

RESPONSES TO QUESTIONS ON NOTICE FROM THE AUSTRALIAN SERVICES UNION

Question by Hon Mark Buttigieg, page 18 of Transcript:

The Hon. MARK BUTTIGIEG: What has been the historical—presumably—decline? Do we have any statistics on 10, 15 or 20 years? I am just interested to know what it was historically. You have a public utility—it is essentially a State-owned corporation now, but a public utility for all intents and purposes—with a job to do, and that is to supply water to a big and growing city. Presumably, the work has increased. It has not gone away. If there has been a decline in full-time employees over a period of time, that has to have been supplanted by these other people. What sort of quantities are we talking about?

Response:

The number of contractors can be accurately ascertained by consulting the Sydney Water's internal BECON system, which is the Sydney Water internal induction system for site contractors. There is a similar system that would allow an accurate count for contractors being employed at Head Office and more generally across Sydney Water.

While we do not have access to the BECON system, or other systems at Sydney Water that record induction other data that records details for contractors in other parts of the organisation, this number could be accessed by Sydney Water management.

However, it has been reported to us that there are currently more than 7,000 Sydney Water email addresses.

Sydney Water provides Sydney Water email addresses to its contract employees.

Sydney Water states that it has 3,091 employees in its 2022 – 23 Annual Report. This suggests that there are at least 4,000 contract employees at Sydney Water.

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Hon Mark Latham, page 17 of Transcript

JAN PRIMROSE: Our members have told us that while they might have access to the information they haven't had the advantage of having developed the proposal, and if the external consultant has developed the proposal then they're in an advantaged position relative to internal.

The Hon. MARK LATHAM: Is there a case study we could look at? It is good that members give you feedback, but are there specific examples the Committee could examine?

The Chair, page 18 of Transcript:

The CHAIR: Were these contractors sitting next to employees? We heard yesterday of a relatively new thing that Transport for NSW are doing where they are making efforts to protect their confidential information by letting everyone know who is a contractor and who is an employee. Has Sydney Water done that? Do we know? Is it clear who is an employee and who is not?

The CHAIR: What about email addresses and things? Is there any difference? If you were emailing internally, would you know if you were emailing someone who is an employee or a contractor?

Response:

Regional Delivery Consortium (RDC's) are contracted by Sydney Water to provide concept, design, build and commission work for capital works, maintenance, operational work and projects, including data and digital maintenance, security, cleaning, ground maintenance, building maintenance, gardening and grass cutting.

There are also other contractors employed for minor contracts, such as installation of safety rails or minor upgrading work, or small specialist work.

There are three RDC's:

- Northern: Confluence Water
- Southern: D4C
- Western: Programmed

They employ their own workforce but often sub contract out work where they do not have sufficient or appropriate equipment or a skilled workforce

Those contractors and sub contractors work on Sydney Water sites and are largely indistinguishable from Sydney Water's directly employed workforce.

They drive vehicles with Sydney Water logos, have Sydney Water email addresses and are inducted by Sydney Water.

The number of contractors can be accurately ascertained by consulting the Sydney Water's internal BECON system, which is the Sydney Water internal induction system for site contractors. There is a similar system that would allow an accurate count for contractors being employed at Head Office and more generally across Sydney Water.

There are currently more than 7,000 Sydney Water email addresses. Sydney Water states that it has 3,091 employees in its 2022 – 23 Annual Report. This leads us to estimate that there are at least 4,000 contractors and consultants at Sydney Water.

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Sydney Water provides a Sydney Water email address to its contractors that is indistinguishable from its direct employees.

Depending upon the nature of their work, they have access to the same information, reports, prosecutions, risk and audit information on all assets as do those who are directly employed by Sydney Water.

Our members who are in highly sensitive positions have reported to us that they have had detailed discussions about asset management and project planning with consultants, such as ARUP and AURECON (major planning consultants) without realising that they are not Sydney Water direct employees.

The reason for the confusion is that those ARUP and ARECON employees have Sydney Water email addresses, telephone extension numbers and work side by side at desks next to Sydney Water employees. They have the same access to Sydney Water information as do the direct employees.

