

Review of Alternative Funding Models for Local Water Utilities

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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1. Introduction

The Justice and Equity Centre welcomes the opportunity to respond to NSW DCCEE's *Discussion Paper on the Productivity and Equality Commission's Review of Alternative Funding Models for Local Water Utilities* (the Paper). The JEC supports reforms to ensure more consistent and equitable access to safe, affordable water services for all NSW households. The PEC Review highlights issues with the current frameworks regulating and supporting local water utilities (LWU) and reflects concerns we and other stakeholders have raised regarding the inconsistencies and gaps in the regulation and operation of water services across NSW.

Water is an essential service. Consistent, dependable access to affordable water services is vital to NSW households' health, wellbeing and social and economic inclusion. It is also a critical foundation for community resilience in the face of increasing impacts of a changing climate.

The significant inconsistency in frameworks governing urban and rural water services is increasingly unacceptable. Funding of local water utilities, their capacity for long-term planning, investment and risk management, and their performance in providing and supporting high-quality water services, requires particularly urgent reform. This review is an important first step, and a critical opportunity to initiate progress towards consistency of outcomes for all NSW households.

A priority objective of this Review (or a guiding principle) should be to align key aspects of the funding and regulation of water services across NSW, including:

- consistent capacity for long-term investment planning,
- consistent standard of capital investment and operational efficiency,
- consistent standards of water resource and service resilience and security,
- transparency of the provision of consumer outcome information,
- consistent application of an acceptable standard of water service quality and dependability,
- consistent access to retail payment assistance measures and government supports to protect affordability and equity of access to water services.

As highlighted in the PEC report, LWUs will need to be supported to meet this level of consistency and NSW community expectations for essential service provision.

The JEC supports this process (and others) moving towards more sustainable funding models for LWU. But sustainable funding cannot come without robust, transparent and consistent regulatory oversight. We understand it is not practicable (or necessarily desirable) for all water utilities to be subject to IPART's water regulatory jurisdiction. However, the objective of this process should be to explore ways to ensure any funding and regulation of LWUs is aligned and consistent with that applied by IPART (which reflect the reasonable expectations of the NSW community).

Water services are equivalent to energy in terms of essentiality to consumers and impact on household health, wellbeing and budgets. This is particularly true as increased investment to secure water services into the future results in higher water bills. NSW DCCEE should be seeking to align regulation of water services with comparable regulation of energy, where appropriate, particularly in relation to consistency of information transparency, consumer

assistance requirements and government support availability. Chapters 2 & 3 of this submission provide further comment on strategic planning, regulation, funding and minimum service levels.

Water bills are increasing for NSW households in a broader context of cost-of-living challenges. For some regional and rural communities, these challenges are compounded by structural disadvantage. The existing assistance provided by LWUs, and the government support available to LWU customers, is inconsistent and inadequate compared to that provided through urban water utilities such as Hunter and Sydney Water. Chapter 3 and 4 of this submission provides further comment on required reforms to the standard and consistency of supports and assistance for LWU customers.

2. Strategic Planning, Regulation & Funding

This Review should be taken as an opportunity to progress towards consistent outcomes for all NSW households in the provision of water services. Reform to improve strategic planning capability for LWUs, ensure robust regulatory oversight of investment and operation, and implement more efficient, transparent and consistent funding mechanisms are crucial contributors to aligning outcomes for LWU customers, with those served by urban water utilities.

2.1 Strategic Planning

The JEC broadly supports measures to improve the quality and consistency of strategic planning for LWUs, including integrating LWU strategic planning into regional and state planning processes. LWU strategic planning should promote the long-term interests of consumers and communities and be capable of meeting consistent standards of risk management, service resilience and service quality and reliability. Ensuring consistency and integration of LWU strategic planning with regional water strategies, the NSW Aboriginal Water Strategy and the NSW Water Strategy may also allow LWUs to draw on the work of these processes. This may help minimise the impact on LWUs with less planning capability, while still ensuring consistent outcomes.

