

Sydney Water and WaterNSW Greater Sydney Pricing 25-30 Issues Paper

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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.

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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 JEC welcomes the opportunity to respond to IPART's Sydney Water Pricing Review 2025-30 Issues Paper (the Paper). Sydney Water's pricing over the next regulatory period will determine how it will finance meeting the needs of the Sydney community and promote their interests in equitable access to safe, dependable, resilient and sustainable water services.

We congratulate IPART on further improving the accessibility of the review process, providing an accessible and more easily understandable Issues paper. The paper highlights the role of IPART and the key considerations in reviewing Sydney Water's pricing proposal. Its short, simple and is largely free of overly technical language and jargon. We also welcome IPART's wider efforts to improve consumer and community engagement in this important review process. This is a critical part of delivering on the new regulatory framework's promise of consumer and community centricity. We strongly encourage IPART to continue to progress and evolve this approach.

The JEC also recognise Sydney Water's commitment to the new regulatory framework and their stated ambition to become a 'leading' organisation in their embrace of collaborative engagement with the community, and consistently consumer-driven decision making. While there is a lot of work required to achieve this ambition, we welcome the genuine commitment as a crucial foundation for the success of the new regulatory framework.

The JEC is a member of Sydney Waters Customer and Community Reference Group (CCRG) and has been an active stakeholder in Sydney Water's 'Our Water, Our Voice' customer engagement strategy for this Pricing Proposal.

Context

This Pricing Proposal is a particularly challenging one. Consumers are experiencing prolonged cost-of-living challenges, there is planned population growth for Sydney, climate risks for water are increasing and Sydney Water's infrastructure is aging and in need of renewal and replacement. We note that these challenges are impacting water utilities across the country, not just Sydney Water.

The circumstances that this Pricing Proposal falls within, require step changes instead of incremental changes. Meeting the challenges of the coming decades requires significant investment in our water infrastructure and services. In this submission the JEC will question who is best positioned to bear these necessary costs, and whether solutions outside of putting costs onto consumer bills are more appropriate. In both the short and long term, the impacts of these significantly increased costs must be managed to reduce negative bill impacts for consumers, particularly households on low incomes.

How Sydney Water must balance affordability with long-term investment requirements

The key question underpinning Sydney Water's proposal is how it can balance long-term strategic investment in infrastructure and resilience, with ensuring affordability and equity in the provision of a critical essential service for Sydney households.

We agree that resolving this balance is incredibly difficult. While Sydney Water has presented its vision to be 'cost conscious, community orientated and future focused' we do not see consistent evidence of a commitment to consider affordability in every aspect of the proposal. We contrast this with Hunter Water's proposal, which clearly demonstrated where a priority for affordability had materially influenced decisions with clear indications of the relative impact.

This difference may simply be a question of format and style, but we consider it necessary for Sydney Water to much more clearly demonstrate how it has responded to the community's clear indication that affordability is its priority concern.

Sydney Water has clearly articulated the importance of the Greater Sydney Water Strategy (GSWS)¹ and the NSW Governments' expectations in driving its long-term planning and, in turn, the key drivers of their pricing proposal. We understand and agree with this relationship. However, the JEC was involved in the process for developing the GSWS and highlighted significant flaws in both the process of its development and the decisions which it contained. It was demonstrably inferior to the development of the Lower Hunter Water Security Plan² which the JEC also participated in.

In broad terms the development of the GSWS did not include any of the consumer and community centric aspects which are under consideration in this process, which we regard as critical given the influence that process has on Sydney Water's proposal. We highlight this not to invalidate the conclusions of the GSWS but to ensure that it is not regarded as being more driven by consumer and community values and preferences than was actually the case. The investment and planning may be regarded as good government policy, may be prudent and may be appropriately future focussed, but this does not necessarily mean it is accords with today's consumers' priorities and is today's consumers' responsibility to fund.

We recognise and strongly support the importance of long-term investment planning which the Long-Term Capital and Operational Plan (LTCOP) is intended to implement. This approach to planning is critical to ensuring more consistent, smoother and efficient investment in resilient water services. However, the LTCOP is driven in large part by the GSWS and, as Sydney Water's proposal recognises, NSW Government policy and expectation. In this context we question the degree to which Sydney Water can claim the LTCOP was meaningfully impacted by consumers and the community. This does not invalidate the LTCOP which may indeed represent the most prudent response to circumstances Sydney Water faces. However, it is important that the role of consumers and community in shaping it not be overstated.

In our view, the aspects of Sydney Water engagement which dealt with the issues relevant to the LTCOP didn't provide a robust basis for consumers to materially influence the plan and their role could more reasonably be characterised as validating the decisions Sydney Water believed it had to make. There was little scope for the community to meaningfully interrogate the proposals or concepts in a way that would have enabled them to disagree with them. In this context Sydney

¹ The JEC (PIAC), 2021, [Draft Greater Sydney Water Strategy Submission](#)

² The JEC (PIAC), 2021, [Draft Lower Hunter Water Security Plan Submission](#)

Water asserting that 86% of consumers agreed with building new supplies to ensure security based on risk and cost³ is not a meaningful indication of support.

Similarly, the JEC does not consider consumers supporting a 'medium' cost risk and performance priority⁴ in the context of the engagement undertaken can be regarded as an independent or proactive (and hence meaningful) expression of consumer preferences. Aggregating such a large concept (as future planning for the entire water supply) removes any meaningful scope to interrogate different aspects and apply different values and priorities (and trade-offs) to them. Accordingly, this process, as it was conducted was unlikely to end up with anything other than a 'balance' conclusion from participants. To be clear, we do not think this invalidates the engagement, or that no meaningful direction on values and priorities can be drawn from it. We do however consider it important to correctly characterise the role consumer and community preferences have played in Sydney Water's determination of the level of investment in the LTCOP.

In the remainder of this submission, we focus on issues of long-term planning and affordability, and Sydney Waters engagement program. We discuss these aspects in more detail as they pertain to different aspects of Sydney Water's pricing proposal.

1.1 Clarification on the role of the JEC and consumer stakeholders

The JEC has been deeply involved in Sydney Water's process of engaging with its community and developing its Pricing Proposal. The JEC is a member of Sydney Water's Customer and Community Advisory Group (CCAG). This engagement has largely been undertaken as part of the JEC's role as a consumer engagement expert and advocate for the interests of NSW households, and in service of our objective to ensure decisions which impact NSW household access to water services are grounded in, and shaped by, robust engagement with consumers and the community.

We are aware that some stakeholders do not have a clear and consistent understanding of the two distinct roles the JEC undertakes for NSW households. Given this submission presents perspectives encompassing both roles, it is important to clarify them here.

The JEC role, which is potentially best understood, is as an expert advocate for the interests of NSW households in equitable and dependable access to affordable, resilient and sustainable water services. In this role we develop and advocate for positions we consider promote the interests of NSW households. In this advocacy we make clear that we do not 'represent' consumers or their preferences but rather represent and advocate for what we consider best promotes the interests of all NSW households, and particular cohorts experiencing vulnerability and disadvantage.

Less well understood is our role in shaping, observing and assessing direct consumer engagement. Our purpose in this role is to ensure that parties with an interest in disentangling consumer and community views on regulatory matters can do so. We seek to ensure engagement enables people and communities to 'speak for themselves' and provide the most

³ Sydney Water Pricing Proposal 2025-2030, P.13

⁴ Ibid

meaningful expression of their own values, preferences and priorities on these issues. In this work we concentrate on the process of engagement, the principles which underpin it, how it is structured and conducted, and how its results are translated and integrated through decision-making practices. Crucially, in this work our own perspectives on the merits of the matters under consideration, or the results are not considered, and we make efforts to ensure they do not impact our assessments.

Put simply, we seek to both advocate for the interests of households and ensure engagement provides the best opportunity for households to express their preferences and values regarding decisions that matter to them.

This distinction is important. It is possible for a robust, 'valid' engagement process to result in an expression of preferences that does not accord with our assessment of the consumer interest. We try to be transparent in recognising this conflict as and where it occurs.

For instance, in previous processes undertaken by Jemena gas the community expressed a preference for new gas network connections to be subsidised by existing consumers. We assessed that this preference was validly drawn from a robust engagement process and should be regarded as such by the regulator. However, separately (as an expert consumer stakeholder) we noted that we did not consider such an approach promoted the long-term consumer interest, and recommended the regulator not support the proposal.

1.1.1 Consumer needs, interests and preferences

Any regulated decision-making process (such as that applying to Sydney Water) is required to derive and consider consumer and community needs, interests and preferences. We consider these distinct but overlapping considerations which require a range of methods and mechanisms to assess and integrate into robust consumer-centric decision-making.

Consumer needs are 'inviolable' factors which must be met. In water these are often set by environmental and health standards and other policy requirements. While consumer and stakeholder input can 'add to them' and should provide guidance as to how these needs can be met, they can't be compromised or traded off.

Consumer and community interests are often enduring values or standards with long-term importance. In water regulation this might include efficiency of investment, cost reflectivity of pricing, methods of long-term risk management, and broad consideration of equity. Consumers expression of their values and priorities can add to what is considered in their interests (particularly where it is consistently expressed), but again the role of consumers here is primarily to express their preferences for how their interests should be met and promoted (rather than simply asserting what those interests are). Here expert stakeholders (such as the JEC) and stakeholder advisory groups have an important role to provide direct input to help understand and shape decisions.

It is important to note that it is possible for the interest of consumers to sometimes be in apparent conflict with their preferences. Here the task is to consider how to resolve this tension. For instance, consumer preference for 'control' through usage-based pricing, may be moderated or qualified by the broader community interest for pricing to remain sustainable and equitable for renters.

Consumer preferences are expressions of the priorities, values and preferences of the community. These are not only expressions of values or priorities beyond or outside those recognised as needs or interests, but also directions as to how decisions relating to needs or interests should be shaped and implemented. We refer to these as questions of how and why a certain approach to a decision should be taken, rather than simply what decision should be made.

For instance, while it is in the interests of consumers for pricing to be efficient and cost reflective, it is their preference for pricing to be postage-stamp, for it to be as stable as possible, and for it to support conservation and consumer control of costs. Consumers and community are the only ones who can assert their values and preferences.

We consider these differences critical, and that ongoing evolution of regulatory processes will need to consider how to better integrate consumer needs, preferences and interests, particularly when they may be in apparent conflict. In any case we regard consumer preferences and interests as crucial, and that robust engagement should involve a range of platforms to derive and integrate both, with businesses required to make a case for how they have meaningfully integrated them into decision-making.

We have been consistent in our intent to ensure our involvement with Sydney Water's engagement has focussed on the quality and robustness of the engagement itself, rather than our view on the merits of any particular decision. However, as noted above, we consider the direct perspectives of consumer stakeholders (such as the JEC) as critical contributors to community-centric regulatory proposals. Accordingly, in this submission we will include our perspectives on Sydney Water decisions, assessing their alignment with consumer and community interest as we understand them. We will also comment on the robustness of Sydney Waters engagement structure and process, including where more consumer stakeholder input may have been valuable. We will attempt to clearly differentiate our comments on the validity of engagement from our own perspectives on Sydney Waters decisions themselves.