The screenshot below is taken from the Sydney Water intranet site and sets out the relationship between Sydney Water and its consultants, who are 'embedded' at Sydney Water:



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What do the Planning Partners do?

The Planning Partners are fully integrated meaning Planning Partners people are embedded within the organisation and take on the role of Sydney Water people. Planning Partner staff are embedded primarily within the Asset Lifecycle teams below however they may be embedded in other areas as needed

*Systems and Assets planning - systems design and planning programmes management teams
Engineering and technical support – environment and heritage. Project engineering and engineering*

The Planning Partner also provides non-embedded resources to support peaks actively as required.

Relevant quote from screenshot above

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Hon Dr Sarah Kane, page 19 of Transcript

The Hon. Dr SARAH KAINE: Okay, they wouldn't necessarily, but there has been an increase in those consultants and contractors over time, instead of direct employees?

Response:

Sydney Water states that it has 3,091 employees in its 2022 – 23 Annual Report

The number of contractors can be accurately ascertained by consulting the Sydney Water's internal BECON system, which is the Sydney Water internal induction system for site contractors.

There is a similar system that would allow an accurate count for contractors being employed at Head Office and more generally across Sydney Water. There are currently more than 7,000 Sydney Water email addresses.

Based upon these figures we estimate that there are at least 4,000 indirect employees at Sydney Water. The number is likely to be higher as not all employees would have an email address, but certainly all employees would need to be inducted. This number could accurately be provided by Sydney Water very easily.

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Hon Wes Fang, Page 21 of Transcript

The Hon. WES FANG: Are you able to provide specifics in relation to the concerns that your members have raised, the work that's been done in relation to investigating or determining the validity of those concerns—

The Hon. Dr SARAH KAINE: Point of order: I'm not sure if Mr Fang was listening, but Ms Primrose, in answer to a question from Mr Latham, did answer regarding her concerns about being able to do that and how one way for us to potentially verify those issues was indeed to ask specific questions of Sydney Water, which we intend to do.

The Hon. WES FANG: No, I appreciate that.

The CHAIR: Order! There is no point of order as such, but, Mr Fang, please ask specific questions about what it is you are seeking elucidation or evidence about rather than a more generalised—

The Hon. MARK LATHAM: Maybe it helps if the union could provide the case studies on a confidential basis to the Committee, which is standard practice, because without detail it's very hard to make—

The Hon. WES FANG: That's exactly the point that I'm making. The opening statement made clear reference to concerns raised by their members around conduct or behaviour of the entity without actually identifying specifics.

The Hon. MARK LATHAM: We don't want people to lose their job.

The Hon. WES FANG: Yes. But we need specifics as to what it is that we're seeking to ask questions about.

The CHAIR: Order! Is it possible to provide any more information to us on a confidential basis after the hearing?

And response to

Hon Wes Fang, from the Transcript page 25:

The Hon. WES FANG: In relation to those points that you have just indicated to Mr Buttigieg, can you provide some evidence of that as well—where work has been done by a contractor that has then required Sydney Water employees to go back?

Response:

1. **Media confirming the role of Roch Cheroux in supporting privatisation of Sydney Water and his history promoting privatisation of water assets:**
 - Protecting Sydney Water from privatisation: <https://www.nsw.gov.au/media-releases/protecting-sydney-water-from-privatisation>
 - NSW Government spends \$400,000 on consultants before outsourcing Sydney Water: https://www.theguardian.com/australia-news/2023/mar/16/nsw-government-spends-400000-on-consultants-before-outsourcing-sydney-water-asset?CMP=share_btn_link
 - Chris Minns says documents show Liberals considered privatising parts of Sydney Water: https://www.theguardian.com/australia-news/2023/mar/19/chris-minns-says-documents-show-liberals-considered-privatising-parts-of-sydney-water?CMP=share_btn_link
 - Minns pursues anti privatisation agenda: <https://www.afr.com/politics/minns-pursues-anti-privatisation-agenda-20230507-p5d6ec>
 - Sydney Water boss Roch Cheroux says privatisation would not change much <https://www.news.com.au/national/nsw-act/politics/sydney-water-boss-roch-cheroux-said-privatisation-would-not-change-much-two-years-before-kpmg-report-revealed/news-story/68d00a453816f2cc6873676262f79d5c>

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2. Public information available on managing director Roch Cheroux

Sydney Water website: <https://www.careers.sydneywater.com.au/t/roch-cheroux>

Roch is our Managing Director. He is a key influencer in the water industry, with experience shaping and leading public and private corporations across Asia-Pacific region and Europe.

