

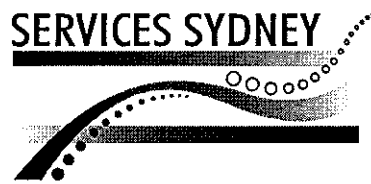
**Submission
No 61**

INQUIRY INTO A SUSTAINABLE WATER SUPPLY FOR SYDNEY

Organisation: Services Sydney Pty Ltd
Name: Mr John van der Merwe
Position: Director
Telephone: 9221 9192
Date Received: 20/02/2006

Subject:

Summary



Inquiry into a Sustainable Water Supply for Sydney

General Purpose Standing Committee No 5
Legislative Council of New South Wales

A submission by

Services Sydney Pty Ltd

February 2006

waterworks
a division of Services Sydney

17 February 2006

Mr Ian Cohen MLC (Chair)
General Purpose Standing Committee No 5
Legislative Council of New South Wales
Parliament House, Macquarie Street
SYDNEY NSW 2000

Legislative Council
GENERAL PURPOSE
STANDING COMMITTEES

20 FEB 2006

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Dear Mr Cohen

A Sustainable Water Supply for Sydney

Services Sydney welcomes the opportunity to make a submission to the General Purpose Standing Committee No 5 of the Legislative Council concerning Item (d) of the *Terms of Reference* of its Inquiry into the above matter.

Item (d) refers to:

'The costs and benefits of desalination and alternative sources of water including recycled wastewater, groundwater, rainwater tanks and storm water harvesting'.

Delivering a sustainable water system for Sydney means delivering 'value for money'.

Put simply, that means expanding the measurement of outcomes beyond financial considerations to include the economy, the environment and social equity. This is also called the *Triple Bottom Line*.

The Company has a firm view that providing a new and major bulk water source by the reclamation of water from the raw sewage pumped into the ocean (Services Sydney's *Waterworks Project*) delivers far better value for money to the Community.

This submission contains:

1. An overview of the Company's background and the *Waterworks Project* (Tab 1);
2. A copy of an Economic Appraisal prepared by Economists Marsden Jacob Associates for Services Sydney. It was submitted to The Cabinet Office on 15 February 2005 (Tab 2). The appraisal compares the overall costs and benefits of Services Sydney's plan (*Waterworks*) with those of the NSW Government's *Metropolitan Water Plan* that include:
 - Proposed Desalination by Sydney Water;
 - Increased Shoalhaven water transfers by Sydney Catchment Authority; and
 - The continued ocean disposal of barely treated sewage by Sydney Water under its *WaterPlan 21*.

3. A copy of a submission to the Independent Pricing and Regulatory Tribunal (IPART) in March 2005 during IPART's 2005 review of the Metropolitan Water Agency Prices (Tab 3). The Company submitted to IPART that:
- A valid lower cost alternative in *Waterworks* is available for Consumers in Sydney and the Shoalhaven; and
 - Forward expenditures can only be recommended by IPART for water plans that are supported by Consumers.
4. A brief history of the Company's negotiations with Sydney Water and the NSW Government (Tab 4).

Following several years of inconclusive commercial dealings with Sydney Water and the NSW Government to deliver its plan, the Company was forced to apply for Third Party access under Part IIIA of the *Trade Practices Act* in March 2004.

On 21 December 2005, Services Sydney was granted mandatory access rights by the Australian Competition Tribunal (a division of the Federal Court of Australia) to access the sewers of Sydney Water. This also allows the Company the right to establish direct retail relationships with Consumers.

The Company is currently negotiating binding commercial agreements to deliver its *Waterworks* plan in competition with the *Metropolitan Water Plan*.

As a Director of the Company, I am available to give evidence in person, should the Committee so decide.

Thank you for the opportunity to provide this information.

Yours faithfully
Services Sydney Pty Ltd



John van der Merwe
Director

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Services Sydney's Background and the Waterworks Project

Services Sydney is an Australian-owned infrastructure development company, based in Sydney.