Planning capabilities across individual LWUs will vary widely. It is possible that some LWUs may not be able to meet the standards of planning and operation required of a more robust framework. The Department should consider measures to build planning capability, facilitate assistance through other strategic planning processes (as outlined above), and other models to ensure consistency across all LWU's. Should the Department progress with a model where individual LWUs are required to manage their own strategic planning, LWUs should be supported with resources, capacity building and training.

However, other approaches may be more sustainable and practical, particularly where smaller LWU's cannot practically develop the resources required to meet higher standards of planning and operation.

In energy, Essential Energy are the network business responsible for most of regional NSW. While having a statewide presence, with a consistent approach to resourcing, planning, investment, operation and oversight for efficiency, Essential Energy runs these operations out of regional hubs with local service depots. This approach allows Essential to maintain a strong local connection, with staff living and working in the community (or in a nearby hub), while building the

capability to operate at a high (and consistent) standard that would not be possible for an isolated local business. We understand this example is not directly applicable to LWU's. However, we consider there is merit in exploring hybrid options where some functions may be undertaken independently, and others shared in a regional hub/local depot model illustrated by the Essential Energy example.

2.2 Regulation

The JEC supports a robust and consistent approach to the regulation of water services across NSW as a key requirement for ensuring all NSW residents experience consistent outcomes in water services. However, we understand it is not necessarily practical for all water utilities to be subject to the full IPART regulatory framework due to the resourcing and capacity required. The priority for this process should be identifying key aspects of the IPART (and related health and environmental) regulatory frameworks, and exploring practical options for LWUs to be held to standards which are consistent, with priority areas including more robust and consistent regulation of:

- Efficiency of capital investment,
- efficiency of operational expenditure,
- effective risk management practices,
- environmental performance,
- water quality, service availability and water reliability performance,
- leakage, recycling and supply resilience,
- assistance for consumer service affordability (including payment assistance, hardship, family violence, and support for other cohorts experiencing particular vulnerability)

While we understand consideration must be given to the capability of LWU's in the short term, this cannot override the fundamental interests of all NSW households in dependable access to affordable, efficient, and resilient essential water services.

More robust and consistent regulation should also involve a move towards consistent and transparent monitoring of consumer outcomes. This process is concerned with LWUs, which should be a priority, but the JEC strongly recommends the implementation of consumer outcome monitoring be applied consistently across all NSW water services. LWUs should be required to publicly report on:

- residential customer numbers
- customers in arrears, by category (30, 60, 90, 120 days)
- customers receiving payment assistance measures
- customers in 'hardship' support
- customers disconnected/restricted (and figures on restoration)
- customer debt carried to be recovered/ customer debt recovered (for instance through property)
- unplanned service outages – number of outages, length of outages, customers impacted as a proportion of total connections,
- Water quality failures and boil-water notices – these should be measured against compliance requirements

- Customer complaints (by category) – must include complaints on water quality, service availability, service standards, information failures, customer assistance failures, and bills.

These should be regarded as a minimum requirement and should be provided as a first step to consistent collection and publishing of consumer data for all NSW water consumers.

All LWU's should be brought under the jurisdiction of the NSW Energy and Water Ombudsman, and required to become members, to ensure consistent access to independent dispute resolution for all NSW households.

We have provided further commentary on how to align water and energy performance reporting in a recent submission to IPART¹.

For further detail on the JEC's position on water regulation for NSW, please review the resource list provided at the end of this submission.

2.3 NSW Government funding

The JEC supports recommendations for more certain, consistent, long-term funding for NSW LWUs. Predictability and reliability of funding is critical to delivering stronger consumer outcomes, but it must be linked to upgraded regulatory oversight, and improved capacity, planning, risk management, service resilience and demonstrated customer outcomes.

