

Our reference: 15/391

PO Box K35, Haymarket Post Shop NSW 1240  
Level 15, 2-24 Rawson Place, Sydney NSW 2000  
T (02) 9290 8400 F (02) 9290 2061  
ABN 49 202 260 878

02 March 2016

[www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au)

Mr Rod Sims  
Chairman  
Review of the water charge rules  
Australian Competition and Consumer Commission  
GPO Box 520  
Melbourne Vic 3001

Contact John Madden  
T (02) 9113 7780  
E [john\\_madden@ipart.nsw.gov.au](mailto:john_madden@ipart.nsw.gov.au)

Dear Mr Sims,

*Rod*

## **SUBMISSION TO REVIEW OF WATER CHARGE (INFRASTRUCTURE) RULES 2010 (WCIR) – DRAFT ADVICE**

Thank you for the opportunity to provide a submission on the ACCC's Draft Advice on amendments to the WCIR.

IPART is accredited by the ACCC under the WCIR, which allows us to commence review of WaterNSW's Murray Darling Basin valley's maximum prices in 2016, for prices to be effective from 1 July 2017. This review was to be undertaken in accordance with the WCIR.

In June 2015, we made a submission to the ACCC's Issues Paper on its review of the WCIR.

This submission on the Draft Advice and draft WCIR again focuses on the approval or determination of regulated charges of Part 6 operators, and therefore Part 6 of the WCIR.

We welcome the proposed handing back of responsibility for price regulation of infrastructure operators to state based regulators. This will reduce the regulatory burden on infrastructure operators and allow prices to be set consistently in Murray Darling Basin (MDB) valleys and valleys outside the MDB.

We consider that moving to a single state-based regulator for price regulation will provide all stakeholders with a simpler process with which to engage. We strongly support the ACCC's draft advice in this respect and look forward to working with the ACCC and other stakeholders in making a smooth transition to state-based regulation.

With respect to the ACCC's draft advice relating to non-discrimination provisions, we support the general principle of non-discrimination as set out in Rule 10 of the Draft WCIR. However, we recommend that these only apply to prices set under the amended WCIR by the ACCC. Where prices are set by a state-based regulator, all price-setting responsibility, including ensuring cost-reflectivity, should rest with that regulator. As such, we recommend

that the proposed non-discrimination amendments in the draft Rule 10 should not apply to infrastructure operators whose prices are set by state-based regulators.

We also recommend that the ACCC consider the drafting of amended Rule 23 of the WCIR to ensure that Rule 23 reflects the legislative framework for:

- ▼ the determination of maximum prices by IPART under section 11 of the *Independent Pricing and Regulatory Tribunal Act 1992* under a standing reference, and
- ▼ the imposition of fees and charges by WaterNSW under section 39 of the *Water NSW Act 2014*.

In relation to the WCIR framework as it currently stands, we also reiterate the issues raised in our submission to the ACCC's Issues Paper in June 2015. These relate to:

- ▼ allowing an ex-post review of capital expenditure in calculating the regulatory asset base (RAB)
- ▼ allowing more flexibility in setting the length of the regulatory period
- ▼ limiting the scope for a variation in the determination

The contact officer for this submission is John Madden, Director Water Pricing, (02) 9113 7780.

Yours sincerely



Peter J. Boxall AO  
Chairman