Additionally, at appendix 8.1 we have provided an excerpt from a recent submission to the Australian Energy Regulator (AER) at the conclusion of their regulatory determination process assessing the proposals of the 3 NSW electricity distribution network businesses (DNSPs). We have provided this as we consider much of our commentary, observations and issues raised to be relevant to IPART and consideration of the implementation of the new regulatory framework. The AER was also implementing a new process focussed on consumer engagement and grappling how to consider the interaction of consumer and stakeholder input and their integration with regulatory oversight.

2. Cost of Living and Water Affordability

Sydney Water's pricing proposal comes at a time of ongoing financial strain on households. We understand that given the significant investment involved in Sydney Waters proposal, and the current difficult financial circumstances for Sydney households, that affordability will be a key consideration for IPART in assessing Sydney Water's proposal.

In this section we have provided detailed commentary to aid IPARTs consideration.

2.1 Cost of living and context for affordability

JEC's *Powerless* research into debt and disconnection/restriction of energy and water services reveals that utility affordability issues are more prominent than at any time since we commenced this research series in 2004. The pressure on lower income households is increasingly severe, but affordability and debt issues are expanding to impact higher income groups. For those with little option to access more affordable housing (such as renters), there is a real and growing risk of being pushed into homelessness when water bills and other expenses leads to difficulty in paying rent.

A recent NCOSS survey of low-income NSW households⁵ showed:

- 50% of respondents reporting they could not pay utility bills on time.
- 74% of respondents reported going without health and wellbeing essentials.
- Many people taking drastic measures like not eating dinner 4-5 nights a week, not having visitors or going out with friends, and going without food or medicine to afford their bills.

The impact of affordability issues on essentials which support health and wellbeing are also consistently evidenced in The JEC's *Powerless* report⁶, in the ACOSS Raise the Rate Survey 2024⁷ and in the ACOSS Summer Heat Survey 2024⁸.

Increasingly, these critical affordability issues are driving people to resort to non-traditional credit products such as Buy Now Pay Later and payday loans to pay for utility bills, further increasing their costs^{9,10} and raising risks to household financial security.

Complaints to the Energy and Water Ombudsman NSW (EWON) about water are up over 20% from last year, with the top cause for complaint being about high water bills¹¹. EWON tend to regard utility bill complaints as consistent evidence of bill stress, rather than dispute.

This evidence of serious stress throughout NSW households must be a priority consideration when reviewing Sydney Water's 25-30 Pricing Proposal, particularly in relation to assessments of the affordability of pricing increases, the structure of pricing increases and the adequacy of affordability supports. In our view Sydney Water's proposed criteria for assessing affordability is not appropriate for this purpose.

2.2 Considering affordability holistically

The JEC strongly recommends affordability be considered much more comprehensively when reviewing this pricing proposal. We are concerned that Sydney Water and IPART will only view water affordability, in isolation, according to a discrete metric such as bills as a proportion of

⁵ NSW Council of Social Service (NCOSS), 2024, [Impossible choices: Decisions NSW communities shouldn't have to make](#).

⁶ The Justice and Equity Centre, 2024, [Powerless: Debt and Disconnection](#), pp. 47-49.

⁷ ACOSS, 2024, [Raise the Rate Survey 2024](#)

⁸ ACOSS, 2024 [ACOSS Summer Heat Survey 2024](#)

⁹ The Justice and Equity Centre, 2024, [Powerless: Debt and Disconnection](#), pp. 49-50.

¹⁰ NSW Council of Social Service (NCOSS), 2024, [Impossible choices: Decisions NSW communities shouldn't have to make](#), pp.46-49

¹¹ Energy and Water Ombudsman, 2024, [EWON Insights Report: July to Sept 2024](#).

average household disposable income. Utilising this, or similar metrics presents a number of issues which mean they are unlikely to meaningfully indicate water bill affordability. Specifically:

- Average disposable income is a comparison which is skewed by the income of households with less concerns about affordability generally. While this could be a relevant overall figure, it is more informative (and relevant) to focus on the disposable income of the bottom quartile (at least). We recommend that IPART and Sydney Water assess affordability of bills on a more granular level (disposable income quartiles/deciles).
- Water bills are not a discrete consideration for households and, as an essential expense of housing (alongside rent/mortgage and energy) should be considered holistically in conjunction with these expenses. At the very least enduring high cost of energy and the extremely high costs of housing (where Sydney has some of the most expensive housing in the country) should be part of the assessment of affordability pressures on NSW households.
- While Sydney Water costs for consumers may be relatively low when benchmarked against other Australian utilities, this does not recognise the impact of the costs of housing on the affordability of other essential housing costs (energy and water). While Sydney Water bills may be low compared to other Australian providers, Sydney residents are commonly paying in excess of 30-60% of their income on housing costs, with energy bills accounting for several more percent. In this context relatively small changes in water (and energy) bills can have a disproportionately large impact on Sydney households.
- Water bills are not aligned with household income. Water bills are quarterly and may be in the hundreds of dollars. People mostly receive income weekly or fortnightly (or sometimes monthly) and many households are increasingly unable to retain more than \$500 in savings. Comparing annualised water bills to disposable income is likely to obscure the mismatch between the funds people are actually likely to be able to access compared to the bills they will be faced with.
- Water is an essential service. The implications of this are that people must use it and do not have the fundamental 'buyers' agency to decide not to use or purchase it because they cannot afford it. Given the substantial fixed costs, and the significant non-discretionary usage elements, this means that changes in costs (particularly fixed costs) can have significant impacts for people who are already in financial stress, because they will be pushed further into the red without the agency to mitigate this impact.

As result of these factors, and the wider affordability context evidence we have presented, we strongly recommend IPART consider water bill affordability in a wider context, rather than only assessing them relative to water bill benchmarks. We encourage the use of a range of indicators and considerations to better account for the actual impact of the range of potential increases to Sydney Water bills.

2.3 Reforming assistance and support

Sydney Water have a good record of providing assistance to their customers, including those experiencing payment difficulty. In their proposal they indicate that they expect to provide in excess of \$200 million of annual payment support to households. We welcome this as a critical

affordability support and a key part of Sydney Water's good practice. While we discuss further need for Sydney Water supports later in this submission, we also want to highlight the substantial gaps in support frameworks, including the oversight of outcomes for Sydney Water customers and what impact the assistance they provide has.

The NSW Government provides a similar amount of energy rebate assistance to NSW households (in excess of \$300 million) which is regulated and directed by the Social Programs for Energy Code and involves a schedule of reporting and transparency of outcomes. Similarly, energy retailers in NSW are required by the Australian Energy Regulator (AER) to abide by the National Energy Consumer Framework. This regulates how they must respond to payment difficulty and debt, how and when they can disconnect consumers, and requires them to report transparently on all relevant outcome data for their consumers.

Water services are equally essential and, as bills increase, have similar impact on households' finances. It is critical that equivalent requirements for consistency in process, support and transparency are developed for water services in NSW. Given the NSW Government is expending significant funds to support affordability in water it is reasonable to at least apply requirements for transparency over how these funds are supporting NSW households and what outcomes are being achieved.

More broadly the JEC strongly recommends a more consistent approach to requiring and providing water payment assistance and Government rebates for all NSW water services (including Sydney Water). Robust payment assistance measures and consistently accessible Government rebate support are critical measures to support essential service access and affordability and protect households from water poverty.

Whilst Sydney Water's supports are relatively accessible and helpful compared to many other water providers in NSW, all NSW households should have access to consistent, effective water bill assistance and supports, including rebates, crisis assistance, 'hardship' programs and other assistance to improve water efficiency to minimise payment difficulty.

Accordingly, the JEC recommends IPART support regulatory reform, including:

- Creation of a consistent framework of water payment assistance and hardship policy requirements for all retail water service providers to households. We highlight the framework for energy protections and retail assistance requirements as a relevant example.
- Ensuring consistent and transparent reporting of key consumer outcome data by all providers of retail water services to NSW households, with this including reporting on consumer debt, restriction, payment assistance and hardship.
- Ensuring consistent and expanded access to Government rebates supporting water affordability for all NSW households. The NSW Government approach to energy rebates should be drawn on as an example.

2.3.1 Transparent and consistent reporting

Sydney Water highlights customer advocacy scores in relation to its performance in providing hardship and payment assistance programs. These scores are interesting and contribute to a picture of Sydney Water's performance in this regard. But they are not an indication of outcomes and impact and are not a substitute for more comprehensive and transparent reporting of customer outcomes both in and out of payment difficulty. Sydney Water's assessment of its success in supporting customers should not be related to what those people may think, but the outcomes they experience in relation to consistent indicators.

Whilst there are limitations, consumer outcomes data is consistently collected in energy, which enables effective outcomes monitoring and development of timely reforms. Information is available and accessible in one place and is accompanied by some analysis by the Australian Energy Regulator. We encourage the NSW Government (via IPART) to begin to require (from all residential water service providers in NSW), collect, collate and present key customer outcomes and indicators including:

- Water usage by category
- take up of supports – rebates, payment assistance, crisis assistance and other assistance measures;
- numbers of customers in hardship and other assistance programs and details such as their debt on entry, and time in the program;
- levels (and age) of customer debt;
- debt collection activities, including where debt is sold and/or collected by third parties;
- threats of restriction;¹²
- actual restrictions for non-payment, including time off full supply;
- threats of legal action; and
- details of legal actions.

We encourage this information to be presented in a report with commentary regarding performance over time, such as collated and presented by Victoria's Essential Services Commission's [Water Performance reporting](#).

2.4 Sydney Water's approach to debt and restriction

The JEC commends Sydney Water for taking an approach where 'collections' is housed in customer services, rather than in finance, to help facilitate a 'customer first' approach. During interviews undertaken in 2023, Sydney Water noted that they had not experienced a greater number of people entering their hardship program, but they had about a 30% increase in self-referrals asking for short term assistance, such as an extended payment arrangement. It may be correct that these households only need short term assistance, but we also note that it can be easier for households to ask for short term help than to indicate they need longer term assistance.

If Sydney Water does not already do so, we encourage them to reach out to these households to offer them longer term support, particularly in a climate where cost of living pressure is rising for

¹² JEC's *Powerless* research found that receiving a disconnection/restriction threat (notice) can actually be more stressful than actually being disconnected/restricted

many households. The general customer service team need adequate training and processes to look for 'red flags' and 'read between the lines' to ensure they do not act as gate keepers and not refer people in need to the specialist 'hardship' team.

The JEC also commends Sydney Water for operating a specialist payment difficulty team with social work qualifications. We consider this crucial for mitigating any unreasonable focus on debt collection. We also understand Sydney Water have proactive measures to offer assistance to households presenting indicators of payment difficulty, with regular check ins. Sydney Water's automatic checks for Centrelink status are also likely to help reduce the numbers of people who are eligible for rebate assistance but don't receive assistance.¹³

As we understand it, Sydney Water spends considerable effort in identifying payment difficulty and offering assistance, including referring to community organisations to provide wider supports. The JEC supports Sydney Water's calls to have processes to enable households experiencing payment difficulty to access supports across a number of service providers without having to re-explain their situation.