Roch commenced with Sydney Water as the Managing Director on 2 September 2019.

In Roch's past role as Chief Executive of SA Water, he led the transformation of South Australia's largest water utility to embed technology, culture and systems changes to deliver improved experience for the corporation's 1.6 million customers.

Before joining SA Water, Roch was Chief Executive Officer of SUEZ for the South East Asia region and SUEZ-Degrémont Australia and New Zealand, Managing Director of United Utilities Asia and Pacific (TRILITY), and Chief Executive and Chairman of Tallinn Water in Estonia.

Roch is active across the industry and is currently director of the Water Services Association of Australia, and member of the Commonwealth Government's Australian Water Partnership Advisory Committee.

Mr Cheroux' Linked-in profile: <https://www.linkedin.com/in/roch-cheroux-822ab17/details/experience/>

Roch is a key influencer in the water industry, with experience shaping and leading public and private corporations across the Asia-Pacific region and Europe.

Prior to joining Sydney Water, Roch was Chief Executive of South Australia Water Corporation, Chief Executive Officer of SUEZ for the South East Asia region and SUEZ-Degrémont Australia and New Zealand, Managing Director of United Utilities Asia and Pacific (TRILITY), and Chief Executive and Chairman of Tallinn Water in Estonia.

As well as being adept in the design, delivery and operation of complex water and wastewater assets and networks, Roch has extensive experience in organisational design and change, merger and acquisition, and investor and government relations.

He is a Director of the Water Services Association of Australia, previous Chairman of Infrastructure Partnership Australia's Water Task Force, and an active member of the Australian Water Association.

We have never suggested that Mr Cheroux only awards contracts to companies for which he has worked. Indeed, there is a very long list of private contracts now being awarded at Sydney Water, so that members often refer to Sydney Water becoming a 'cash cow' for contractors.

We have recently received reports that Mr Ploughman, General Manager Asset Lifecycle, second on the Executive list after Mr Cheroux, has asked his executive team to develop a proposal for the outsourcing of Sydney Water's laboratories. The laboratories are responsible for water quality testing, such as during the COVID pandemic, recent floods, and other major events, as well as general water quality testing and related work. They are a critical part of the work done by Sydney Water.

The list of contracts at Sydney Water can be accessed on their Contract Register, which lists up to 500 contracts. The Sydney Water Contract Register can be accessed here:

<https://www.sydneywater.com.au/about-us/our-suppliers/contract-register.html>

Hon Mark Buttigieg, page 24 of Transcript

Just related to Mr Fang's line of questioning, in terms of any history of penalties and breaches from Sydney Water, can you inform the Committee of where that may have occurred?

Response:

Penalties paid by, or major judicial decisions against or enforceable undertakings at Sydney Water

The information provided in this section below is taken directly from Sydney Water and the Environment Protection Agency (EPA) annual reports from financial years 2018/19 to 2021/22, as well as prosecutions listed on the EPA website for the financial year 2022/23.

2022/23 Prosecutions by the EPA

Reference NSW Environmental Protection Authority website: [https://www.epa.nsw.gov.au/news/media-releases/2023/epamedia230711-sydney-water-to-pay-over-\\$865k-after-huge-sewage-overflow](https://www.epa.nsw.gov.au/news/media-releases/2023/epamedia230711-sydney-water-to-pay-over-$865k-after-huge-sewage-overflow)

Sydney
WATER

Sydney Water Corporation convicted and penalised for water pollution after overflow of sewage into Flat Rock Creek, Naremburn and Long Bay, Middle Harbour.