We consider the diversity of LWU circumstances, structures and needs, requires a degree of flexibility of response. We see two broad, distinct categories of needs identified in the PEC review and consider it may be necessary to provide different streams of funding – through different mechanisms – to address these, specifically:

- A funding mechanism to address LWU resource and capability need. The intent would be to build capacity and provide scope for consistent level of planning, risk management, investment, operational performance and consumer service outcomes (this is explored further in relation to meeting acceptable standards).

This funding could be based on a consistent assessment of the planning, investment and operational parameters required of all LWU's, with government funding available as an initial or ongoing supplement to what can be recovered on a cost-reflective basis from customer charges. This would be most appropriate for funding improvements to water source capacity, reliability and resilience, improvements to water quality and service continuity, and the identification and rectification of 'hotspots' of poor/unacceptable standards or performance.

This funding would only be available to LWU's and could be provided on a time-limited basis (that is for a period of 5,10,15, 20 years), and only provided in conjunction with a consistent standard of planning, regulatory oversight and consumer outcomes (as outlined elsewhere in

¹ The Justice and Equity Centre, 2023, [JEC Submission to Sydney Water Licensing Review Issues Paper](#), p.3-5.

this submission). Funding should be associated with robust monitoring that LWUs are rising to meet and maintain expected levels of performance.

- A separate funding mechanism to address LWU service affordability need. The intent being to provide a consistent standard of assistance and support for service affordability across all water services in NSW.

Ideally this would be provided on a consistent basis across all water service providers in NSW, as part of wider reforms to ensure consistent support for affordability and equity of water service outcomes for all NSW households. This funding would be associated with the development of a robust framework to assess service affordability, as well as community need within different service areas. This funding should support:

- An 'essential service affordability adjustment' determined on a service-provider basis. This could operate similarly to a 'social tariff' essentially discounting water service prices (which would otherwise be cost-reflective). This adjustment should be provided according to set criteria which influence the sustainability and affordability of fully cost reflective pricing across water service providers – including size of utility, socio-economic profile of the customer base, and the cost per customer of maintaining an acceptable level of water service resilience and reliability. This would not necessarily be available to all (or even most LWUs).
- Ensuring consistent provision of payment assistance programs provided by the water service providers, including hardship programs and other assistance measures which should be consistently required and monitored across the State. There is scope to draw on requirements in energy, as the basis for what should be required of service providers, and accordingly what might need to be supported through government funding. Again – the level of support available to any service provider should be based on set criteria, which may be related to (or narrower than) those for any affordability adjustment. This may need to be available more widely to LWUs.
- Provision of NSW Government rebates, consistently, to any eligible NSW households. There is scope for these rebates to be expanded beyond the current eligibility or provided on a proportional basis. Alternatively, they may be attached to specific aspects of water bills (for instance, fixed charges). This would be available to consumers of all LWUs and urban water utilities.

In its review, the PEC identified under-recovery from consumers and is recommending LWUs move towards cost-reflective pricing. The JEC broadly supports cost-reflective pricing as an important, principles-based part of improved sustainability for LWUs and more consistent regulation and pricing. However, any implementation of cost-reflective pricing should not include recovery of funding provided to build capacity of the LWU or fund its capability to meet required standards. That is, consumer tariffs should not fund recovery of government funds.

Application of government 'affordability' funding would occur after the setting of cost-reflective prices, with the purpose of lowering the cost impact on all or some consumers of a LWU in order to maintain equity and affordability of services which meet a consistent standard.

Any implementation of cost reflective tariffs must also be linked to the implementation of consistent, robust standards, and be associated with more robust regulation to ensure LWUs are achieving efficient, fair and reasonable outcomes.

3. Consistent water service outcomes for all NSW consumers

As the PEC review details, there is considerable asymmetry across water providers in NSW in service levels and a range of key consumer outcomes. As noted throughout this submission, water is an essential service that facilitates the health, wellbeing and economic and social inclusion of NSW residents and all NSW households should be able to expect equivalent outcomes for this service regardless of where they live. While the PEC review recognised the need to set more consistent service standards, we consider its recommendations do not go far enough to ensure the consistent outcomes at a level the NSW community expects.