We encourage Sydney Water to continue to improve their understanding of and approach to payment difficulty. This includes continuing to evolve their home visits to households in debt who may not be 'engaging' with them. Home visits should be seen as an opportunity for Sydney Water to help the householder access wider supports available, and to consider where it is not appropriate to seek payments. With this mechanism in place, we encourage Sydney Water to limit debt collection practices, restrictions, threats of restriction and legal action only to households where it is clear that the household is not experiencing vulnerability.

Given the proposed increases in water prices, Sydney Water is likely to see more need for assistance from their customers and we encourage them to be proactive about offering available assistance. Although Sydney Water provides assistance that is beyond the minimum in their Customer Contract, we encourage IPART to ensure that this higher level of assistance is maintained even with more need from the community, such as by strengthening minimum assistance measures required by Sydney Water next time their Customer Contract is reviewed.

2.5 Long term affordability assistance

Payment assistance measures, including those provided by Sydney Water, often assume that payment difficulty is transitory. Increasingly evidence shows there are many NSW households who experience longer term, permanent and/or more complicated payment difficulty. People in these longer-term circumstances are likely to be left 'cycling' through support programs (where they can access them) with significant debts and payment obligations, as well as the associated stress and compounding impacts which result.

The experience of those with longer term issues needs to inform improvements to better manage risks and ensure better outcomes for people in these circumstances.

¹³ This is a significant problem identified in energy, but JEC is unaware of the extent this occurs for Sydney Water customers.

The JEC recommends the NSW Government consider extending its energy debt relief trial to water to help eliminate the debt of households with long term affordability challenges.

There are also substantial opportunities to aid overall household essential service affordability by combined energy and water programs, and greater co-operation between water utilities and the Government in providing more enduring supports to lower bills. For instance, Sydney Water could support the replacement of gas and inefficient electric water heaters with efficient heat pump hot water heaters – saving on energy and water costs.

IPART should also consider opportunities to recommend reviews of payment assistance and rebate support to ensure that in addition to being provided more consistently, they are sufficient to meet the needs of all households in the NSW community who require them. In the context of Sydney Water’s proposed bill increases this should include expanding support to renters and large families/high-usage families.

3. Long-term planning and Expenditure

As we have noted earlier in this submission, we understand the need for longer term investment planning and support taking a more strategic, long-term view to capital expenditure supporting growth and supply resilience. The choice should not be between equity and affordability of essential water services in the short term, and sustainable and resilient water services in the longer term. This proposal process involves critical questions of how to balance these interests, and we recommend IPART consider whether the historic approach is capable of adequately resolving them.

3.1 Operating context and apparent historic underinvestment.

The Sydney Water proposal details an operating context raises which questions about Sydney Waters long term management, and particularly the degree to which they have appropriately balanced short-term affordability with long term investment requirements in the past. We consider this a critical consideration in the context of such a large uplift in expenditure to deal with replacement of infrastructure.

Sydney Water rightly recognises its bills are comparatively low when benchmarked with other similar utilities. This recognition comes with what appears to be an indication that the level of replacement investment has been relatively low¹⁴. This case is amplified by Sydney Water’s detailing of the significant proportion of assets at high risk of critical failure, with an indication that the impact of critical failure would be substantial for consumers. Given the proposal to undertake a massive step-change in investment over the next 10 years – likely equivalent to more than the regulated asset base of the entire organisation – it is necessary to ask whether Sydney Water has appropriately managed the balance between long-term risk management and near-term affordability, appropriately. It must also be asked why, over the next 10 years, consumers should be required to pay in full to rectify any potential under-investment, while also carrying the cost of investing to account for future growth and service resilience.

¹⁴ Sydney Water Pricing Proposal 2025-30, p.71

This would appear to be asking consumers to carry the cost of Sydney Water's previous failure to appropriately account for future risk at the same time as carrying the full cost of investing to more fully mitigate future risk. The JEC do not consider this to be reasonable, particularly in light of consumers limited influence on either of these factors.

We strongly recommend IPART consider Sydney Water's proposal, and the substantial investment involved, in light of this question.

3.2 Long term planning

We reiterate our strong support for a more strategic, long-term approach to planning and infrastructure investment. We agree it is a necessary part of building a more consistent approach to investment and smoothing the peaks and troughs that have been an unwelcome feature of past decades and contributed to the current circumstances and context we have noted above.

However, as we have also noted above, by any assessment the LTCOP is in most part driven either by past risks and needs which were not well managed, and government policy and expectations to meet future growth and resilience needs. In both cases these are requirements beyond the control of consumers and, we argue not meaningfully shaped by consumers. At the very least our observations of the processes have not convinced us that the result can meaningfully be said to reflect consumer priorities and be materially shaped by them. We consider the processes better characterised as Sydney Water discussing long-term needs and the proposed plans (and implications) with consumers and asking them to 'validate' the values, needs and costs involved in responding to them. This is not a process without value, but in our estimation cannot reasonably be said to be driven and shaped by consumers.

We do not agree that Sydney Water is well justified in its conclusions that the nature and quantum of spending is grounded in consumer preferences and in accordance with their decisions and willingness to pay. We do not consider that the Phase 5-6 engagement was appropriate or robustly designed to either direct Sydney Water decisions or meaningfully reflect a community willingness to pay. It is being asked to do both. These phases were, in essence a collection of focus groups with deliberative aspects to the overall structure. This platform is not the kind of statistically representative and significant platform capable of validating community support or willingness to pay.

In any case the LTCOP aspect of the engagement indicated the scope of potential investment as between \$83-95 billion. It's not clear to us how the consumer engagement impacted the determination of this scope or the end proposal of \$85 billion by Sydney Water. In our experience with energy there is currently material risk of overspend in large infrastructure projects. TransGrid, which has currently undertaken between \$20-30 billion of large-scale infrastructure investment over the next 10 years has experienced significant cost over-runs, sometimes exceeding 50%. We are concerned similar overruns could impact an investment plan as large as Sydney Water's. Were this to be the case it's likely the impact of cost overruns would vastly outweigh any apparent impact of consumers preferences in Sydney Water investment decisions.

3.3 Approach to cost sharing

This pricing proposal from Sydney Water includes step-change increases in investment. As we have noted earlier, this huge increase relates not only to 'rectifying' previous potential under-

investment, but mostly to preparing for future network growth and related improvements to network resilience. The JEC consider it timely to consider whether it is justifiable or sustainable for all of these costs to be fully recovered through consumer bills.

There are other areas of government agency service provision (such as rail transport or toll-roads) which undertake investment and service-cost recovery very differently. For instance, urban rail fares are not required to fully recover the cost of future growth investment through current fares. Train fares do not increase in advance of the construction of new lines. Similarly, toll-roads are constructed in advance of setting the terms of their cost recovery from consumers.

In principle terms, it is also possible to assess appropriate cost recovery mechanisms by considering who causes or benefits from the costs. Additionally, we could consider costs (and the risks they relate to) should be dealt with by the party best placed to manage (and mitigate them). In both cases we consider there to be a strong case to alleviate Sydney household consumers cost burden in relation to Sydney Water's investment.

We consider it timely (and justified) to assess options to defray the impact of Sydney Water's proposed investment step changes on water bills. This could include separating investment relating to growth from costs recovered directly (and immediately) from consumers. Investments, such as new wastewater treatment facilities, and substantial network augmentation to accommodate growth, while improving service resilience, could be regarded as direct NSW Government budget expenditure and either not recovered directly from consumer bills, or not added to costs recovered from consumers until growth occurs. It may also include altering approaches to depreciation for some investments to extend recovery timeframes and defray inequitable impacts on current household consumers while still facilitating necessary investment.

In any case we strongly recommend IPART consider all possibilities, including those which may represent a substantial departure from established practice.

3.4 Resilience, adaptation and the role of Sydney Water

The JEC recommends that IPART investigate and if necessary, seek legislative change to provide clarity on Sydney Water's role in the community as a provider of climate resilience and adaptation programs. There is a question to be answered as to whether Sydney Water is a public utility that provides community water services (a broad remit) or a business providing water (a narrow remit). This is a tension that we have identified in Sydney Water's current and proposed climate resilience and adaptation programs, evidenced through observation of Sydney Water's Our Water, Our Voice customer engagement sessions. We consider the ambiguity in role is complicated by the fact Sydney Water shares responsibility for catchment and water source management with WaterNSW.

Climate resilience programs such as improving waterways and greening urban areas are valued and important work which the JEC supports. But Sydney Water's current regulated (and legislated) function is to ensure reliability and resilience of water services in the face of climate risks. From their customer engagement sessions there was clear community support for the work Sydney Water does in improving waterways and greening urban areas but significant confusion about why the government does not pay for this out of general revenue, given that the community reasonably sees this as a government policy role in supporting good community outcomes.

As a regulated monopoly whose costs are currently guaranteed to be recovered from water users, there is a need to resolve the questions of whether some functions undertaken by Sydney Water (and which are best managed by them) should be funded through Government or other programs in recognition that they do not reasonably fall within the remit of a regulated monopoly water service provider. There was strong consumer sentiment that Sydney Water is well placed to do this work, but that it should not be paid for by consumers through Sydney Water bills. We strongly recommend IPART consider this question and make recommendations to enable the NSW Government to resolve it in support of the interest of Sydney households.

4. Sydney Water Community Engagement

At the outset, it is important to recognise the importance of robust and meaningful community engagement in the new regulatory framework. The JEC welcomes this upgraded focus. Regulated essential services involve a guarantee of consumer funded investment and operation that should be shaped, driven and validated by consumers and their stakeholders to ensure services meet their needs and interests, accordingly to their preferences.

As we have outlined, the JEC prioritises our work in helping shape, observe and oversee community engagement to help ensure consumers can meaningfully shape the essential services intended to support and promote their interests.

4.1 Intent and approach to assessing engagement

The intent of JEC's assessment of Sydney Water's engagement is to provide an understanding of the degree to which that engagement is able to serve as a robust foundation for Sydney Water's decision-making, and the degree to which we consider Sydney Water's proposal meaningfully reflects the consumer and community values and preferences expressed through the course of engagement.

The JEC's approach is to undertake a two-stage assessment of engagement. First, we consider whether the engagement is **capable** of underpinning decision-making, that is whether the engagement is:

- robust;
- good practice;
- uses an appropriate mix of methods and platforms;
- representative; and
- whether the insights gleaned from the engagement processes are genuine and meaningful.

We then make an assessment as to whether the consumer and community values, preferences and priorities expressed in the engagement are reflected in the decisions, including the degree to which engagement is reflected in pricing decisions.

In both of these assessments we consider that Sydney Water has demonstrated a genuine intent and commitment which has resulted in qualified success that, at this stage in the implementation of the new framework, represents achievement of a 'standard' level of consumer centricity.

Accordingly, an additional intent of this assessment is to provide recommendations regarding scope for evolution and improvement so that Sydney Water can better realise its ambition, and build future engagement processes which are more robust, and capable of leading to the 'most meaningful' expression of their community's preferences.

