

**Submission
No 29**

**JOINT SELECT COMMITTEE ON PROTECTING LOCAL WATER UTILITIES
FROM PRIVATISATION**

Organisation: Water Directorate

Date Received: 3 November 2023

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Joint Select Committee on Protecting Local Water Utilities from Privatisation
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

NSW Water Directorate submission – October 2023
Inquiry into how the Government can prevent and stop privatisation of local water utilities

Thank you to the Joint Select Committee for the opportunity to provide a submission, including the extension of time for our submission to 4 November.

The NSW Water Directorate is the peak industry body for 87 out of 90 local government owned water utilities (LWU's) in regional NSW. Further information about us can be found at:
<https://www.waterdirectorate.asn.au/AboutUs.aspx>.

Local Water Infrastructure in regional NSW 'at a glance'

Local water utilities in NSW have the following attributes 'at a glance':

Table 1 - Features of the regional NSW urban water industry

• 92 Local Water Utilities (LWU's)	• 1.9 million population served in 890,000 homes and businesses
• 782,000 square kilometres in aggregate catchment area	
• 380 water supply schemes	• 300 sewerage schemes
• 49 recycled water schemes	
• 312 GL per annum of water supplied	• 160 GL of sewage treated
• \$30 Billion total replacement cost of assets	• \$1.9 Billion in annual revenue
• 2400 water operators*	• 400 engineers, technicians and managers*

** Estimate extrapolated from 2016 operator survey*

The data indicates extensive critical infrastructure operated over an expansive catchment area by a relatively small cohort of dedicated local government staff. In fact more than 30 Local Water Utilities have a water team of less than 10 staff. This significantly affects the ability of these utilities to access specialist in-house staff.

In the last few years, regional NSW has experienced unprecedented impacts on water security and water quality arising from drought, bushfire, water quality challenges and the COVID-19 pandemic. By the end of 2019, the worst drought in 130 years of records saw 50 regional community water supplies at high risk of failure.

The Water Directorate calls on all water related agencies to collaborate and invest in water utility resilience for regional water providers through capacity building, improved water utility risk management and non-asset solutions such as digital technology and improved access to water operator training in regional NSW. While capital projects have an important part to play, these are invariably long-term solutions. Short term non-asset solutions are required to effectively monitor, predict, and mitigate risk.

Our submission

(a) How local water utilities and their assets can be best protected against privatisation, forced amalgamations and sell-offs

Privatisation of Local Water Utilities

Water Directorate supports protections against privatisation, provided that there are no perverse consequences with outsourcing to the private sector. We believe that this is an issue that will be addressed with the measures to be implemented for Sydney Water and Hunter Water. Both have significantly more private sector involvement than Local Water Utilities (LWU's).

It is acknowledged that many Local Water Utilities in regional NSW don't have the scale to specialise in many water related functions. A degree of outsourcing to the private sector is common to all current publicly owned water utility models within Australia and overseas, metropolitan or regional/remote.

LWU's also have the additional challenge where short term staff shortages have led to engaging the private sector to maintain minimum staff levels. The ability to bring in short term contract employees is imperative to keep critical and essential water and sewerage services available in regional NSW whilst we rebuild our workforce. It is also important to be able to access the private sector workforce during extreme incidents and climate events.

There is no compelling argument for the privatisation of any LWU. LWU's are non-profit and provide an agreed level of service at a minimum cost to the consumer. The private sector seeks to maximise profit, and as such seek to provide services at a minimum cost to the business. Full cost recovery is challenging for many small LWU's and poorer communities. The recent shocks with climate events leading to emergency and incident management lead to the conclusion that increased government funding and technical support is required.

Privatisation is not the solution to under-investment in water and sewerage infrastructure. Under-investment is largely a condition of a community's ability to pay for water and sewerage services. There is a wide spectrum of operating conditions in regional NSW, notably the difference in annual rainfall conditions between coastal to inland NSW, access to WaterNSW's dams and regulated streams and the dispersed population that we serve across more than 700,00 square kilometres.

Experience internationally^{1,2} has also shown that privatisation of the water sector has led to significant under-investment in water infrastructure, and the trend for 're-nationalisation', that is, a return to public ownership.