It recently won the right to compete with Sydney Water to provide sewerage services in Sydney after two years before the National Competition Council (2004) and the Australian Competition Tribunal (2005).

The Tribunal ruling, in December 2005, was a first for the Australian water industry. It gave Services Sydney the right to negotiate with the monopoly sewerage services provider, Sydney Water, terms of access to the sewerage network in Sydney.

The Tribunal ruled that the access period be for 50 years until 2055.

A summary of the company's plan is briefly set out below:

- Services Sydney proposes to construct a deep tunnel system between the three major Sydney ocean outfalls.
- The tunnel would transfer sewage that normally goes out to sea to a new, world-class water reclamation plant.
- The plant would produce high-quality water for a variety of uses.
- Subject to meeting strict environmental and health requirements water could be transferred back to the Hawkesbury-Nepean for environmental river flows and a range of other uses.
- Waterworks would provide current Sydney Water customers the opportunity to choose the company's alternative water plan for Sydney by subscribing to its sewerage services company.
- By making that choice they will be secure in the knowledge that water from their effluent is being reclaimed for quality re-use projects.
- If they stay with Sydney Water their sewage continues to be pumped out to sea and the city will face the options of a new dam or energy-hungry desalination.
- Future use of the reclaimed water will be determined by community choice.
- The subscription to the company would fund the company's construction of new infrastructure: tunnels, pipelines, water reclamation and bio-solids plants.
- Subscribers' choice will drive the company and its growth.
- The proposal would deliver a drastic reduction in marine pollution, a new source of water for environmental flows and other purposes.
- There would be no additional burden on the public purse.
- In fact an economic appraisal commissioned by Services Sydney has found that implementation of the proposal would save New South Wales taxpayers hundreds of millions of dollars.
- The people of New South Wales would also receive a sustainability dividend, on top of the economic reward, through less ocean pollution, the re-use of a valuable resource and healthy Hawkesbury/Nepean and Shoalhaven Rivers.

SERVICES SYDNEY PTY LTD

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15 February 2005

Mr Roger Wilkins
Director-General
The Cabinet Office - NSW Government
Level 39 - Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Mr Wilkins

We refer to our meeting with the NSW Government represented by yourself, Dr Col Gellatly and Ms Kim Cull of NSW Premiers Department, Mr John Dermody of the Coordinators General's Unit, Mr Greg McDowell of DIPNR, Mr Luke Woodward of Gilbert + Tobin and our Mr Tony Feitelson, held on 24 November 2004.

At that meeting we confirmed our intention to compete for Customers for our alternative provision of sewerage services, to reclaim water and to supply bulk water in direct competition with the Government's Metro Water Plan and Sydney Water's WaterPlan21.

According to our information, WaterPlan 21 and the Metropolitan Water Plan have not been subjected to an Economic Appraisal. Throughout 2004, we formally sought to do such a benefit cost appraisal together with the Government.

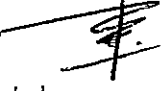
During the meeting we drew to your attention our appointment of expert water economists Marsden Jacob Associates, to conduct such an appraisal to NSW Treasury guidelines.

This Economic Appraisal has just been completed and the outcomes make very interesting reading. A copy of the Appraisal is enclosed for your information.

This is the only copy we are forwarding to the NSW State Government.

Should there be any aspects you wish to discuss, please contact me in the first instance.

Yours faithfully
Services Sydney Pty Ltd


John van der Merwe
Director

COPY

Marsden Jacob

Financial & Economic Consultants

Level 3, 683 Burke Road, Camberwell, Victoria 3124
Telephone: (03) 9882 1600 Facsimile: (03) 9882 1300
Email : economists@marsdenjacob.com.au

Commercial-in-Confidence

3 February 2005

Mr John van der Merwe
Services Sydney Pty Ltd
Suite 302, 37 Bligh Street
Sydney NSW 2000

Dear John,

Attached are copies of the Marsden Jacob Associates' Comparative Cost Model and our Triple Bottom Line (TBL) assessment comparing the NSW Government's Metropolitan Water Plan with Services Sydney's Waterworks Plan.