As a contributor to Sydney Water's CCRG report, the JEC also commends its observations, conclusions and recommendations to IPART.

4.2 Sydney Water's self-assessment

We support Sydney Water's broad assessment of its proposal.

This is the first process under the new framework. Businesses are understandably at an early stage of maturity in developing the culture and understanding required to consistently demonstrate the high-level of consumer driven, collaborative decision-making Sydney Water aspires to. In this context Sydney Water's ambition and genuine intent, commitment of time and resources, flexibility in responding to input, and the efforts and commitment of its senior executives and staff are to be commended. They represent the fundamental intent required from the regulatory framework and are foundations upon which necessary development can be built.

Despite what we consider to be considerable flaws of structure and process (which we address throughout this submission), we concur with Sydney Water's self-assessment of their proposal as meeting a 'Standard' level under the 3Cs framework.

Despite this assessment, it is important to note that engagement culture and practice is dynamic. In our experience throughout energy and water, there is a danger that businesses see a standard of engagement as static, or a matter of resources or financial commitment. In this context, while Sydney Water has demonstrated an approach and practice which can be considered Standard this time, a similar approach in the future would be regarded as 'sub-standard'.

Throughout the remainder of this section (and this submission) we present detailed comments in relation to Sydney Water's engagement and its links to particular aspects of their proposal. While the primary purpose of this is to contribute to IPART's assessment of the proposal and the degree to which it represents the values, priorities and preferences of the community, it is also intended as constructive observation as to where we consider ongoing evolution and development of culture and practice is required to ensure Sydney Water's engagement culture, capability and practice continues to evolve.

4.3 Structure and approach of engagement

Sydney Water's engagement broadly demonstrated a number of the key aspects of good engagement practice capable of meaningfully underpinning consumer-centred decision-making. Key aspects included:

- Genuine ambition and intent to develop a culture of engagement.
- Consistent commitment and involvement of the executive and key staff.
- Commitment of required time, resources and goodwill.
- Employment of a range of engagement methods and platforms to engage meaningfully with the community and derive their preferences, values and priorities.

- Broadly representative engagement.
- Flexibility and willingness to adapt the engagement methods and program.
- Involvement of independent stakeholders in oversight of the direct consumer engagement program.

On a broad assessment at this level, we consider the structure of engagement undertaken able to meet the 'standard' required to meaningfully underpin consumer-driven decisions. There were significant gaps and flaws, however, and much scope to build a more robust structure encompassing more mature practices which would be capable of underpinning an 'advanced' approach.

In our opinion the flaws or deficiencies we observed are more a reflection of the Sydney Water's current level of engagement 'maturity' than a lack of intent or commitment to engagement. It is often not well understood how much time, effort and evolution is required to develop a mature understanding and capability to:

- Identify key issues and questions,
- translate key issues and questions into concepts and questions consumers can engage meaningfully with,
- prioritise issues for engagement,
- interpret consumer perspectives,
- integrate consumer values and priorities with input on consumer interests,
- synthesise input into consumer-focused decisions,
- test and validate decisions with the community, and
- succinctly and correctly present the link between consumer preferences and priorities derived from engagement and the decisions they shaped.

We observed a number of flaws in the structure of Sydney Water's engagement which we contend should be considered as material qualifiers to the conclusions drawn and decisions proposed by Sydney Water. In broad terms these flaws include:

- Stakeholder oversight (the CCRG) did not commence prior to the planning and initiation of the engagement process.
- There was no meaningful, structured stakeholder (CCRG) interrogation of the Sydney Water proposal itself to provide independent input relating to the consumer and community interest.
- Phases 3 and 4 were poorly structured focus-group activities and were not sufficiently robust to address the complexity and materiality of the issues under consideration.
- Phases 5 and 6, while significant improvements on prior phases, were neither robust deliberative processes nor valid, statistically significant and representative bases for establishing consumer acceptance or support for specific decisions or bill impacts.
- There was no robust re-testing of previously 'agreed' levels of investment when the full impact of those decisions could be seen in aggregate. This is contrary to any understanding of good engagement practice and seriously calls into question any assertions that individual aspects of expenditure were set and well supported by the community.

These flaws do not invalidate Sydney Water's engagement but should be considered as qualifiers to the conclusions which can be drawn from it.

We support Sydney Water's approach to present phases of engagement to the insights they gained and providing a clear link to demonstrate their case for how they consider engagement shaped their decision making. This is good practice and facilitates effective IPART (and stakeholder) interrogation of the degree to which Sydney Water has 'made their case'. We commend Sydney Water for this approach.

4.4 Comment on the role of the CCRG

The role of the CCRG was valuable and significant and we agree the CCRG made many crucial, positive contributions to Sydney Water's engagement program. Not least identifying the flaws in phases 3 and 4 and helping to ensure Sydney Water reconsidered its program, adding in phases 5 and 6.

However, as a member of the CCRG, we disagree with some aspects of how Sydney Water has presented its role – in particular that it offered independent input to ensure 'plans, investments and regulatory submissions align with long term customer and community interest'¹⁵. As we have highlighted, we consider this stakeholder role an important function and crucial contributor to a comprehensive engagement program and decision-making which comprehensively integrates community needs, interests and preferences.

Sydney Waters' CCRG was not structured to fulfil the function of independent expert/stakeholder contributor or commentor on Sydney Water's proposal (as opposed to the engagement program which informed it). Only the JEC had the expertise, resources or experience to independently interrogate Sydney Water decision-making and make comment on the consumer interest, and no structured opportunity provided for the JEC, or the CCRG as a whole, to do so. This is not unique to Sydney Water, with Hunter Water and Jemena gas also demonstrating similar approaches, but is important to note so that it can be addressed over subsequent engagement processes.

At the formation of the CCRG the JEC (as a long-time member of Sydney Waters community panel and having extensive experience engaging with regulatory processes in energy and water) recommended that Sydney Water retain their existing community representative panel and commission a separate expert stakeholder panel to oversee its engagement program and potentially offer independent expert input on the formulation of Sydney Waters pricing proposal. Hunter Water adopted this approach, which we regard as best practice. However, Hunter Water also did not facilitate structured independent community stakeholder input to the formation of its proposal, to integrate perspectives of the consumer and community interest with those of community preferences¹⁶.

We recommend Sydney Water (and other water businesses) consider what roles it values and needs from its stakeholder consultative platforms and then considers how best to incorporate these into appropriate stakeholder structures (with requisite membership). This decision should

¹⁵ Sydney Water Pricing Proposal 2025-30, p.36

¹⁶ We refer IPART to Ausgrid's approach in relation to its recent pricing proposal to the AER for the period 2024-30. Ausgrid retained its community representative council (CCC) and initiated a 'Reset Customer Panel' composed of expert consumer stakeholders to both oversee the development and conduct of its consumer engagement, and offer direct comment and challenge of the decisions in its proposal.

recognise the fundamental difference between community representation and expert/stakeholder challenge¹⁷.

In relation to Sydney Water's CCRG, there was a substantial delay in its commissioning, meaning it did not meet until well after the planning and initiation of Sydney Water's engagement, enabling observation and input only after the commencement of Phase 3.

Once involved, the feedback on phases 3 and 4 from the JEC and the CCRG (the first opportunity for input on Sydney Water's engagement), backed up by independent consultants, was that the engagement was not robust enough to be characterised as deliberative and not appropriately structured to meaningfully consider the issues involved. This assessment resulted in two new engagement phases and an attempt by Sydney Water to respond to the issues identified. We consider this good practice in flexibility and responsiveness in adapting an engagement program.

The final phases of engagement involved deep engagement from some members of the CCRG, particularly the JEC, with this engagement having a material impact on the structure of the final phases and the way it was addressed. While we agree this substantially improved the robustness of these phases and the conclusions which could be drawn from it, they continued to suffer from the lack of familiarity of the consultants with deliberative platforms, the late development of the content of these phases and their foundation on the conclusions of earlier phases.

It is our assessment that as a result, while Sydney Water can draw meaningful conclusions regarding consumer values and preferences from these later phases, these conclusions should not be related to the 'final votes', but to the values, preferences and priorities consumers expressed.

4.3.1 The impact of consultants

Current engagement practice relies heavily on external expertise to ensure good practice and an appropriate mix of robust engagement methods. Sydney Water, like most businesses, generally understands the capabilities it does not have, and commissions consultants to rectify capability gaps.

In our experience there is commonly a significant lack of understanding of the range and depth of experience and specialist knowledge required of engagement consultants. Particularly at early stages of engagement maturity, businesses like Sydney Water have issues identifying consultants with the requisite expertise and understanding. It is particularly hard to distinguish between market research expertise and deliberative engagement and community consultation expertise. It is our assessment that Sydney Water's consultants' expertise was more relevant to the former than the latter, and they did not appear to be best placed to deliver an appropriately robust program of deliberative engagement, and meaningfully address the most complex issues involved.

4.3.2 Understanding what deliberation is and how to utilise it

¹⁷ We provide further comment on this in the appendix to this submission.

Phases 3-6 of Sydney Water's engagement program were intended to be deliberative processes. They were addressing complex subject matter with material impact. They were also relying on the development and application of agreed consumer values and priorities. Deliberative processes have an important role in dealing with such questions and issues. They are best practice platforms for dealing with complex questions, where it is necessary to overcome existing gaps in understanding, address initial biases, and develop consensus views of consumer and community values, priorities and perspectives.

In the JECs' view the delivered engagement in these phases (particularly 3 and 4) was more akin to focus group or market research engagement, than deliberative processes. These phases provided cursory preparatory information (as little as 15 minutes) and involved fixed table-based discussion to elicit reactions and responses on the topic matter. These platforms are not without value and have a role to play as part of a well-structured engagement program. However, they are fundamentally inappropriate to derive a meaningful consumer perspective on the complex topics involved in this case.

We do not consider these platforms capable of robustly supporting the conclusions Sydney Water has drawn from them, particularly in relation to phases 3 and 4. Across all phases 3-6 we highlight the following aspects which undermine their robustness as foundations for the conclusions drawn:

- The adoption of 'focus group' table formats, centred on a non-expert facilitator where the primary questions relate to how participants feel or think about material presented. This is not good practice for deliberative engagement and does not provide a robust platform to overcome initial biases.

It does not provide a structure to move past starting 'reactions' and perceptions and does not give a robust basis for participants to develop and express their thinking.

It is also heavily reliant on the skills and understanding of the facilitator, which introduces both an inconsistency (where all people are examining the same content and issues) and a weakness (where the facilitator is not an expert and is not able to address questions, correct misinformation or build understanding).

- Consistent and regular use of 'voting' on options and questions, with an undue focus on the end 'number' as a key product of the engagement. This focus on vote 'numbers' (in a small group or community panel format) confuses what these platforms are intended and best suited for.

They are best at taking time to address complex issues, understanding why people prefer certain approaches or preferences – and how they value these things relatively – and then how these preferences and trade-offs can best be reflected in specific decisions.

