water Users, they've both got different aims in
31 trying to achieve what they want to achieve.

32
33 But one thing that we don't want to see in a potential
34 review of water charges is for Peel Valley irrigators'
35 water charges to go back up to the levels that we had to so
36 comprehensively debate a few years ago. We're very pleased
37 that the levels are down somewhere, they're still expensive
38 but it is not as outrageously expensive as it used to be.

39
40 I just wanted to encourage Water NSW to make sure that
41 they consider both the requirements of council and of the
42 surrounding landholders in that particular valley because
43 we have the potential construction of the Dungowan Dam,
44 which is creating a number of questions about who is going
45 to own what assets and what charges are going to be applied
46 to what sectors of the users?

1 At this stage, I don't think anybody has any answers
2 to that. Water NSW have done some consultation, quite
3 effectively, and those things have still yet to be
4 determined, but I am certainly encouraging Water NSW to take
5 on board the comment from the irrigators that we don't want
6 to see charges go up in response to the review of water
7 charges.

8
9 MS LIVINGSTONE: Thanks. And if there are no comments
10 from Water NSW, you can be assured that they have heard that
11 from you, John. But we might go to Doug McCloskey now from
12 PIAC. He is also interested in the membership of CAGs, I
13 think. Doug, would you like to speak to that?

14
15 MR McCLOSKEY: Again it was more of a flagging comment.
16 I think the point that was raised earlier is valid, but
17 there is a difference between - obviously the primary
18 representatives on those customer advocacy groups should be
19 the direct customers and the direct communities that are
20 affected, but a lot of these decisions do have wider
21 implications for households and communities either by the
22 implications of decisions in particular valleys or by
23 implications for costs that are recovered by the community
24 and the government at large. As a representative and an
25 advocate for New South Wales households and the New South
26 Wales community broadly PIAC, would certainly feel we
27 definitely should have a role in those CAGs if at all
28 possible.

29
30 Building on the previous remark that there are
31 specific interests and there are also general interests and
32 then going to the point of engagement, it's really
33 important that those are all reflected in the engagement
34 processes that Water NSW undertakes.

35
36 MS LIVINGSTONE: Thanks, Doug. We might now go to Justine
37 Bucknell. I apologise, Justine, I think you were making
38 comments toward the end of our last session as well and we
39 didn't get a chance to get to you, but if you would like to
40 share your comments now, feel free to take yourself off
41 mute and share them with us. Are you there, Justine?

42
43 MR BUCKNELL: Sorry, it's Dugald Bucknell. Justine's
44 named up there, I don't know why. I was just trying to
45 point out that it just seems absolutely extraordinary to me
46 that in the real world if I go to an inefficient mechanic
47 or inefficient anybody, I can't turn around and say, "Oh,

1 crikey, there's a guy down the road that does (indistinct;
2 distorted audio), I'll send the bill off to the
3 government." All those types of things, you know, that
4 expect an impactor pays, right? The impact of the
5 irrigation industry on downstream communities and the
6 downstream environment has not been included in any of
7 those costs. So to say, "Oh, we'll pass that expense to
8 the (indistinct; distorted audio) communities" is the
9 people that are losing the water, the community and the
10 downstream people losing the water, are ending up paying a
11 lot of the costs. This is a subsidy which is then having
12 effects on markets and on cost of production. If the full
13 cost of production is not being incurred by the
14 (indistinct; distorted audio) irrigation crop, then they
15 are getting a subsidy against dryland producers, and that
16 is distorting markets, and that is the sort of thing that
17 we are hearing about all the time by the Chinese saying
18 "Australia is subsidising products." Well, this is one of
19 the areas where we are actually subsidising products.
20

21 It is not right that IPART is going in and saying,
22 "This is the cost of water." It is not incurred - all the
23 costs are not being calculated here. I just find it
24 extraordinary that we are not doing it as a proper business
25 would do. Let's say if Water NSW was privatised, like so
26 many other government departments have been, the prices
27 would be very, very different. So why is it not being done
28 (indistinct; distorted audio) that is being run by
29 Macquarie Bank or the Canadian Pension Fund, or whoever
30 else you want, and then do the pricing that they would set.
31 Then you would have a real market force going on and then
32 you would end up with the limited resource of water
33 actually going to the highest value use.
34

35 The way you've got it at the moment it's not going to
36 the (indistinct; distorted audio), and if the regional
37 water strategy is correct and we're going, in the Macquarie
38 Valley, to have 10-year droughts - 25 per cent chance of
39 10-year droughts, in other words, every 40 years, there's
40 going to be a 10-year drought - then the available water is
41 definitely not going to cover the costs and that is the
42 point: the long-term sustainability of what you're doing
43 just is not going to work. That's what I wanted to say.
44

45 MS LIVINGSTONE: Thank you. There was a little trouble
46 with your connection there, but I think we got most of the
47 argument and we've got your comments in the chat box.