Sydney Water Corporation was prosecuted by the Environment Protection Authority (EPA) for three offences of water pollution after about 16 million litres of sewage overflowed from Sydney Water's sewerage system at Naremburn. Between about 26 October 2020 and 30 October 2020, the sewage overflowed into the environment, entered Flat Rock Creek and reached the foreshore of Long Bay, Middle Harbour.

The incident occurred when a sewer and maintenance hole partially collapsed and caused a blockage, resulting in sewage backing up and then overflowing.

The overflows caused actual harm to the environment and degraded the water quality for about 6 - 7 days. The incident impacted surrounding amenities, including the Dawson Street Playground, Flat Rock Gully Walking Track, Tunks Park, and Long Bay, Middle Harbour. Residents in the area experienced sewage odours and some accepted an offer to be temporarily relocated as a result of the incident and associated sewer restoration works.

On 5 July 2023, the Land and Environment Court convicted Sydney Water of three offences of water pollution and ordered Sydney Water to:

1. pay fines totalling \$365,625,
2. pay the EPA's legal costs as agreed or assessed,
3. publish details of the offence on Twitter, Facebook, and Instagram, and cause this notice to be published at its own expense.

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Naremburn: October 2020 sewerage flowed into Naremburn Creek. Convicted. Penalty \$865,625

Sydney Water Corporation has been convicted and fined \$365,625 and have separately agreed to pay \$500,000 to environmental projects, after around 16 million litres of raw sewage resulted in the relocation of 39 residents in Naremburn in 2020.

The incident was a result of the partial collapse of a sewage pipe and maintenance hole, which caused a blockage in the sewage system. This caused sewage to back-up and overflow at Dawson Reserve and two other locations near Gaza Road and Garland Road, entering Flat Rock Creek.

NSW Environment Protection Authority (EPA) Acting Executive Director, Arminda Ryan said the sewage impacted the waters of Flat Rock Creek and downstream to Long Bay, Middle Harbour for up to a week after the incident.

“The partial collapse of the sewage system at Dawson Street led to a significant amount of raw sewage entering Flat Rock Creek, which can cause harm to aquatic organisms exposed to the sewage-contaminated waters,” Ms Ryan said.

“Local residents were significantly impacted by the incident with reports of sewage odours and 39 people were temporarily relocated from their homes.

“These waterways are much-loved recreational areas for residents in Northern Sydney and we know the local community expects better from Sydney Water.

“We want to protect and restore our local waterways and maintaining the infrastructure of our sewage network is integral to this goal.”

Sydney Water was fined in the Land and Environment Court for three related offences and also entered into an Enforceable Undertaking (EU) with the EPA to address concerns regarding the condition of the collapsed sewage pipe and maintenance hole, and their failure to immediately notify authorities of the incident.

The EU commits \$500,000 in funding to North Sydney Council, Willoughby City Council and the Aboriginal Heritage Office to assist with a variety of environmental projects including works within the Flat Rock Creek catchment.

Ms Ryan said Sydney Water now has twelve convictions relating to sewage overflows since 2020.

The Court ordered Sydney Water to write to local residents outlining the court order and incident, and apologise for the overflow and any inconvenience caused, as well as pay the EPA’s legal costs and publish details of the conviction in the *Daily Telegraph*, *Sydney Morning Herald* and on its social media accounts.

Reference Environmental Protection Agency website: [https://www.epa.nsw.gov.au/news/media-releases/2023/epamedia230414-untreated-sewage-in-parramatta-river-costs-sydney-water-\\$347k#:~:text=Untreated%20sewage%20in%20Parramatta%20River%20costs%20Sydney%20Water%20%24347K,-14%20April%202023&text=Sydney%20Water%20has%20agreed%20to,well%20as%20the%20Parramatta%20River.](https://www.epa.nsw.gov.au/news/media-releases/2023/epamedia230414-untreated-sewage-in-parramatta-river-costs-sydney-water-$347k#:~:text=Untreated%20sewage%20in%20Parramatta%20River%20costs%20Sydney%20Water%20%24347K,-14%20April%202023&text=Sydney%20Water%20has%20agreed%20to,well%20as%20the%20Parramatta%20River.)