Deriving indications of majority support for a perspective or a solution in the community is an important aspect of a well-structured engagement program, however small community panel deliberative platforms are not an appropriate mechanism through which to do this, not least because they cannot be regarded as statistically significant representations of the community.

The format adopted was more akin to a ‘collection of managed focus groups’ or ‘managed focus groups with deliberative elements. These are not without value, and we consider that these platforms still provided Sydney Water with a basis to derive key community values and priorities. However, it is necessary for Sydney Water’s conclusions to be appropriately qualified and focused on those priorities and values.

In our opinion the conclusions drawn from these phases of engagement should be less definitive than is presented in the pricing proposal, and Sydney Water should not present ‘votes’ and numbers obtained in these phases as indications of ‘community support’ or definitive expressions of community priority. We do not consider this to be a reasonable use of the results obtained in these processes.

5. Customer outcomes

The JEC strongly supports the approach taken by Sydney Water in this pricing proposal, transparently linking outcomes and Sydney Water responses to the engagement undertaken¹⁸.

We further support the approach to clearly present customer outcomes, the relevant objectives and commitments from Sydney Water, how Sydney Water will respond and how success will be measured. This is great practice in engagement and regulatory processes. This transparency allows for robust assessment of what Sydney Water is doing and how it is progressing.

However, while the JEC strongly supports the approach and the intent behind it, we recommend that more work be done by Sydney Water to develop more detailed measures and targets, which would be more capable of demonstrating performance and progress in outcomes and identifying if and where future work is needed.

In the following sections, we provide our response to the Sydney Water proposal in relation to both of our distinct roles. That is assessing the extent to which we consider the information and proposal presented can be supported by engagement (as we observed it), and any comments we have in relation to our assessment of whether the proposal is in the interests of Sydney Water’s consumers.

5.1 Outcome priorities

Priority 1 – Maintaining safe and clean drinking water

Maintaining safe drinking water is a requirement (or consumer need) that cannot be changed by Sydney Water or consumers.

The JEC questions the validity of asking consumers about this or representing it as a consumer priority. Consumers should be engaged on questions they can influence. Consumers cannot set levels of safety or water quality independently (and can only influence how response to those levels may be decided). This is a critical outcome, but not one which is meaningfully responding

¹⁸ Sydney Water, 2024, 25-30 Pricing Proposal, p.40

to consumer priorities. It is best described as a required outcome that consumers are being asked to help shape, rather than set.

Priority 2 – Ensuring bills remain affordable

Affordability has consistently been expressed as a community priority throughout all the engagement undertaken by Sydney Water and has been appropriately recognised as a key outcome. However, the JEC does not see a clear demonstration of this priority outcome being consistently reflected throughout every relevant decision in Sydney Water’s pricing proposal. As noted earlier, this may simply be a result of formatting decisions in the proposal. But the JEC recommends IPART require more demonstration from Sydney Water that the priority for affordable bills has been appropriately responded to.

Priority 3 – maintaining clean and safe waterways

While there are requirements on Sydney Water which drive a good proportion of decisions in the pricing proposal relating to this outcome, it is clear that consumers value sustainability. However, like Priority 1, this priority and Sydney Water’s response to it are primarily reflecting standards and requirements and the JEC questions the value and appropriateness of including aspects of this outcome which are not meaningfully able to be changed by consumers.

Priority 4 – enhancing the water network’s resilience to drought

Most of this priority and Sydney Water’s response to it was set through the Greater Sydney Water Strategy development and government policy process. These are not subject to consumer influence. If consumers cannot set levels of resilience independently (and can only influence how response to those levels may be decided) this is not an outcome responding to consumer priorities. It is instead best described as a required outcome that consumers are being asked to help shape rather than set.

The JEC disagrees with the characterisation of consumer support¹⁹ for ‘valuing the risk of severe water restrictions.’ The phase 5 community engagement undertaken to support this case was not robust enough to underpin this conclusion.

Similarly, the presentation of consumers assertion of a capability to reduce usage was flawed and contradictory. The assertion that consumers could reduce usage from 185L per day to 100-125L and maintain this during a drought cannot be supported by the phase 4 engagement cited.

A more robust engagement program would have identified and resolved the inherent contradiction between this usage reduction assertion and the assertion that consumers would be willing to pay up to \$80+ a year to avoid ‘severe restrictions’, given we assume a 30-50% reduction in water use could be characterised as severe under any reasonable context.

We do not agree with Sydney Water’s assertion that consumers ‘value the risk of severe restrictions’ so highly. We consider it more plausible to assert that community support for valuing

¹⁹ Ibid, p.43

and conserving water underpins a willingness to restrict usage when this is in the community interest.

Priority 5 – reducing water loss

Throughout the engagement process consumers consistently highlighted that better addressing leaks and breaks is something they would value. Both for real savings and for the image leaks present of a business not concerned with or contributing to conservation of water - particularly water that is getting more expensive.

However, the conclusion²⁰ that consumers supported the reward/penalty scheme attached to the outcome targets for leakage is not able to be supported by the engagement undertaken, in our opinion. Consumers did not clearly understand the considerations presented and expressed a number of strong disagreements with the way the rewards and penalties were structured.

We contend that Sydney Water can, at best, justify reducing water loss as a priority and one that should be attached to clear outcomes supported by the community. Sydney Water cannot use consumer preferences to justify the decision to include the reward / penalty scheme as consumers strongly disagreed with the principle of attaching additional reward to performance or outcomes they regarded as 'fundamental' to Sydney Water's remit – and in blunt terms 'what they are paying for already'.

The JEC recommends that if IPART does consider attaching incentives to performance such as this they should not be symmetrical. This means, if the target is achieved then the expenditure undertaken to achieve it may be kept in full. If the target is not achieved, then Sydney Water should be required to forgo or return a proportion of the associated revenue. It is neither accepted by the community, nor in their interests, for Sydney Water to be allowed to expend significant resources to address leakages and then be further rewarded should they actually be successful in doing so.

Priority 6 – increasing water savings and reducing water use

Throughout the engagement process, consumers consistently supported better water conservation at all levels, including increasing water savings and reducing water use where possible. While this consumer priority has been identified by Sydney Water, it is not currently adequately reflected in meaningful targets and actions.

The daily per-connection usage target does not appear to represent a material reduction. Given evidence of enduring supply and demand imbalances, we consider it reasonable for the target of per connection usage to be related to the enduring supply.

The identified actions in this priority rely on educating consumers rather than actively assisting them with water efficiency. We contend that spending money on digital infrastructure has no strong likelihood of making a material difference and is not a reasonable cost for consumers to carry.

²⁰ Ibid, p.44

This priority is valid and supported by the community engagement, but not currently well responded to by Sydney Water. Given the huge quantum of expenditure proposed to improve resilience and capability to match supply with demand, arguably not enough action is currently intended to reduce pressure on infrastructure investment in this period or subsequent ones.

Priority 7 – Improving natural waterways and habitats

The engagement process did demonstrate that the community values natural waterways and habitats being improved.

However, what the engagement did not robustly establish was the degree of support or the extent to which the community is willing to prioritise this alongside (or above) other aspects of the pricing proposal.

The discrete choice experiment (DCE) and phase 4 stages of the engagement process do not provide robust evidence for the level of investment proposed by Sydney Water. The JEC does not agree that consumers asserted a robust willingness to add a further \$80 a year to their bills to pursue this outcome. We did not see ample re-testing of these numbers at later stages of the process where the full impact of the proposals in aggregate was known. This is contrary to good engagement practice.

5.2 Outcome areas, objectives, actions and targets

Out of the seven consumer priorities identified, Sydney Water has delineated three key consumer outcomes: customer experience, water quality and reliability, and environmental protection. Within these three outcomes, Sydney Water further identified objectives, actions and targets that will see these outcomes realised for consumers.

5.2.1 Customer experience

Fair and affordable bills

Fairness and affordability were two key principles and preferences that were clearly and consistently expressed by Our Water, Our Voice participants. From our observations throughout, the JEC is confident that this objective was a clear priority for consumers, which IPART can confidently take into account in the analysis and determination for Sydney Water 25-30 pricing.

Section 6 of this submission deals substantively with billing for the Sydney Water 25-30 price determination. However, to assess Sydney Water's response to the objective of fair and affordable bills, IPART should review Sydney Water's claims within a broader context, as we have detailed earlier.

The JEC welcomes the measures to support affordability included by Sydney Water, but we do not consider them sufficient to adequately support equity and affordability in the context of the rest of the proposal's impacts. We note that Sydney Water has outlined an expectation that demand for assistance and 'hardship' support programs will grow throughout the 25-30 regulatory period. We provided comment in section 2 of this submission on ways Sydney Water can maintain and improve accessible and consistent supports for consumers.

The measure of success identified by Sydney Water is too narrow and not an adequate indicator of affordability. A single measure (as proposed) does not capture affordability for those struggling most, and the use of average disposable income skews the relationship, given that most people (or at least a significant minority) will likely be below average. Affordability should be measured in categories and should include a number of measures related to what is actually happening for customers (i.e. numbers of customers in debt, receiving payment assistance, etc.).

Positive customer experience

A high standard of customer service, minimisation of service interruptions and timely notifications where possible were all customer preferences that were consistently expressed throughout the engagement process. IPART can confidently consider positive customer experience as an expressed consumer priority for the 25-30 pricing proposal.

The actions detailed in the Pricing Proposal to achieve this objective were not a topic of in-depth discussion during the customer engagement process. The JEC provides some comment on the actions identified by Sydney Water to better guide expenditure in the achievement of this objective and to ensure it remains aligned with customer interests and preferences.

The JEC does not support the identified measure of success proposed by Sydney Water. Measuring this objective should not wholly rely on an external survey of overall service, but instead be based on actual experience metrics, including complaints. A single number is not a sufficient metric to track this outcome.

Tenancy and customer experience

Over the course of successive operating licence and pricing proposal reviews, the experience of tenants in dealing with and accessing water services has been an important topic of discussion. The JEC notes that governments, IPART and metro water utilities have increasingly recognised the importance of including specific information, supports and provisions for tenants. One key result of this, is Sydney Water being required to delineate between customers (those who are directly billed for water services) and consumers (those who pay for and access Sydney Water services, both directly and indirectly), and to provide information and supports for consumers alongside customers.

The JEC has been a part of ongoing conversations with IPART, community stakeholders and Sydney Water regarding tenants' issues in relation to water access, services, billing and protections. Issues raised include:

- Not receiving bills in a timely manner from landlords and, notwithstanding provisions in tenancy laws, being required to pay bills regardless of age.
- Receiving bills in bulk, rather than as they are due.
- Not receiving official Sydney Water bills.
- Supply interruption rebates going to landlords, not the occupants who experience the inconvenience.
- Difficulty accessing rebates and supports they should be entitled to.
- Being required to disclose financial circumstances to landlord to access any supports, impacting the security of their tenancy.

- Relative invisibility of usage making it difficult to track usage and difficult to identify when there are hidden leaks. This is further compounded by issues enforcing any requests to resolve leakages.
- Difficulty enforcing water efficiency requirements and being required to pay usage related to inefficient fixtures.
- Tenants in granny flats paying entire usage bills, including for the main house.