Where data or assumptions are unclear we have accepted the parameter values suggested by the independent Anderson Report, Sydney Water, the Metropolitan Water Plan or other government documents. For instance, in examining how each proposal adds to the safe yield of the Sydney supply system, we have used the Sydney Catchment Authority's estimate of 600GL/a for the level of safe yield. Pervasively, our assumptions (and findings) err in favour of the Metropolitan Water Plan.

Since the two competing proposals relate to Sydney's future water needs, the current expected level of safe yield of the system is critical. Consequently, it is necessary to signal our concern that the current estimate of safe/sustainable yield for Sydney's water supply system is likely to be overstated and become increasingly more so over time. This is so because it does not [appear to] reflect climate variability in the form of shifts in climate regimes or the increasingly strong evidence of increasing temperatures which will affect evaporation and streamflows. Even without the reductions in rainfall forecast by CSIRO, the trend to increased temperatures will reduce inflows into dams.

We note that the Water Corporation of Western Australia has rigorously explored these shifts and found them to be highly material. The expert papers prepared for the Hawkesbury-Nepean River Management Forum also noted such shifts but these observations do not appear to have carried over into the determination of the safe level of the water yield used in the Metropolitan Water Plan. We therefore are concerned that the safe/sustainable yield is likely to be overstated with the result that the demand/supply balance may be more precarious, i.e., in greater deficit, than publicly hinted in the Metropolitan Water Plan – and since we adopt these official parameter values, it follows on from this point that Marsden Jacob Associates' comparative analysis of demand-supply balance and costs also understates the severity of the issue.

This affects our analysis as the lower the safe yield, the greater the benefits of the buffer of supply provided by the Waterworks proposal. Therefore, the results and observations from Marsden Jacob Associate's comparative assessments need to be interpreted against the background of this concern.

Turning to the findings on the comparative outcomes of Metropolitan Water Plan/WaterPlan 21 and Waterworks indicates that:

- i) direct costs are around 10% (or \$500 million PV) lower for Waterworks than for the Metropolitan Water Plan;
- ii) until 2010-11, Sydney faces the prospect of major restrictions under either the Metropolitan Water Plan or Waterworks option;
- iii) supply security is not achieved under the Metropolitan Water Plan due to its continued reliance on water restrictions. Environmental obligations for minimum flows in the Hawkesbury-Nepean are largely set aside except for periods where there may be surplus water;

In contrast, Waterworks provides a buffer of surplus water above minimum requirements and obligations to beyond 2035 with capacity for further extensions. In terms of reliability/security and the avoidance of restrictions, the conclusion that Waterworks is clearly superior is unavoidable;

- iv) to the extent that the Metropolitan Water Plan envisages an improvement in the environmental condition of the Hawkesbury-Nepean River, this is achieved by transferring water from the Shoalhaven River. The removal of high flows and the increase in minimum flow levels in the Shoalhaven River will reduce the variability of flows in that river, increasing sedimentation, shifting the salt wedge upstream and affecting fish stock viability and inducing other adverse changes;
- v) this '*robbing Peter to pay Paul*' is not confined to the environmental betterment of the Hawkesbury-Nepean River at the cost of the environmental deterioration of the Shoalhaven River. Such cost and burden shifting also occurs in the change in reliability of supply and the need for a new dam.

A further inequity appears to be the need for industry in the Shoalhaven River to buy water entitlements which is not required for industry in Sydney itself;

- vi) the economic impact of water restrictions on gardening and nursery and other industries is substantial with consequential employment dislocation. For Perth, these costs have been assessed to be sufficiently high to make the avoidance of sustained or severe restrictions a major policy objective of the Western Australian Government. These costs are not yet acknowledged in the case of Sydney and the Metropolitan Water Plan; and

- vii) the Waterworks proposal provides the basis to reverse the environmental damage from water harvesting and of frequent water restrictions which appear to be endemic under the Metropolitan Water Plan. With the ability of the Waterworks proposal to more than achieve demand supply balance and concurrently provide and pulse water to the river system, it follows that water restrictions have no continuing economic or moral basis. They are simply a cost to consumer welfare and a dead weight efficiency loss. We have quantified this loss at around \$2.5 billion NPV. These costs are wholly avoided with the Waterworks option.