Forced amalgamations

The Water Directorate supports the long-held position of Local Government NSW opposing forced amalgamation. We support collaborative models at a regional level between councils to retain local community involvement and

¹ Q-WRAP (2012) *Scoping Paper – Parameters and institutional models*, available at:

<https://qldwater.com.au/public/Scoping%20Paper%20Q%20Wrap%20v%204.3.docx?downloadable=1>

² Q-WRAP (2015) *Reform of Water and Sewerage Utilities: Review of Sustainable Models*, available at:

<https://qldwater.com.au/public/Review%20of%20Sustainable%20Water%20and%20Sewerage%20Service%20Models.pdf?downloadable=1>

control over water and sewerage services. This model can be enhanced by regional water alliances between LWU's, which can be facilitated through the local government Joint Organisation model, the County Council model or a bespoke Water Utility alliance model.

Water Directorate recommends that the NSW government consider delivering permanent ongoing funding for regional water alliances of councils to assist them with delivering efficient water and sewerage services. In 2021 the Queensland government approved \$2 million per year on a permanent basis for the state's Q-WRAP program^{3,4}.

Sell off of Local Water Utilities

Local Water Utilities are monopolies with little opportunity for competition. A sell-off in the absence of competition would require price regulation (by NSW IPART) of 92 additional water utilities. It is certain that the administrative overhead of price regulation for Local Water Utilities would overwhelm any financial benefit thought to be obtained.

A sell-off of local water utility assets isn't probable or possible without the consent of the council and the Ministers for Local Government and Water. Water Directorate supports any legislation proposed by the NSW government to prevent sell-offs. As stated above, there is no compelling argument for a sell-off of any LWU since full cost recovery is challenging for many small LWU's and poorer communities and recent shocks with climate events and emergency and incident management lead to the conclusion that increased government funding and technical support is required.

(b) Reviewing governance and other legislation relating to the potential privatisation of local water utilities

Local Water Utilities are governed by councils empowered by the NSW Local Government Act 1993 and the NSW Water Management Act 2000.

The Minister for Water issues guidelines for managing the provision of water supply and sewerage services by councils under [Section 409\(6\)](#) of the Local Government Act. These guidelines were recently reviewed and approved effective from July 2022 in a [Regulatory and assurance framework](#).

Just like the larger metropolitan utilities, Local Water Utilities operate in a complex web of governing legislation. Apart from their powers and duties under the above two Acts, LWU's also have additional regulatory responsibilities:

- **Public Health Act 2010** with regard to maintaining a Drinking Water Management System for safe drinking water
- **Protection of the Environment Operations Act 1997** with regard to holding Environmental Protection Licences Pollution Incident Response Plans (PIRMP's)
- **Environmental Planning and Assessment Act 1979** with regard to determining approvals to construct water and sewerage infrastructure and ensure appropriate servicing plans for land.
- **Dams Safety Act 2015** – to ensure that any risks from dams owned by councils are managed to an acceptable level
- **Work Health and Safety Act 2011** – to ensure the safety of water and sewerage workers
- **Water Act 2007 (Commonwealth)** – with regard to national performance reporting requirements for water utilities

³ Queensland Government (2021) *Water funding for regional councils extended permanently*: <https://statements.qld.gov.au/statements/94120>

⁴ More information on Q-WRAP available at: <https://qldwater.com.au/qwrap>

These Acts all have supporting Regulations that we have not covered here for brevity.

Water Directorate recommends increased attention be paid to a more 'joined-up', whole of government approach to its oversight and support for water service provision in NSW. There are significant regulatory hurdles in water service provision. A streamlined, coordinated, strategic regulatory approach would be very welcome.

Importantly, privatised water utilities are permitted and enabled by the **NSW Water Industry Competition Act 2006** (WIC Act). The Act is regulated by the NSW Independent Pricing and Regulatory Tribunal and encourages private-sector investment by establishing a regime for third-part access to water infrastructure, and licence private sector water network operators and retail providers. The Act not only applies to the service areas of Sydney Water and Hunter Water, it operates across all of NSW. Local Water Utilities have the potential to be nominated as the 'Operator of Last Resort' where a private sector service provider fails.

It is notable that despite private sector access being available in regional NSW through the WIC Act, there are very few developments that proceed with privatised water and sewerage services where an LWU service can be made available. The inference is that the private sector itself cannot see an adequate return on investment in regional water and sewerage services.

(c) Any other related matters

Everybody in NSW deserves safe, reliable and affordable water and sewerage services. Small communities deserve equitable access to these critical and essential services. Local government is best positioned to deliver these services in regional NSW.