While not all of these issues can be resolved by Sydney Water's 'positive customer experience' objective, many of them can be improved if Sydney Water incorporate positive *consumer* experience into this customer experience objective. In particular, continuing Sydney Water's ongoing work to directly engage with tenants to provide more timely service interruption notifications and identifying new ways to support tenants.

Digital capabilities

A significant emphasis has been placed on improving digital capabilities as part of achieving positive customer experience outcomes. While improving digital customer service will be important in the 25-30 regulatory period, the JEC cautions against an over-reliance on digital infrastructure. In particular, Sydney Water will need to maintain non-digital options for consumers with low digital literacy and/or low digital access to ensure positive customer experience for all Sydney Water consumers.

Further, we caution against any outsourcing of direct customer experience to artificial intelligence, including online chats and translation services. The JEC was a cosignatory on a consumer response to the Commonwealth Treasury's Review of AI and the Australian Consumer Law²¹. We recommend IPART, the Department and Sydney Water review our submission to understand emerging consumer issues and harms resulting from the use of AI in the provision of essential services.

Informed and empowered customers

This objective includes expanding community education, enhancing communications and engagement programs and offering new digital channels for customers. Arguably this is not a consumer-driven objective.

'Empowerment' is not consumer language and in our experience is not how consumers view their relationship with essential services. Further, aspects of this objective are required of Sydney Water, regardless of consumer preferences.

While consumers being informed and empowered to act in their best interests in their access to and use of water services is valuable, it is important to emphasise that policies and programs cannot just focus on consumer information and behaviour change. While it is important that Sydney Water, IPART and the Department support the community to understand and contribute to improved water efficiency and usage, policies and programs that facilitate assistance, supports

²¹ CHOICE et al, 2024, [Review of AI and the Australian Consumer Law: Submission from Consumer Advocates to Treasury](#).

and system-wide efficiencies should be prioritised alongside community information and education.

Community engagement

We recognise Sydney Water's significant community outreach program and demonstrated success in building trust and understanding of their services in the community. We commend this work, though do consider it necessary to ensure expenditure in this space is focussed on information and understanding that benefits the community. There is a danger that community engagement programs become 'brand awareness' or public relations exercises and it is important that expenditure on community engagement remains purposeful and efficient.

We have provided substantive feedback on the Our Water, Our Voice customer engagement program and how Sydney Water can improve on their deliberative customer engagement moving forward. We support Sydney Water identifying specific groups to engage with in customer outreach programs, including CALD and First Nations communities. We encourage Sydney Water to include tenants in this list of target communities.

Smart water meters

The JEC does not agree that digital metering is a robust inclusion in the 25-30 pricing proposal. The benefits to consumers of digital water metering are not well established. In an environment where there is not a strategic focus on reducing household demand, or programs for actively improving the efficiency of household use, it is very likely that the costs of smart metering will exceed any likely benefit.

Any real benefit of digital metering is contingent upon additional expense (systems to support) and importantly, consumer action. The experience of the roll-out of smart meters for energy indicates that assuming consumer interest in detailed usage information, and action in response to it, is not likely. Water is to a substantial degree, a non-discretionary product much like energy. It is used as and when the purposes it supports are required. There is no value in understanding time of usage and little likelihood that material changes in household behaviour will result from more granular information.

We do not consider there to be a robust case for expenditure on digital water metering and encourage IPART to require Sydney Water to demonstrate a robust case for likely benefit resulting from the substantial costs involved.

Safe swimming and recreation

This objective is another example of the limitations of the Our Water, Our Voice customer engagement process and questions of who should pay for aspects of the pricing proposal.

From our observations at the consumer engagement sessions, there were varied opinions on the role Sydney Water should play in providing safe swimming and recreation facilities. While there was a clear consumer preference for *an entity* to provide these services (which were regarded as important), there were concerns about this type of activity being funded through Sydney Water consumer bills rather than state government general revenue or council rates (which were deemed more appropriate). Particularly given that:

- this expenditure is part of the Greater Sydney Water Strategy, which itself is predominantly guided by government priorities, not consumer preferences;
- this is an outcome that will be experienced by people who are not customers or consumers;
- Contributors to success are aspects such as water quality and pollution management, which might more reasonably place this objective in the water quality and reliability outcome.

We acknowledge that the pricing proposal identifies this objective as an area of work that is in partnership with other entities, including local councils. We encourage Sydney Water, IPART and the Department to consider avenues to deliver this with Sydney Waters expert contribution (where appropriate) but contribute towards financing these swimming and recreation services outside of consumer bills.

5.2.2 Water quality and reliability

Safe and clean water

The targets and measures for this objective should be expressed with more granularity.

While we assume 100% is the objective it is not likely to be achieved in total – Accordingly, it is more relevant to understand any failure in detail, including the severity of it, the number of instances and the impact. The JEC recommends Sydney Water redesign the targets to capture at least these dimensions.

Secure water supply

This is a reasonably well constructed objective, action and target outcome. However, resilience action that does not involve action to reduce demand is unlikely to be optimised for efficiency. Restrictions and capacity to respond to demand should be a reasonable part of any resilient supply – even if this is simply referenced to other objectives.

Saving water together

Similar to secure water supply, this objective has no clear action to target and support reduction in household demand. The JEC considers it important to include actions that target consumers with high/inefficient usage to support more sustainable and affordable use (not simply through pricing or metering, but tangible support measures).

The targets for leakage are robust, but the drinking water use target appears to be set relatively conservatively and does not represent a robust challenge. As noted earlier it does not appear to relate to Sydney Water’s sustainable yield per person per day.

We recommend Sydney Water amend the targets accordingly.

Reliable water

This is a well-constructed objective, though it should recognise that reliability cannot be (and should never be assumed to be) 100%. The JEC suggests amending the objective to “our service reliability efficiently meets community expectations” (with expectations defined by the targets/standards).

The JEC recommends that for this objective, water continuity should be more granular. A large overall number can be met while incurring impacts the community would regard as unacceptable. The figure should be broken down to customers-per-day impacted and also include a separate category for customers impacted multiple times per year, and customers impacted for longer than 1 day. All of these may best be presented in addition to the overall less than 2% but provide greater scope for the community to assess whether Sydney waters performance meets their expectations.

5.2.3 Environmental Protection

Prevent pollution

This is a well-constructed objective, though it does not appear to have sufficient focus on reduction of pollution at the source. Similar to demand reduction being the most efficient means of addressing supply/demand imbalance, opportunities to reduce the 'supply' of pollution should be supported where possible.

It is unclear to us what parameters informed Sydney Water's design of the target for this objective, which currently does not provide a meaningful basis to understand Sydney Water's performance. Similar to the reliable water objective, more granularity is needed. This should include type of pollution events, number of severe events (with clear definitions) and having some scale to recognise and target events by more than just a binary assessment of whether they could cause environmental harm.

Importantly target numbers should be grounded in more than a relationship to historic experience (i.e. be equal to or less than what we did last time). It is the broad community expectation that the target is 'zero', while we understand this is not reasonable or necessarily possible, it should inform how targets are set and explained.

Recover resources

This objective does not appear to align with the materiality of the measures to achieve it or the targets set. In any case, the targets being presented in volume does not give a meaningful basis to assess materiality and performance.

The target should be more granularly presented as % of targeted 'waste' resource or presented as % of particular water sources recovered, or wastes recovered. Targets should additionally consider measuring the efficiency of resource recovery or derive a figure for Sydney Water 'impact' through unrecovered resources.

Cool green spaces

The JEC considers that the target for this objective is not aligned with Sydney Water's agency and action.

As this objective is currently designed, Sydney Water could conceivably do all the identified actions and not achieve the target. Alternatively, the target could be achieved with no meaningful active contribution from Sydney Water.

Targets should be wholly within Sydney Water’s control so their performance can be clearly measured. This target should be redesigned to focus on Sydney Water’s contribution and measuring what Sydney Water is directly responsible for.

Net zero carbon

This is broadly a well-designed objective, but there is no recognition of the difference between eliminating emissions and offsetting emissions. The volume of emissions is important, as is the overall net zero equation. What is currently missing is a target relating to Sydney Water’s performance in minimising its own emissions.

Climate resilient systems

This appears to be a reasonably robustly constructed objective with appropriate measures and targets.

6. Bills and pricing

To date, water payment difficulty has not been a widespread financial concern for households seeking assistance through financial counsellors or community services. However, with the significant water bill increases likely to impact Sydney Water (and Hunter Water and other areas) households, and ongoing pressure on housing and energy costs, JEC is concerned that water bills will become an additional cause of stress and pressure for households. Much of the ‘costs’ of this will be borne by the households themselves and the community organisations which support them.

6.1 Engagement on prices and tariffs

The JEC has the most significant concerns over the engagement Sydney Water undertook in relation to pricing. In both phases 3 & 4 and 5 & 6, where pricing relevant sessions were held, we observed issues with structure, content and timeframes which lead to there being significant qualifications on what conclusions can be drawn in relation to consumer preferences.

While there are still valuable insights on community values and priorities which could be drawn from the engagement Sydney Water undertook, we do not consider the strong assertions made in their pricing proposal to be well founded by what we observed of their engagement. We recommend a much greater degree of circumspection and qualification regarding the conclusions to be drawn from Sydney Water’s engagement on pricing, and a focus on responding to values and principles, rather than a narrow regard for the results of ‘voting’ on any particular proposal.

Sydney Water provides a good explanation of how tariffs were developed²², however the JEC questions the way some of these steps are characterised. The ‘fairness windows’ presented represent issues that were broadly agreed by consumers, but the concepts and words used were developed by Sydney Water, not consumers. For example, consumers did not spontaneously raise “cost reflectivity” (in those words) and certainly did not express it as a priority that prices should *only* reflect the cost of service.

²² Sydney Water, 2024, 25-30 Pricing Proposal, p.260

The JEC agrees with broad principles for fairness, but they should not be regarded as customer initiated, detailed, correct and inviolable expressions of consumer values where this is not necessarily the case.

We agree that affordability, user pays, and simplicity are the three priorities that can be confidently regarded as robust consumer priorities in pricing for the Sydney Water 25-30 pricing proposal. These priorities were consistently and strongly expressed throughout all aspects of Sydney Waters engagement.

The JEC strongly disagrees with the presentation of consumer responses regarding the concept of tiered tariffs²³. We do not agree that it is reasonable to say consumers expressed a strong dislike for the concept of tiered tariffs. We are also concerned that the results presented in this section treat the consumer deliberative engagement as a 'vote' to establish support (or otherwise). This is not the function of deliberative engagement, which more usefully identifies consumer values, priorities and preferences. It should not be utilised as a platform for simple majority 'voting' to establish community support.

The engagement undertaken on the issue of tiered tariffs (and pricing generally) was confused and the model that was presented to consumers was not a simple tiered tariff, but more convoluted and poorly explained. The model presented not only had a 'higher cost' tier but also had a 'below cost' tier. This was an unnecessarily complicated way to present and discuss the concept and did not involve establishing the principles of tiered prices independent of the model Sydney Water presented. Sydney Water chose to use this model, rather than more simply discuss the concept, the principles underpinning it, and the implications of it for consumers. Similarly, they did not draw on their own previous experience with using IBTs, or on that of other utilities currently using IBTs. This was either intentionally disingenuous or concerningly uninformed.