As we have noted elsewhere, consistency of information provision, availability of customer supports and access to dispute resolution may be beyond the current scope of this review. However, they are critical aspects of consistent consumer outcomes, and this process should make recommendations for further work to address them where it cannot do so directly.

3.1 Service levels and standards

The JEC supports setting consistent standards for water services acceptable to the community, with these based upon the level of services expected in urban water utilities.

In our submission we will refer to “community acceptable standard” rather than minimum standard or basic level of service. The community acceptable standard should be considered a floor, not a ceiling and should be derived with reference to what is deemed acceptable in urban water utilities. For example, while multiple instances of boil-water alerts may be deemed to meet a ‘minimum standard’ in many LWUs, this would not be accepted in Central Coast, Hunter or Sydney Water service areas. A ‘basic level of service’ does not exist for residents in these areas, and we do not consider it reasonable, or aligned with community expectations for regional residents to be required to accept a lower standard of water as a result of where they live or as a legacy of inconsistent LWU funding and regulation.

We are concerned the PEC report regards water quality and service standards above a ‘basic minimum’ as a consumer preference it would be inefficient to meet. We strongly disagree and consider this to be a misunderstanding of the ‘hierarchy’ of consumer needs, interests and preferences.

Consumer needs

Consumer needs are inviolable. They generally relate to standards of health, security and safety. These needs are often defined by health, environment or other requirements which must be met and which are subject to penalties if breached. Drinking water quality standards should be regarded as ‘needs’. We understand the PEC concept of basic or minimum service standards is likely to refer to a customer ‘need’. However, we do not regard this as a reasonable benchmark for acceptable standards.

Consumer interests

Consumer interests are those aspects which often incorporate needs, though wider in scope. In the case of water services, it is in the consumer interest for water services to be efficient, to be provided equitably, sustainably and for affordability to be supported. We consider it is also in the consumer interest for water service availability and water quality to go beyond satisfying 'basic need'. For example, it is in the interests of consumers not to be required to boil water regularly in order to safely consume water, or for the water to violate standards of 'aesthetics' (smell and taste) which discourage consumption. We consider it in the consumer interest for water service and quality standards to be set according to acceptable community standards, rather than 'basic minimums'.

Consumer preferences

Consumer preferences refer to aspects beyond needs or interests, or relate to questions of how interests and needs should be fulfilled, or how trade-offs between aspects of service should be undertaken. For example, consumer preferences could relate to how addressing areas of poor service should be prioritised (e.g. Resolving the worst first, the cheapest first, or by areas of other disadvantage). In regulated frameworks (such as the IPART framework) consumers must be engaged directly to determine their preferences.

We recommend this process develop a framework of 'community acceptable standards' of service and water quality. We consider it reasonable to base this on benchmarks of service and quality deemed acceptable in urban water utilities. We expect this will involve setting standards which some LWUs will struggle to meet consistently at the outset. This is appropriate in the context of a reform process intended to raise the performance of LWUs and improve the consistency and quality of outcomes they deliver for consumers. Linking these standards to robust performance monitoring, and access to additional funding, should ensure progress over time.

The JEC supports the implementation of a robust customer retail service standard, and we provide further feedback on what this should include in the next chapter. To be meaningful this customer retail service standard must be mandatory.

3.2 Services in Western NSW

The JEC supports the Department working with Western NSW councils and LWUs to facilitate the long-term sustainability of water services and the corresponding health and wellbeing outcomes for people in rural and remote Western NSW communities. We understand that the Department has commenced early work with Western NSW LWUs exploring different models and arrangements that may work for these water providers. This process should be used as an opportunity to examine different ways of providing sustainable and affordable water services to Western NSW households.