1 I wonder, Deb, if you wanted to talk to the points made
2 there, in the first instance.

3
4 MS COPE: When we are setting prices, we are very much
5 trying to look at this from what would be the prices for
6 the service that is being provided, and what is the full
7 price of that? That is basically what the impactor pays
8 principle is about. But we do recognise, consistent with
9 what you are saying, the value of the water is not built in
10 to our prices. So if this was run by a private company who
11 owned the water, then you would expect the value of the
12 water. But the value of the water is not reflected in this
13 price because that actually is what the water market is
14 about. There's a different mechanism that puts that
15 scarcity value on water, trades it to where it's most
16 valuable, and makes sure that it is used efficiently, and
17 that is separate from what we do here, which is about
18 setting the efficient recovery of the costs of delivering
19 the water and running the systems that deliver that water.
20

21 MR BUCKNELL: So what you've just said is that the people
22 of New South Wales, the Crown, who originally had the water
23 before it is allocated are subsidising the irrigators, who
24 instantly they receive it on an allocation are then able to
25 sell it. They can even arbitrage it from a different water
26 source, say, floodplain harvesting, or even a further
27 arbitrage is regulated rivers, and then to a floodplain
28 harvesting, then arbitrage it into a regulated system and
29 get the costs. So it costs them absolutely nothing
30 originally and then they get the market value. The people
31 of New South Wales actually want the water to go to the
32 highest value use. It is meant to be in the national
33 interest, the triple bottom line.
34

35 MS COPE: So, yes, the water goes to the highest value
36 use, and what you're taking about is an extremely
37 philosophical question, which I think we will have trouble
38 addressing in full here, which is: who owns water? I am
39 just not sure we have time at the moment - while I love
40 that conversation, I don't think we have time at the moment
41 to have it in full.
42

43 MR BUCKNELL: You are probably right there. But it is a
44 probable (indistinct; distorted audio) but when you come
45 back to the Commonwealth Water Act getting the legal
46 definition, the Australian Government Solicitor's
47 definitions, which they have not released, so nobody

1 actually knows the correct rules that apply. We are all
2 really flowing in the dark so you don't actually know that
3 you're abiding by the Commonwealth Water Act, and that's a
4 real problem.

5
6 MS COPE: I didn't catch your last - because we do know
7 that what we're doing is legally consistent with the
8 current law. What I was saying from your point of view
9 there's a philosophical question about who owns water.
10 Historically water has had property rights, depending on
11 whether it's in a river or it falls on somebody's property,
12 and when it's collected, its rights are slightly different
13 from when it is flowing. So it is quite a detailed and
14 philosophical question. But it seems to me that what you
15 are doing is you're proposing that all water, regardless of
16 what it is and where it is, should be owned by the
17 community not by landholders, but I am not sure that the
18 legal framework currently supports that.

19
20 MS LIVINGSTONE: Thank you both.

21
22 MR BUCKNELL: Well, a further debate.

23
24 MS LIVINGSTONE: Yes, it is worthy of a debate at another
25 time, I suspect.

26
27 We don't have any more questions that I can see, so
28 I just wanted to give you a final chance to raise your hand
29 or let us know in the chat box if you have any further
30 questions.

31
32 I was just reading George Warne's message to see if
33 you wanted to speak to that, George, or were you just
34 making a comment? No, I think you were just making a
35 comment. But if anybody does have any questions, a final
36 call out. I'll also ask any of our tribunal members
37 whether there is anything they would like to ask of
38 Water NSW or any of our other participants.

39
40 MS GAMBLE: I don't think so, Liz. It has been a really
41 interesting conversation, raised a lot of issues for us to
42 think about, a lot to ponder, so I really appreciate
43 everybody's participation today. It has been really good,
44 thanks.

45
46 MS LIVINGSTONE: Thanks, Sandra, and I have not seen
47 anything else come through, but I agree it has been

1 terrific that so many people have contributed.

2

3 Actually we do have somebody who has raised their
4 hand. David Gowing. Let's go to you. Can you take
5 yourself off mute? Are you there, David?

6

7 MR GOWING: I eventually got there, I think.

8

9 MS LIVINGSTONE: Great, thank you.

10

11 MR GOWING: I am going to dispute the comment that was made
12 by Doug about having other representatives for
13 environmental water. All the costs, except for the portion
14 of environmental water that was bought from landholders,
15 all the rest of the environmental water does not support
16 any of the costs the irrigators support, and while we don't
17 mind hearing from people who have other views on
18 environmental water, they should not have full membership
19 of CAGs as they are not paying any of the costs that are
20 incurred by irrigators, councils and other water users
21 other than environmental water. Did you get that?