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Untreated sewage in Parramatta River costs Sydney Water \$347K

14 April 2023

Sydney Water has agreed to pay \$347,100 for environmental and community works after more than three million litres of untreated sewage overflowed into Arnotts Reserve and Powells Creek in Homebush, as well as the Parramatta River.

The discharge was followed by a significant fish kill in Powells Creek, and Arnotts Reserve was closed to the public during clean-up for several weeks after the incident.

NSW Environment Protection Authority (EPA) Executive Director, Steve Beaman said the incident occurred from a break in a Sydney Water rising main pipe after the inside of the pipe eroded in early 2021.

“This incident saw around three to five million litres worth of sewage spilled into the surrounding environment, the equivalent of up to two Olympic sized swimming pools,” Mr Beaman said.

“Untreated sewage entering into our local waterways presents a major risk to our environment and is completely unacceptable.

“These waterways are much-loved areas for residents in Western Sydney and we know locals expect better from Sydney’s water utility.

“Untreated sewage poses risks to human health and can have impacts on our ecosystems.

“When dealing with untreated sewage, infrastructure should always be monitored and upgraded when necessary.

“While we are disappointed this incident occurred, the undertaking will go towards environmental and community works within the Badu Mangroves and Mason Park Wetlands.

“We want to protect these areas now and well into the future and these works will help to improve water quality, enable bush regeneration and weed control while enhancing waterbird habitats and recreational facilities.”

The works will be carried out by the Sydney Olympic Park Authority and Strathfield Council. The \$347,100 commitment is detailed in an enforceable undertaking with the NSW Environment Protection Authority (EPA).

In addition to the environmental works, Sydney Water has also agreed to pay the EPA’s legal and investigations costs of approximately \$28,000 and also publicise details of the enforceable undertaking and incident in the Daily Telegraph, The Parramatta Advertiser and on Sydney Water’s social media pages.

Enforceable Undertakings (EUs) are one of a number of tools the EPA can use to achieve environmental compliance. The EPA may secure outcomes such as environmental restoration measures or contributions to environmental projects. Compliance with the undertaking is enforceable by the Land and Environment Court.

Reference: Environmental Protection Authority Website: [https://www.epa.nsw.gov.au/news/media-releases/2023/epamedia230227-sydney-water-ordered-to-pay-\\$200000-for-polluting-creek](https://www.epa.nsw.gov.au/news/media-releases/2023/epamedia230227-sydney-water-ordered-to-pay-$200000-for-polluting-creek)

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Carramar: Sewerage flowed into Prospect Creek. Convicted. Penalty \$200,000

Sydney Water ordered to pay \$200,000 for polluting creek, 27 February 2023

Sydney Water Corporation has been convicted and fined \$200,000 in the Land and Environment Court of NSW after 282,000 litres of raw sewage discharged into Prospect Creek.

The sewage escaped from a nearby pumping station at Carrawood Reserve in Carramar that needed to be shut down in order to repair the split rising main.

NSW Environment Protection Authority (EPA) Executive Director Regulatory Operations, Steve Beaman said the spill was the equivalent of four and a half average backyard swimming pools.

“This was a significant amount of raw sewage entering a local waterway that runs for more than 25 km,” Mr Beaman said.

“As a result of the overflow, the creek was discoloured, marine habitats were impacted and an unpleasant sewage odour was experienced by the surrounding communities.

“Our EPA officers found that the sewage degraded up to 5km of the Prospect Creek for at least six days.

“Water testing revealed high levels of ammonia in several locations which can be detrimental for aquatic life.

“This result serves as an important reminder to all licensees to ensure their infrastructure is appropriately managed and upgraded when necessary.

“We want to protect and restore our local waterways and incidents like this can have long lasting impacts.”

\$45,000 of the penalty is to be paid to Fairfield City Council for an environmental project at Quest Avenue, Carramar, which seeks to improve the quality of stormwater entering Prospect Creek.

Sydney Water was also ordered to pay the EPA’s investigation and legal costs, publish details of the conviction in the Daily Telegraph and on its social media accounts.

Sydney Water was also ordered to provide a letter to local residents which outlines the court order and incident, as well as apologising for the overflow and any inconvenience caused.