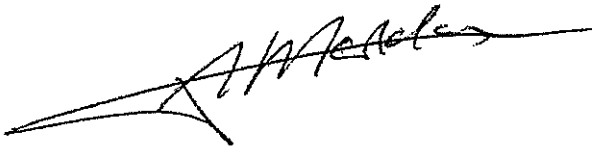
Overall, the comparison of the relative merits of the two plans against each of the elements of a triple bottom line provides (at least at this stage and level of knowledge) a consistent and uniform outcome which suggests that the Waterworks option is comprehensively superior. Further detail of our comparative findings is attached.

Given the importance of water to Sydney, the magnitudes of the expenditures involved and the environmental and social issues involved, such conclusions ought to be further tested and challenged. No doubt they will.

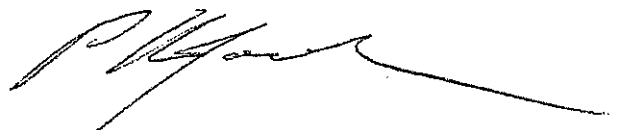
However, Marsden Jacob Associates' sensitivity analyses suggest our conclusions are likely to prove robust.

We would suggest that the Marsden Jacob Associates' cost model together with its explicit Triple Bottom Line framework provide a transparent basis for testing and challenging competing proposals.

Yours sincerely,



J. S. Marsden



P. H. Jacob

Attachment

Criteria		MWP	Waterworks
Environmental			
E-Flows			
Ability to pulse flows	The obligation is highly likely to be set aside with the residual water only being permitted to flow to the river system	No	H-N obligations exceeded; implicit Shoalhaven obligations recognised
Nutrients	N & P levels critical since flow regime will remain low flow	Yes	Less than or equal to likely EPA levels set for low flow (MWP) regime in H-N, although WW will result in a high flow regime
Shoalhaven River	Loss of high flows, (although low flows increased) resulting in reduced variability, salt water intrusion, sedimentation, changed geomorphology	No impact	No impact
Shoalhaven Dam	Shifts requirement for new dam from Sydney to Shoalhaven region and customers - poor equity and efficacy		Minimises requirement for new dam in Shoalhaven
Ocean outfalls	Continued discharge of most of sewage flows		Minimises outfalls
Desalination	Desalination likely to become essential; discharge of brine stream, locational impacts		None required
Government Policy			
Water conservation	Limited use of reclaimed water		Maximises use of reclaimed water
Shoalhaven EIS	Previous EIS and Development Approvals appear to have been set aside, need to revisit urgently		No requirement to revisit 1994 EIS
Health	Reduced overflows		Greater reduction in overflows with alternative storage and treatment configuration
Equity			
Cost shifting	Cost shifting between regions and customers is extensive but largely hidden		Avoids cost shifting between Sydney and Shoalhaven regions & customers
Water Security			
New supplies	Continued reliance on rainfall except for higher cost desalination		Ultra high security water
Risk	Supply varies with variability in rainfall and temperature - increases risk of restrictions and low E-flows		Reduced due to diversification of supply; reduced risk of restrictions and not meeting E-flows
Capacity for augmentation	Modular with desalination		Modular with capacity to add a further 200 ML/d
Financial Impacts			
Customers	Higher cost, reduced service standards (due to greater restrictions), poorer environmental outcomes in rivers and ocean		Smaller cost increase for improved environmental outcomes
SWC/SCA	Reduced revenue and profit flows due to reduced reliability and higher costs		Avoids need for restrictions
Government	Large capital cost required - economic activity likely to be constrained by restrictions		Large capital cost required - able to be largely funded private sector. Economic activity not hamstrung by water restrictions
Economic Impacts			
Community cost	Higher community cost and poorer social and environmental outcomes		Lower community cost for improved environmental and social outcomes
Consumer welfare	Loss of consumer welfare due to restrictions		Avoids loss of consumer welfare due to unnecessary restrictions
Efficiency impacts	Dead weight efficiency loss due to tax effect of restrictions. Reliance on demand management - often at high cost.		Little or no reliance on restrictions.
Garden and nursery industries	Ongoing reduction in industries, even post-2011.		No major impact post-2011