The consequences of failure of water and sewerage services can be extremely high and is still underappreciated. Increased attention is required to risk to address the impact on public health, environment, local economies and consequently impacting the NSW economy.

It is Water Directorate's position that a needs-based Community Service Obligation should be introduced to assist socio-economically disadvantaged communities in regional NSW achieve the same level of service for their water and sewerage services. There are perverse consequences with focussing solely on subsidy for capital projects without considering the total costs of ownership of water and sewerage infrastructure including operations, maintenance, depreciation and borrowing costs for long-lived assets.

There are three main factors in developing a needs-based Community Service Obligation:

1. **The relative cost of the service.** Economies of scale (or lack thereof) are important to identify. It is equally important to note that relative costs in remote/regional NSW are based largely on externalities that are beyond the control of an LWU such as:
 - a. Relative remoteness – long distances between small populations, impacting aspects of travel times for operational staff
 - b. diseconomies with the capital and operating costs for very small water and sewerage assets per head of population
 - c. inland NSW generally being more arid than coastal NSW, as well as having greater source water quality challenges. Per capita demand for water is typically higher in inland communities. This can lead to a higher dependence on revenue from usage charges and can lead to the perception that water conservation is 'bad for business'. Higher per capita water consumption isn't necessarily a sign of success and can mean less resilience during extreme events such as drought.
2. **A community's ability to pay.** – socio-economic disadvantage, such as the ABS's SEIFA score⁵ would be a primary metric. However, the economic profile for ability to pay metrics can be complicated an LWU's

⁵ More info: SEIFA – Australian Bureau of Statistics, available at: <https://www.abs.gov.au/websitedbs/censushome.nsf/home/seifa>

ability to service non-residential commercial and industrial development. Large water users such as heavy industry, or food and beverage producers are usually ‘anchor employers’ in small towns with significant influence over LWU pricing policies and therefore the LWU’s income.

3. ***The level of service provided and the risks associated with the service.*** Safe drinking water, resilient against climatic events, appropriate water security (water availability) and a safe, liveable environment. It is important to acknowledge that minimum standards are driven by a number of NSW government agencies, including DPE, NSW Health and NSW EPA. These agencies have a significant influence on minimum standards and therefore the costs of service provision. Good Dam Safety performance is also difficult to recognise and expensive for an LWU to address. A whole-of-government approach is required to a CSO model. Risk appetite should be developed after consultation with local communities rather than unilaterally imposed by the regulator. Significant cost burdens can accrue on an LWU due to a change in risk appetite from any regulator.

The government should consider aligning the CSO model with the Australian Government’s Financial Assistance Grants (FAG’s) which are paid to which are paid to councils across the country based on an agreed set of national principles. The funding formula is developed by each states Local Government Grants Commission, such as the NSW Local Government Grants Commission

Has a de-facto Community Service Obligation already been set in some parts of NSW?

IPART NSW already determine the customer share of capital and operating costs for the Fish River Scheme in Central West NSW (WaterNSW)⁶ and Broken Hill in Far West NSW (Essential Water)⁷. In Broken Hill for example:

The full cost of providing water and wastewater services in Broken Hill is around \$4,100 per customer on average per year, but customers currently contribute around half that cost. The remaining half is the cost Essential Water incurs from transporting water through the WaterNSW Pipeline, which the NSW Government currently subsidises and is paid for by NSW taxpayers. Our draft prices assume the existing WaterNSW Pipeline subsidy will continue for the next 4 years. With the existing subsidy, typical residential water and wastewater bills in Broken Hill would remain in line with (or lower than) bills in other regional areas with similar demographics to Broken Hill. If this subsidy did not continue, bills would increase substantially. (p1)

Taking inflation into account, a typical household would pay an annual water and wastewater bill of \$1,527 in 2022-23. (p3)

The weighted median typical residential bill (TRB) for the provision of water and sewerage services across all regional NSW LWU’s is \$1,405.87 in 2020-21, compared with the National median \$1,395:

⁶ IPART, *Draft decision on costs for the Fish River Scheme*, available at: <https://www.ipart.nsw.gov.au/Home/Industries/Water/Reviews/Rural-Water/WaterNSW-rural-bulk-water-prices-from-1-July-2021/16-Mar-2021-Fact-sheets-on-draft-report/Fish-River-Scheme>

⁷ IPART, *Draft Report - Review of Essential Water’s prices for water and wastewater services in Broken Hill - June 2022*, available at: <https://www.ipart.nsw.gov.au/Home/Industries/Water/Reviews/Metro-Pricing/Prices-for-Essential-Energy%E2%80%99s-water-and-sewerage-services-in-Broken-Hill-from-1-July-2022>

Typical Residential Bill - Usage - W&S

Units: \$ per connected property

Sum of water and sewerage Typical Residential Bills (using the actual year's usage).