We have referred to Essential Energy's delivery of energy network services across NSW, and the regional hub and local depot model of operation and service provision. We note Essential Water's operation in Western NSW and recommend the Department explore opportunities to draw on Essentials resources or utilise it as a platform to build or share capabilities across other western NSW LWUs.

We recommend the Department continue to co-design solutions with Western NSW councils, LWUs and local communities and seek to provide the level of autonomy and support appropriate. While specialised work for Western NSW is warranted, it should be consistent with that progressed for the rest of the State. Western NSW communities already face higher costs than most of the State, despite being among the most disadvantaged. LWUs in Western NSW are likely to require a higher level of capacity funding, as well as a higher level of affordability support funding to ensure sustainability and affordability of water services for Western NSW households.

4. Consumer supports

The JEC strongly supports the Department using this Review as an opportunity to recommend consistency of water retail assistance and government supports for all NSW households. This must go beyond consideration of the application of pensioner rebates which, although important, are only one component of a broader system of regulatory mechanisms, assistance and supports required to ensure consistent consumer outcomes in the provision of water services.

As detailed previously, we consider it necessary to develop a comprehensive approach to ensuring consistency of assistance and support for NSW water consumers. NSW residents, regardless of where they reside, or who provides their essential water services, should have their affordable access to those services supported consistently, through 'retail' assistance from the water provider, and through supports from the NSW Government.

As part of the implementation of more consistent and robust support for improved consumer outcomes, the JEC strongly recommends the development of a framework of regulatory requirements which can be applied to all water service providers (including LWUs and urban water utilities). We recommend the NSW Government draw on examples in energy (both in its provision of rebate and emergency assistance, and in the application of the National Energy Consumer Framework) to progress this work.

Regardless of whether broader work proceeds, this process should develop a framework of requirements and guidance to ensure LWUs provide consistent assistance and supports to customers, including:

- Payment assistance programs and policies,
- Hardship policies and programs to support 'hardship' customers,
- Access to leak detection services and water efficiency upgrades,
- State-wide water disconnection/restriction policies and protections,
- Family and domestic violence policies,
- Consumer outcome performance reporting (as detailed previously)
- Publicly accessible and understandable customer contracts,
- Customer service communication options that are easy to find including phonedlines
- Clear and consistent dispute resolution processes with access to independent dispute resolution provided by EWON

As discussed in section 2.2, transparency of consumer outcomes via more robust performance reporting will allow for more targeted and effective consumer supports alongside identification of

which LWUs may need improved ongoing assistance to meet expectations for consumer outcomes.

The JEC has provided detailed feedback to IPART and the Department across various consultation processes on how to best achieve consistency of supports for all NSW residential water consumers.

We note that the PEC identified renters are being particularly disadvantaged in rebates and supports in LWUs. This issue has been similarly identified by the urban water utilities. The JEC recommends this process progress broader work to enable renters required to pay water usage, to be billed directly by their water utility, rather than relying on landlords to pass the bill onto the tenant. For more detailed discussion on renters, please review our recent submissions to IPART's Sydney Water Licensing Review.

5. Other resources

[JEC Submission to Sydney Water Licensing Review Discussion Paper and Draft License](#)

[JEC Submission to Sydney Water Licensing Review Issues Paper](#)

[JEC Submission to Hunter Water Licensing Review Issues Paper](#)

[JEC Submission to Hunter Water Licensing Review Draft Report](#)

[JEC Submission to Regulatory Framework for LWU Consultation Draft](#)

[JEC Submission to IPART Special Review of Water Pricing and Licensing Regulation Position Paper](#)

[JEC Submission to IPART's Draft Water Regulatory Framework](#)

[JEC Submission to NSW Productivity and Equality Commission Green Paper](#)

[JEC Submission to the Draft Greater Sydney Water Strategy](#)

[JEC Submission to the Draft NSW Water Strategy](#)

[JEC Submission to the Town Water Risk Reduction Program Draft Roadmap](#)