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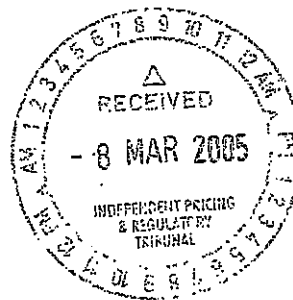
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4 March 2005

Dr Michael Keating
Chairman
Independent Pricing and Regulatory Tribunal
Level 2
44 Market Street
SYDNEY NSW 2000



Dear Dr Keating

*2005 Metropolitan Water Agency Prices
Consumer Choice and Value for Money*

We refer to our December submission in relation to the Tribunal's investigation of the 2005 Metropolitan Water Agency Prices.

We informed the Tribunal of an Economic Appraisal for Services Sydney by expert water economists, Marsden Jacob Associates of Melbourne.

The NSW Government's Metro Water Plan was released late in October 2004. We completed the comprehensive appraisal by the end of January 2005.

The appraisal sets out the benefits and costs of our plan called 'Waterworks', against the benefits and costs delivered by the Metro Water Plan and Sydney Water's WaterPlan 21.

Waterworks is an extension of our earlier 'Sustaining the City' proposal (which we presented to the Tribunal in December 2003). The Waterworks proposal includes the ability to pulse high quality reclaimed water to rivers, should this be required.

Outcomes of the appraisal are listed in Marsden Jacob's Attachment to this letter.

In essence, Marsden Jacob found that:

- The sustainable water yield of Sydney may be materially overstated by ignoring the effects of global warming and downward climate shifts;
- The direct costs for Waterworks are several hundred million dollars **less** than the Metro Water Plan and WaterPlan 21, despite Services Sydney absorbing significant 'integration costs'. (The latter was determined by Sydney Water during the earlier independent Anderson Review for the NSW Government);
- Waterworks provides better long term social and environmental outcomes for Greater Sydney and the Shoalhaven;
- Waterworks provides better security and reliability of water supply with a buffer against climate shifts and global warming;

- Current water restrictions in Sydney have no continuing economic or moral basis if Waterworks is implemented;
- Water restrictions damage the economy (around \$ 2.5 billion NPV at a 7% discount rate over 30 years); and
- Water restrictions reduce the income of Sydney Water and also State Tax receipts.

Where doubt existed, Marsden Jacob used figures supportive of the Metro Water Plan and WaterPlan 21.

For example, the Appraisal uses an unrealistic 100% success rate with all demand management measures as used in the Metro Water Plan and recommended by the Hawkesbury Nepean River Management Forum.

Such assumptions make the economic model conservative and robust.

The sensitivity of various variables (such as discount rates, environmental flows, demand management success, irrigation extraction etc.) were rigorously tested. The results confirmed a net benefit to Waterworks.

Accordingly, the appraisal underwrites our water reclamation proposal as better 'value for money' for consumers over those initiatives proposed under the Metro Water Plan and WaterPlan 21. Those alternative initiatives include:

- Increased water transfers from the Shoalhaven that threaten yet another river and economy. Here we note the concerns of the Seafood Industry Council, Nature Conservation Council and Total Environment Centre;
- Environmental flows to rivers only when surplus water is available;
- Continued ocean dispersal of preliminary treated sewage from the Major Ocean Plants against significant opposition of most consumers; and
- Investigations to implement the most expensive source of water in terms of cost and the environment (desalination) against the open criticism of consumers.

A truly sustainable water system does not:

- entrench ocean disposal of preliminary treated sewage;
- take more water more often from other river systems;
- provide environmental flows only to rivers when surplus water is available; and
- investigate desalination when re-use is at less than 3%.