The data shows the nominal value of the selected report year. The weighted median is the median of the available validated data for the indicator with the number of connected properties applied as weights. The national median is the median of available data from the latest national performance report. The included data is only for the LWUs with more than 10,000 connected properties.

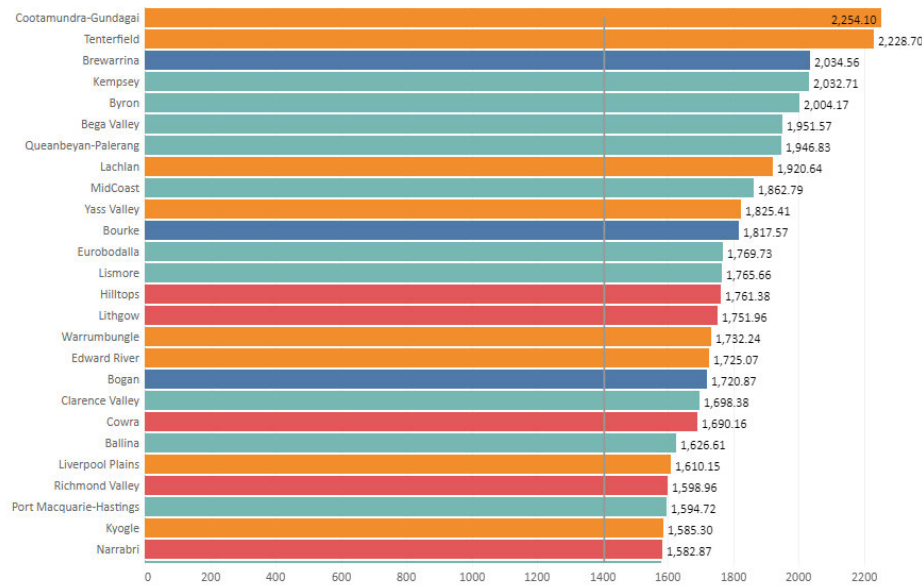


Figure 1 - Typical Residential Bill - Usage - W&S⁸

There are 30 LWU's with a combined TRB above IPART's Broken Hill draft price determination of \$1,527. As indicated in the chart, size of LWU hasn't been a major determinant of price. In fact, half of the 'top ten' in DPE's data are in the largest category of LWU's, greater than 10,000 connections.

Most probably, this is an indication of many LWU's needing to invest in significant service level improvements – new assets to improve drinking water quality, water security and environmental protection, with a consequent need to cover the costs of servicing borrowings, asset depreciation and increased operating costs resulting from these new investments.

It is also notable that larger utilities receive the least proportion of capital subsidy for eligible projects under the Safe and Secure Water Program funding rules:

Table 1. SSWP funding bands

Annual revenue of proponent (from water and sewerage)	Safe and Secure Water Program funding band
> \$20 million (m)	Up to 25%
> 10m to \$20m	Up to 50%
> \$5m to \$10m	Up to 60%
> \$2.5m to \$5m	Up to 75%
<=\$2.5m	Up to 90%

Figure 2 - Safe and Secure Water Program funding bands⁹

⁸ DPE, *Local water utility monitoring, Typical Residential Bill – Usage – W&S*, available at: <https://www.industry.nsw.gov.au/water/water-utilities/lwu-performance-monitoring-data>

⁹ Source: DPE website, available at: <https://www.industry.nsw.gov.au/water/plans-programs/infrastructure-programs/safe-and-secure-water-program/program-funding-information>

There can be perverse consequences with the above approach where a Local Water Utility increases revenue to improve cost recovery but reduces its eligibility for capital funding by moving into a lesser funding band.