22

23 MS LIVINGSTONE: Yes, thanks very much, David. I think it
24 has been a real theme of today, the way that the utilities
25 and the other agencies engaged and didn't engage. So
26 that's a very helpful contribution.

27

28 We do have someone else with their hand raised.
29 Fleur Tonge. Apologies, if I've pronounced that
30 incorrectly, but if you would like to take yourself off
31 mute, feel free to ask your question or make a comment.

32

33 MS TONGE: Just a comment. I am representing Toonumbar
34 Water Users, and at the last IPART we had some significant
35 input. Just to say that the decision made there, which
36 looked at the coastal valleys, changing the prices to
37 something that was sustainable and affordable for us, the
38 difference that has made to Toonumbar Water Users is
39 extreme.

40

41 What we have seen is the water is actually being used
42 much more efficiently from Toonumbar. We have seen people
43 actually putting in more efficient irrigation systems, and
44 I think that just reflects the fact that we know we have
45 confidence now with what the prices are going to be.
46 I think that is relevant for any system, having confidence
47 that the prices are not going to change ridiculously. The

1 effect that it has had, I think, on the Toonumbar water
2 users or on the water itself, just knowing that it is
3 actually being used efficiently, that's a big plus. It has
4 been a very good thing for the IPART to have been able to
5 manage to do that, even though at the time, it was very
6 much against what was being supported by Water NSW. So
7 I just add that as a comment.

8
9 MS LIVINGSTONE: Thanks, Fleur. And it is really useful
10 to get feedback like that on past determinations and
11 decisions that IPART has made, so we really appreciate
12 that. I think --

13
14 MS COPE: Can I just ask a question, Liz, of Water NSW
15 because, anecdotally, we are getting a different
16 description of what's happened in the coastal valleys than
17 the data that you seem to be providing us, and I think it
18 is through the water ordering system. Are you able to
19 explain why people seem to say something different is
20 happening on the ground to the volumes that you were
21 providing us?

22
23 MR GEORGE: Deborah, sorry, I don't have that on hand.
24 Unless David Stockler is on the call that's probably a
25 question (indistinct) he can answer it. It might be
26 something we can take on notice otherwise.

27
28 MR STOCKLER: Yes, Deborah, probably prefer to take that
29 one on notice. It's not quite clear what the exact
30 question is and all the differing views we're trying answer
31 there. Thanks.

32
33 MS COPE: Okay, yes. That is something that we are
34 particularly interested in, so, yes, we would like to talk
35 about that more later.

36
37 MS LIVINGSTONE: I think we have exhausted the questions.
38 I hope we have not exhausted all of you too much. It has
39 been a long day to be on Zoom, but thank you all for your
40 participation and your comments. George has asked about
41 the process from here and Deb will include a bit of detail
42 on that in her closing comments. So I'll hand over to you,
43 Deb, thanks.

44
45 MS COPE: Sorry, Liz, I've got the lawnmowers going in
46 the background here now. It's that time of the afternoon.
47 I didn't hear. Have you just finished and you would like

1 me to wrap up?

2

3 MS LIVINGSTONE: Yes, that's right. And there is
4 interest, in particular, in the process from here, which
5 you will cover in your comments.

6

7 CLOSING REMARKS

8

9 MS COPE: Thank you. So on behalf of IPART, I'd very much
10 like to thank you all for participating in today's
11 proceedings. It has been really helpful to hear your views
12 and your thoughts.

13

14 A transcript with a link to the recording of today's
15 proceedings will be available on our website in the next
16 few days.

17

18 We will consider all that has been said today when we
19 develop up our draft recommendations, and if you would like
20 to talk to somebody from IPART about Water NSW's rural bulk
21 water review, then we would welcome your contact with one
22 of the team members, please. As I said before, the contact
23 details are on our website and inside the front cover of
24 the issues paper.

25

26 We are also interested in any feedback that you have
27 about our online public hearings and how they could be
28 improved, so please let us know.

29

30 We will release draft reports for public consultation,
31 with our draft determinations and information about what
32 all the consultants have said, in March next year. Then we
33 will give people about four weeks to make further comments
34 that we can then consider before we make the final decision
35 on prices. The final decision and determination will be
36 released in June 2021, with the prices to apply from 1 July
37 2021.

38

39 I hope that it has been as helpful to you as it has
40 been to us. I'd just like to thank everybody again. It
41 has been a really great session and we appreciate your
42 participation. So thank you.

43

44 AT 3.06PM THE TRIBUNAL WAS ADJOURNED ACCORDINGLY

45

46

47