2021/22 Enforceable undertakings agreed with the EPA

- Grasmere/ Glenmore: January 2020 sewerage overflow. Penalty \$620,800
- Shellharbour: July 2020 sewerage overflow. Penalty \$613,600

Reference: EPA website: <https://www.epa.nsw.gov.au/news/media-releases/2022/epamedia220406-sydney-water-to-pay-over-12-million-after-sewage-damages-homes>

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Sydney Water to pay over \$1.2 million after sewage damages homes

Sydney Water must pay more than \$1.2 million in restoration and prevention costs after it discharged a total of more than half a million litres of untreated sewage in two separate incidents.

The first discharge damaged homes and closed beaches at Shellharbour while the second impacted the environment at Grasmere in Sydney's south west.

The \$1.2m costs are the result of two enforceable undertakings with the NSW Environment Protection Authority (EPA), each worth \$600,000.

The largest overflow incident occurred in July 2020 when a sewage pipe, known as a rising main, failed releasing approximately 430,000 litres of untreated sewage. This flooded Darley St, Shellharbour, flowing into residents' properties and causing damage.

The overflow also spilled onto nearby beaches, forcing the temporary closure of Shellharbour Beach North and South and the Beverley Whitfield Ocean Pool, which had to be drained after sewage entered the pool.

Earlier that same year, in January and February 2020, a single Sydney Water rising main in Sydney's southwest failed on seven occasions, discharging an estimated total of 88,000 litres of untreated sewage into a gully, a pond and a quarry dam in Grasmere and Glenmore.

EPA Director Regulatory Operations Jacinta Hanemann said that Sydney Water's environmental performance was not good enough.

"We expect better from Sydney Water and know that the community feels the same way. Nobody wants sewage flooding their street or impacting the environment," Ms Hanemann said.

"Untreated sewage poses risks to human health and can have impacts on our ecosystems."

The enforceable undertakings require Sydney Water to fund projects to enhance or restore the environment, including:

- \$500,000 to Shellharbour Council for beach dune restoration and protection at Shellharbour Beach. Council will also contribute an additional \$210,000 toward this project.
- \$350,000 to fund a research project into the design and development of a new approach for detecting and preventing leaks in sewage rising mains. Sydney Water will contribute \$120,000 of additional voluntary funding to this project.
- \$200,000 to Camden Council toward a water quality management project for Narellan Creek.
- \$150,000 to Wollondilly Council for weed control, bush regeneration works, and to enable an audit of private on-site sewage management systems.
- Sydney Water has also agreed to pay the EPA's legal and investigative costs.

"These undertakings will result in more than \$1.5 million being invested in the environment. They also represent significant practical steps to restorative justice by rehabilitating and enhancing the local environment where the incidents occurred."

Through an enforceable undertaking, which are enforceable by the Land and Environment Court, the EPA may secure outcomes such as environmental restoration measures or contributions to environmental projects.

2020/21 Prosecutions by the EPA

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- North Epping: July 2018 wastewater flowed into the Lane Cove River. Convicted. Penalty \$145,000
- Bangor: September 2018 wastewater flowed into bushland and a creek in Bangor. Convicted. Penalty \$185,000
- Northmead: October 2018, wastewater flowed into Toongabbie Creek and the Parramatta River. Convicted. Penalty \$175,500

Major Judicial decisions

- JK Williams Staff Pty Ltd vs Sydney Water (Land and Environment Court). Court found Sydney Water breached the EPA and Conveyancing Act. Court ordered that, by January 2024 Sydney Water must provide a permanent structure to prevent further erosion along the embankment of Boundary Creek (near Penrith)

2019/20, Prosecutions by the EPA

- Bayside Council: May/ June 2017 sewerage overflow. Convicted. Penalty \$269,500

Sydney Water Annual Report

- Mentioned that there are 4 active cases before the Land and Environment Court – Bangor, North Epping, Northmead, Carramar

2018/19

Independent Review sought, overseen by EPA. Sydney Water mentioned that it would adopt all the recommendations of the Review. This was born out of issues with Sydney Water's environmental performance.