In any case, we do not regard this as a robust basis on which to draw conclusions about the relative consumer preferences for flat or IBT tariffs. In the JEC's perspective, the values and priorities that consumers expressed (user pays, conservation, simplicity, etc) could be drawn on to support an IBT. Further, the reasons presented by those who did not support the tiered tariff presented to them were based on the flawed material given to them. For example, Sydney Water told participants that tiered tariffs might be unfair to large families, without explaining that is Sydney Water's subjective position. Participants were not informed that tiered tariffs need not be seen or structured as to be unfair to large families.

Sydney Water's characterisation of consumer disagreement with tiered pricing is made more problematic given that drought pricing was not meaningfully tested at all. Drought pricing as it is currently structured would have the same 'impact' as a tiered pricing system, but with considerably less fairness, given it would apply a premium charge to all customers – including those making little relative contribution to water scarcity and the need for investment (and with no scope to reduce usage further).

²³ Ibid, p,263

Similarly, the recovery of Sydney Desalination Plant and Shoalhaven charges were not addressed meaningfully in the engagement process. These costs could also be more appropriately incorporated into a higher 'tier' charge i.e. a pricing structure that better reflected the differential cost of water (and its differential value)²⁴.

6.2 Price paths and regulatory structures

The JEC welcomes Sydney Water's presentation of the issues in the Paper and the discussion of some of the relative implications for different approaches to price paths. However, we observed that the consumer engagement on price paths was not robust enough to draw strong conclusions on consumer preferences for these decisions.

The JEC notes that it does not appear that wider affordability factors were considered by Sydney Water in determining price paths. It is reasonable, and in the consumer interest, to consider wider affordability when deciding on price paths for this pricing proposal. Alongside wider affordability, we recommend that IPART also consider the relative certainty of different considerations. For example, there is a relative certainty that in the near term the wider environment is placing extreme pressure on NSW households with housing costs, energy and other essentials. High interest rates and the impact of sustained inflation will continue to impact households through 2025 (and likely beyond). In this context, there is value in considering reducing the impact of price increases for water in the first year – or at the very least considering whether the benefit of a lesser impact now is worth what impact this will have on costs throughout the rest of the period.

The JEC recommends more consideration be given to a smoother price path, as part of assessing every possible means of reducing impacts on NSW households.

The JEC supports the retention of a price cap approach with a demand volatility adjustment

6.3 Approach to balancing price increases between fixed and usage charges

Sydney Water did not meaningfully test with consumers how to implement necessary price increases. Sydney Water's decision to implement price increases predominantly via fixed charges goes against the principles that the community were able to consistently establish in its response to the engagement undertaken. That is, that consumers should have some scope to control their costs through usage behaviour, and that costs should be recovered from those responsible for them.

The JEC considers that except for where they are location specific, new costs are more appropriately incorporated into usage charges, where the household has some ability to mitigate the impact of that charge (noting, however, that the capacity to mitigate costs is generally overestimated by consumers). As discussed in our submission to Hunter Water's 25-30 pricing proposal, putting costs onto usage charges does further disadvantage tenants²⁵.

²⁴ See our submission to [Sydney Water's 20-24 pricing proposal](#) for more detail on this.

²⁵ The Justice and Equity Centre, 2024, [Submission to Hunter Water 25-30 Pricing Proposal](#), pp. 15-16

Should IPART seek to amend the Sydney Water pricing approach and put a greater balance of cost increases onto usage charges, we recommend there also be consideration of specific affordability supports for renters (as raised in our Hunter Water submission).

6.4 Wastewater pricing

Sydney water did not undertake significant engagement on this topic and the JEC broadly support the retention of their existing approach to wastewater charging for residential consumers.

6.5 Drought pricing

The JEC does not support the current approach to pricing which recovers additional costs during periods of drought.

While this is characterized as ‘drought pricing’, we contend it should be more accurately referred to as ‘drought cost recovery’ given its key purpose is to recover extra costs incurred during restrictions and make up for lower usage resulting from them.

As we detailed during the previous pricing review process²⁶ we do not regard this as a fair or effective way to encourage water conservation and it was not meaningfully tested with the community.

We strongly recommend more enduring and comprehensible pricing structures, such as inclining block tariffs, as a more appropriate means of supporting conservation and balancing these signals with equity and affordability considerations.

6.6 Inclining Block or Tiered Tariffs

The current determination must recognise the long-term trends in climate change and implement structures and practices to help align pricing with measures to address the uncertainty of future water resources. Water can no longer be considered an abundant resource, where cost is related only to the infrastructure required to transport it. The finite nature of water resources has implications for the value (and cost) of water, where not all ‘units’ of water are of equal value (or cost). This is particularly important where signals for conservation must be appropriately balanced with support for affordability. In this context it is reasonable to price less flexible, essential usage, differently from usage that may be more discretionary.

The long run marginal costs (LRMC) calculation for Sydney Water allows for an extremely wide range (\$1.64-7.15/KL). Given the huge quantum of capital expenditure proposed in the 25-30 regulatory period, it is difficult to justify an option which sets the LRMC (and its indicative price to consumers) in the middle of this range. The JEC considers that a higher LRMC and higher usage price is justified, while allowing fixed charges to be mitigated. The JEC disagrees with the balance currently being struck and strongly disagrees that this decision can be robustly justified with reference to the community engagement undertaken. As we have raised previously, an IBT

²⁶ The Justice and Equity Centre (formally PIAC), 2019, [Submission to Sydney Water 2020 Pricing Proposal](#), pp.2-3 and The Justice and Equity Centre, 2020, [Submission to Hunter Water 2020 Pricing Proposal](#), pp.1-2

could involve two different prices, based on two levels of LRMC assuming different levels of system demand and investment augmentation.

We reiterate our strong disagreement with the presentation of IBTs as inherently less efficient or less effective as a conservation measure²⁷. This assertion is based on the poorly constructed IBT modelled and proposed by Sydney Water, which intentionally underpriced a lower tier. Sydney Water should have set the lower tier at the lower end of a reasonable LRMC (reflecting more sustainable balance between yield and demand) and the higher tier at a higher LRMC (reflecting demand-supply imbalance and a level of usage which would require greater augmentation to supply). This version would also have ensured all usage is 'at cost', with some (less flexible) usage at the lowest and most sustainable end of 'cost' and higher (more flexible) usage reflecting the higher cost. This version of an IBT would better provide a signal to consumers (alongside education), particularly large families, to seek efficiency in usage that can be more easily moderated and reduced. It should also be accompanied by active measures to support larger usage families to be more efficient or afford usage they need.

Sydney Water's approach to this question should not be the basis for enduring conclusions regarding the acceptability of IBTs or their potential to contribute to conservation.

JEC recommends that IPART consider an Inclining Block Tariff structure (IBT) as part of an approach that recognises water as a finite resource with increasingly uncertain access, particularly when combined with rapid population growth and a need to invest in water resource resilience. JEC notes that most urban water utilities in Australia operate with an inclining block tariff structure. In summary, we consider an IBT:

- Clearly and transparently aligns water pricing structures with business and community messaging regarding conservation and efficiency.
- Recognises that not all water usage has the same value and that fixed, essential needs should be priced to support equity and affordability, while usage that may be more flexible is priced to encourage conservation and efficiency and recover the cost of significant investments required to ensure resource resilience.
- Responds to consumer preferences that pricing be weighted towards usage and maximises a household's ability to reduce its bills by improving the efficiency of usage that is more discretionary.
- Recognises that at higher levels of usage and units of water have a higher cost, related to the increasing impact of usage on finite water resources.
- Creates a simple, transparent framework that can incorporate signals of long-term costs, as well as responses to shorter term variations, such as extreme drought conditions. In the context of uncertainty regarding climate change impacts occurring concurrently with rapid growth, such flexibility is crucial.

²⁷ Sydney Water, 2024, 25-30 Pricing Proposal, p.265

- Recognises that scarcity is a long-term issue that needs to be signalled on a permanent basis, not only in times of extreme conditions where the ability to respond effectively is limited (because by the time scarcity has increased cost, there is limited scope for price elasticity of demand to make any meaningful impact).
- Provides a pricing framework that can be better integrated with pricing for waste and recycled water services, so as to better enable their efficient implementation. This is crucial as currently wastewater re-use and recycled water schemes are often not able to demonstrate an economic case.
- Can mitigate the impact of price increases related to increased investment, by ensuring not all usage is equally exposed to higher costs.

6.7 Minimising the impact of fees and considering who is impacted

The JEC does not support Sydney Water seeking to increase the fees charged to consumers for declined/dishonoured and late payments. We contend declined and dishonoured circumstances often arise as a result of disadvantage and a range of circumstances that are not directly in the customer's control, with an impact that outweighs the cost to the business.

The JEC also questions if the indicative costs related to identifying and dealing with dishonoured and declined payments are reasonable when taken in the context of general operational costs that are already incorporated into the customers' bills through the allowance for operational expenditure. Considering the relatively small total cost impact on Sydney Water, relative to the large impact on the customers affected, the JEC recommends that IPART reconsider the appropriateness of the proposed fees.

The JEC notes that Sydney Water's fee for 2024-25 are:

- Dishonoured or declined payment for 2024-25 is \$18.48 (inc GST) set to increase to \$19.83 (inc GST) in 25-30; and
- Late fee is \$6.12 (inc GST) a quarter set to increase to \$6.58 (inc GST) per quarter in 25-30 (or interest can be charged).²⁸

Fees for the largest three energy retailers are much smaller (all fees are GST exempt):

- Origin Energy: Late fee for standard contract is \$10.90 and for market contract is \$12.00.²⁹
- AGL: Late fee for standard contract and for market contract is \$12.00.³⁰

²⁸ Sourced from: <https://www.sydneywater.com.au/accounts-billing/paying-your-bill/our-prices/prices-other-services.html> (accessed 9/12/24).

²⁹ Sourced from: <https://www.originenergy.com.au/pricing/additional-charges/> (accessed 9/12/24)

³⁰ Sourced from: <https://www.agl.com.au/content/dam/digital/agl/documents/pdf/terms-and-conditions/fee-schedules/2025/agl-feeschedule-marketcontracts-nsw-jan2025.pdf> and <https://www.agl.com.au/content/dam/digital/agl/documents/pdf/terms-and-conditions/fee-schedules/2025/agl-feeschedule-standardretailcontracts-nsw-jan2025.pdf> (accessed 9/12/24)

- Energy Australia: Late fee for standard contract is \$10.90 and for market contract is \$12.00.³¹

Energy Australia and Origin Energy do not charge these fees to pensioners or people receiving the Medical Energy Rebate. In comparison, Sydney Water’s dishonoured or declined fee is already particularly high and is proposed to increase even further in the 25-30 pricing period.