Taking the time to consult

There has been limited time to put a thorough submission together on all the issues supporting a robust and equitable Community Service Obligation process for Local Water Utilities. It is evident however that the most assistance will be required in small populations across NSW, especially in the Far West of the state. The Australian Bureau of Statistics reports on remoteness derived as the road distance to the nearest urban centre¹⁰:

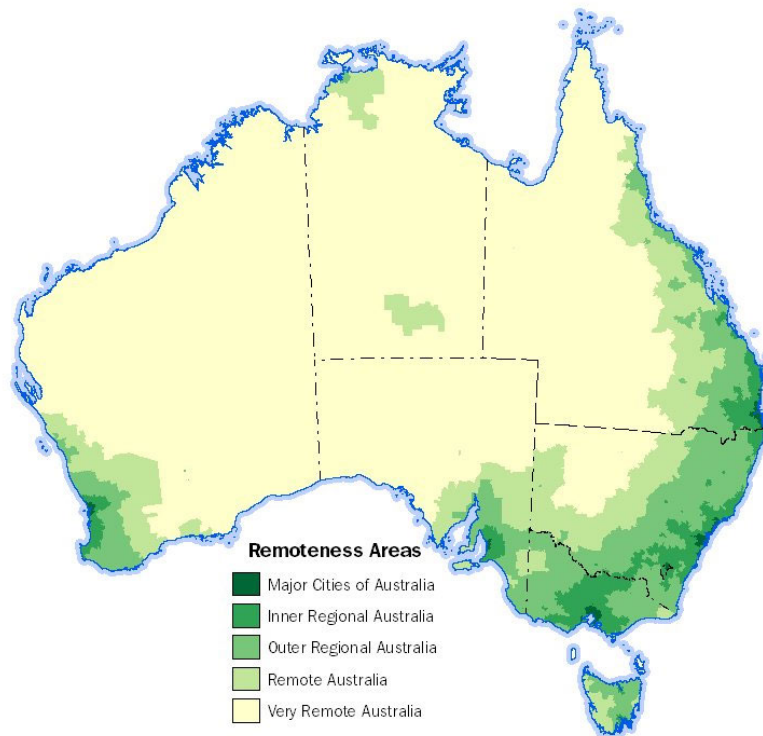


Figure 3 - Remoteness areas in Australia

Water Directorate encourages the government to put the customer and the community at the centre of a consultation process and visit as many regional and remote communities as it can to discuss their water and sewerage service issues.

Over time, many studies on water services for regional Australia have implied that the only way to achieve sustainable water supplies for smaller communities is with economies of scale. That can be interpreted to mean that the control of water services must be taken away from local communities. Most communities want to be empowered and supported to solve their problems locally. The question is if an external funding source and external technical support can be provided reliably, and an appropriate regulatory framework is in place, would centralising water service functions be necessary? There are numerous regulating agencies and regulations in water service provision, and significant issues with the lack of information and engagement with regional communities in water. A whole of government approach needs continued attention to relieve constraints on water service performance.

It is imperative that the government consults with Aboriginal communities and local councils together on water service provision for small communities. The Aboriginal Communities Water and Sewerage Program¹¹ is a 25-year program jointly funded by the NSW Government and the NSW Aboriginal Land Council. Access to long-term,

¹⁰ Source: <https://www.abs.gov.au/websitedbs/D3310114.nsf/home/remoteness+structure>

¹¹ <https://www.industry.nsw.gov.au/water/plans-programs/infrastructure-programs/aboriginal-communities>

untied funding combined with technical support and building local skills should be a long term objective for small communities.

Concluding comments

Developing a new alternative funding model for regional Local Water Utilities would represent a transformational opportunity for regional communities in NSW. The benefits from sustained long-term state investment in budget support for water and sewerage services to complement capital project subsidies will not only assist regional communities but will ultimately flow back to the state through improved economic development. Optimising whole-of-life costs of water and sewerage infrastructure is critical.

The Water Directorate supports a needs-based, evidence-based approach to assist socio-economically disadvantaged communities that lack access to economies of scale. It is important to generate a better balance between capital and operational support in the new model. The existing bias toward capital support has led to perverse consequences.

Context is the key to finding and fairly analysing key drivers of operational and financial performance. A suite of indicators will be required supported by contextual data addressing a LWU's operating environment. Funding could be targeted at overcoming particular gaps or risks.

Service levels need to be identified with community participation and to identify the capital and operating investment required to achieve the service level. A particular focus on risk reduction through non-capital solutions such as digital technology and water operator training is essential to make the best use of existing assets.

Thank you for the opportunity to make this submission. Should any further information be required, I can be contacted on [REDACTED] or [REDACTED]

Yours sincerely

Brendan Guiney
Executive Officer | NSW Water Directorate