The Australian Energy Market Commission is currently conducting consultation to disallow certain fees and charges³², including late fees. This is part of a package of rule changes collaborated on by governments, regulators, industry and consumer stakeholders to improve consumer outcomes in energy. Consumers expect consistency in the delivery of essential services, with material differences in fees and charges being a risk for consumer distrust and poor consumer outcomes.

JEC’s *Paying to Pay* research³³ examined whether people experiencing disadvantage pay more because of their method of payment. It found that many people on low incomes pay more for their energy bills because of the way they pay, because they cannot otherwise afford to pay the bill in full on time. One service provider explained:

The late fees and the missed direct debit and then the fees in the bank account because they’ve missed the payment, all those things mean the cost... you can sit here and say, “the electricity only cost \$X”. Fact is, plus for Defer-It,³⁴ plus the missed direct debit, plus the late fee, plus the paper statement fee. What’s the real cost? The real cost is if you are of lower income, if you are lower financial literacy and lower literacy, you will have the disadvantage surcharge. – Financial Counsellor, NSW

The research provided some insight into the true cost of late fees on the people who can least afford them:

“There are late fees. You know, every time you get your bill there’s a late fee of \$12 or \$15... it’s just goes up and up.” – Financial Counsellor, WA

Unfortunately for some people experiencing payment difficulty, these fees are part of their expected payment process:

“Late payments, yes. I think, from a lot of conversations we have, people expect that it is a part of their payment process. Some people are on products, such as bill smoothing, or they are doing direct debits and they do get caught by the ‘pay on time discounts.’ But usually, they’ll end up with some sort of fee, either non-payment or late payment, and are expecting that’s part of their billing cycle.” – Financial Counsellor, SA

People who have difficulty paying their bills on time often do not understand or have access to internet billing. They often cannot make quarterly repayments by direct debit due to a lack of savings/cashflow or need to defer some bills while paying off other essentials. These

³¹ Sourced from: <https://www.energyaustralia.com.au/home/help-and-support/faqs/late-fees> (accessed 9/12/24)

³² Australian Energy Market Commission, 2024, [Removing fees and charges](#)

³³ This aspect of the research is yet to be published, but further details can be provided by PIAC. The research methodology can be found [here](#).

³⁴ Defer-It is a Buy Now Pay Later credit product.

people are likely to get charged late fees, dishonour fees, additional fees and/or interest accruing on amounts owing (if using a credit card).

Declined/dishonour fees and late fees make a material and detrimental difference in the lives of people on low incomes where every dollar (and cent) counts. For the people in the JEC's research, paying late is not a matter of forgetting to pay a bill, but is due to juggling competing, unavoidable necessities, including food.

The research also found that at least 9% of consumer respondents had been charged multiple fees on a bill. This included fees for the method of payment, fees for the way they received their bill, late fees or other types of fees. This is likely to be a material under-estimate of the scale of the issue as people have demonstrated that they are often unaware of the fees they are being charged and inaccurate in their assessment of all the fees they are incurring. Sydney Water will need to guard against multiple fees being placed on bills, for example, late fees should not be added to bills which have already had dishonoured or declined payments.

Declined/dishonoured fees and late payments disproportionately impact households on low incomes both in terms of frequency and quantum. Fees should not be designed to punish households on low incomes or set at rates that encourage people to access Buy Now Pay Later and other credit products as a preference to paying an essential service late.

The JEC recommends that a grace period be implemented to give households missing payment deadlines another chance to pay, without penalty. Considering the relatively small total cost impact on Sydney Water, relative to the large impact on the consumers (more likely low-income households) affected, the JEC recommends that fees be minimised to the greatest degree possible.

7. Continued engagement

The JEC welcomes the opportunity to meet with the Department, IPART and other stakeholders to discuss these issues in more depth. In particular, we are able to provide more detail on observation of engagement on particular topics as is useful.

8. Appendix

8.1 The evolving role of consumer advocates³⁵

Consumer advocates have a crucial dual role to play, facilitating the process and outcomes of consumer engagement³⁶, and augmenting understanding and promotion of the consumer interest. With regards to the former, consumer advocates can inform and oversee engagement with consumers, helping to ensure engagement is robust and provides consumers with the most

³⁵ JEC [Submission to AER Draft Determination for NSW DNSPs 2024-29](#)

³⁶ We use 'consumer engagement' to refer to engagement between network businesses and end-use consumers of electricity (e.g. households and businesses). In contrast, we use 'stakeholder engagement' to refer to engagement between network businesses and non-consumer stakeholders (e.g. consumer advocates, peak bodies, industry groups, and customers such as retailers, property developers, accredited service providers, aggregators, and embedded network operators).

meaningful opportunity to express their preferences (regardless of the nature of these preferences and their relationship to consumer interests). They can assist in the interpretation of results of engagement and assess the degree to which perspectives are reflected in decisions.

With regards to the latter, consumer advocates bring their understanding of consumer interests to bear on regulators and businesses through public submissions, reports, and direct consultation. Consumer advocates have expert perspective on the long-term interests of consumers and draw on a wider range of inputs to refine their understanding and develop recommendations for business decisions. These roles are distinct, but related. Consumer advocates understanding and perspectives on the consumer interest can enable them to provide valuable perspective through direct consumer engagement, augmenting network perspectives to provide added nuance and help address unconscious bias.

However, in current practice consumer advocates are often consigned to the role of engagement observers (particularly in more deliberative forums) and generally discouraged from directly participating in consumer engagement. Doing so, the rationale goes, would impinge on their ability to remain impartial and carry out an objective evaluation of engagement. We disagree with this assessment and consider advocates capable of maintaining separation between these roles and gauging when it is appropriate to act in each. Indeed, we note that consumer advocates are arguably more capable of fulfilling this dual role than network staff who are generally relied upon (almost exclusively) to support and inform direct consumer engagement processes.

Engagement could deliver better outcomes for consumers, networks, and regulators if the collaborative approach to planning and developing an engagement program were extended to its delivery as well. The prevailing approach unfortunately turns consumer engagement into a more adversarial process in which the primary role of advocates is to levy ex-ante critiques against network businesses rather than intervene to prevent such issues from arising in the first place. To be clear, we are not suggesting consumer advocates use these forums as a platform to advance their preferences for reforms and expenditure consistent with their understanding of 'consumer interest' – as we note above, other avenues do (and should continue) to exist through which to progress these views.

However, consumer advocates can (and in our view, should) play a more active role in direct consumer engagement through providing consumers with:

- additional context to support the development of their understanding,
- additional perspective to increase the breadth of their consideration,
- added understanding of the key issues and trade-offs underpinning questions, and
- alternative perspectives to those provided by the network business, particularly in relation to assessments of the implications of certain decisions.

This is not because we question the intentions or trustworthiness of the network businesses, but because network business, like all parties, have their blinders and biases. Indeed, it is preferable for network business staff to be 'experts' and to consider their perspective and approach superior. This is a relatively understandable by-product of specialisation and expertise. But it is therefore

unrealistic to expect them to provide a comprehensive and balanced accounting of other issues, considerations and perspectives that may be relevant to or affect consumers with equal weight and understanding.

We consider consumer advocates the best-placed party to provide a complementary perspective to support informed and meaningful decision-making. In general, we have found the dual roles outlined above to be poorly understood and often conflated by regulators and businesses. In this process to date (and in previous reset processes) the JEC has often been in a position of supporting the conclusions of consumer engagement (as according with our view of the consumer interest) while viewing the engagement as insufficient, inappropriate or otherwise incapable of validly supporting the final decision. Conversely, we have often been in the position of agreeing that a direct consumer engagement process resulted in a valid expression of consumer preference, while asserting that the expressed consumer preference does not accord with our view of the consumer interest.

Wider recognition and better integration of these roles in the engagement process is an obvious opportunity to create a more effective and efficient regulatory process for all stakeholders. This will involve ongoing development of our collective understanding of how to integrate consumer needs, interests and preferences, particularly where they may appear to be in conflict. The JEC encourages businesses and regulators to work on understanding the interplay between consumer needs, interests and preferences, how they are derived through a range of engagement (stakeholder and consumer), and how they are integrated and any apparent trade-offs resolved.

Better Resets Handbook and ongoing engagement

[NSW DNSPS resets], involving three diverse DNSPs undertaking three different, though genuine, approaches to deliver on the intent of the Better Resets Handbook (BRH), is a crucial opportunity to examine the BRH, its intent, and how it operates within the wider regulatory framework. We encourage the AER (and the businesses) to collectively review this process and the implementation of the BRH, and consider where further refinement or changes may be required, to more effectively deliver on the intent of the BRH.

A practical starting point would be to review the roles of various actors, and consider any issues identified through the experience of the NSW DNSPs through this process. We consider the Better Resets Handbook has broadly delivered on its objective to encourage networks to develop high quality proposals through genuine engagement with consumers. The handbook does well to outline the roles and responsibilities of network businesses to ensure their regulatory proposals reflect and are shaped by consumer preferences. However, we have observed there is significant scope to examine and clarify the various roles and responsibilities of other actors within the reset 'ecosystem' to ensure the reset structure delivers consistently and durably on its intent.

We recommend a review of the BRH and the reset architecture and process specifically examine the roles, responsibilities, structure and resourcing of:

- Consumer stakeholders.

With the focus on structured advisory panels, direct consumer engagement and other structured bodies such as the CCP, it is important not to discard other consumer stakeholders

and lose their valuable role in augmenting engagement. As we have noted previously, meaningful engagement is best realised through contributions from an 'ecosystem', where each contributor plays an overlapping but crucial role. Commitment to direct consumer engagement and their preferences does not diminish the role (and need) for engagement with a wide range of consumer advocates and stakeholders.

- The customer/advisory panels established by the businesses (in this case the Ausgrid RCP, the Endeavour RCG, and Essential SCC).

Specific attention should be paid to the structure and remit of these bodies, the sustainability of each approach, any risks involved in these approaches, the roles and responsibilities of these groups and how they interact with the businesses, other consumer stakeholders, the CCP and the AER itself.

- The Consumer Challenge Panels (CCP).

Specific attention should be paid to adequate resourcing, the role and responsibility, and any risks to their viability. The JEC strongly supports a robust role for the CCP, which necessitates ensuring its remit is clearly defined, adequately resourced, and well-integrated with other aspects of the reset framework.

- The AER.

There is potential for confusion in understanding how the AERs regulatory role is maintained, and to what degree it adapts, in relation to the BRH and evolving reset architecture. The AERs role assessing and testing prudence and efficiency should not be compromised, but all actors need to be clear how this assessment is integrated with other assessments of consumer interest and consumer preference, derived through other aspects of the reset process.

On the final point above we note some potential confusion regarding the relative role (and weight) of consumer engagement, and expressions of consumer preference, in relation to other aspects of the reset process (such as assessment of efficiency and prudence). It should not be assumed that engagement is simply (or in any way) an avenue to garner permission for greater expenditure than is efficient. This issue should be addressed in ongoing review and guidance by the AER. Similarly, the relative weight assigned to different perspectives needs to be further explored by businesses and the AER, along with how to integrate perspectives from different stakeholders, and integrate potential differences between perspectives of consumer preference and interest.