If Waterworks is implemented there are significant avoided costs for consumers such as ongoing expenditures and maintenance outlays associated with the dilapidated assets of Sydney Water.

In summary, Marsden Jacob found that Waterworks is a comprehensively superior option based on Triple Bottom Line outcomes.

It will leave a lasting legacy for future generations and ensure they pay off infrastructure mortgages that are sustainable.


Accordingly, Services Sydney further submits to the Tribunal that:

- A valid lower cost alternative in Waterworks is available for consumers in Sydney (and the Shoalhaven); and
- Forward expenditures can only be recommended for (water) plans that are supported by consumers.

In this regard, Services Sydney is unaware of any evidence that the Metro Water Plan and WaterPlan 21 are preferred by consumers, or that these plans were subjected to robust benefit cost appraisals in accordance with NSW Treasury requirements prior to their release.

Kindly contact us should the Tribunal require more information.

Yours faithfully
Services Sydney Pty Ltd



John van der Merwe
Director

Attachment

Copy: Mr James Cox, Chief Executive Officer – IPART

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Attachment - Qualitative Assessment

Criteria	Metro Water Plan	Waterworks
Environmental		
E-Flows	Obligation likely to be set aside with residual water only being available	H-N obligations exceeded; implicit Shoalhaven obligations recognised
Ability to pulse flows	No	Yes
Nutrients	N & P levels critical since flow regime will remain low	Less than or equal to likely EPA levels set for low flow (MWP) regime in H-N, although Waterworks will result in high flow regime
Shoalhaven River	Loss of high flows, (although low flows increased) resulting in reduced variability, salt water intrusion, sedimentation, changed geomorphology	No impact
Shoalhaven Dam	Shifts requirement for new dam from Sydney to Shoalhaven region and customers - poor equity and efficacy	Minimises requirement for new dam
Ocean outfalls	Continued discharge of major proportion of sewage flows	Minimises outfalls
Desalination	Desalination likely to be essential, discharge of brine stream, locational impacts	None required
Government Policy		
Water conservation	Limited use of reclaimed water	Maximises use of reclaimed water
Shoalhaven EIS	Previous EIS and Development Approvals appear to have been set aside	None required
Health	Reduced overflows	Greater reduction in overflows with alternative storage and treatment configuration
Equity		
Cost shifting	Cost shifting between regions and customers is extensive but largely hidden	Avoids cost shifting between regions & customers
Water Security		
New supplies	Continued reliance on rainfall except for higher cost desalination	High security water
Risk	Supply varies with variability in rainfall and temperature - increases risk of restrictions and low e-flows	Reduced due to diversification of supply; reduced risk of restrictions and not meeting e-flows
Capacity for augmentation	Modular with desalination	Modular with capacity to treat up to 1,400 ML/d
Financial Impacts		
Customers	Higher cost, reduced service standards (due to greater restrictions), poorer environmental outcomes in rivers and ocean	Lower cost for improved environmental outcomes
SWC/SCA	Reduced revenue and profit flows due to reduced reliability and higher costs	Avoids need for restrictions
Government	Large capital cost required - economic activity likely to be constrained by restrictions	Large capital cost required - able to be largely funded private sector. Economic activity not hamstrung by water restrictions
Economic Impacts		
Community cost	Higher community cost and poorer social and environmental outcomes	Lower community cost for improved environmental and social outcomes

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Negotiations between Services Sydney, Sydney Water and the NSW Government

September 1998 to April 1999 - Services Sydney Pty Ltd was established as a special purpose vehicle in September 1998. Services Sydney made numerous efforts to meet with Sydney Water to discuss alternative wastewater management proposals. Sydney Water eventually met with Services Sydney, but Sydney Water refused to discuss alternatives for its proposed Georges River Program, which is a key component of Sydney Water's long term strategic vision of water management called WaterPlan21.

May 1999 - The then Sydney Water Managing Director, Alex Walker, agreed to consider Services Sydney's alternative to WaterPlan21. Services Sydney proposed six alternative infrastructure projects that formed the cornerstones of 'Sustaining the City'. At all times during negotiations with Sydney Water and through the further development of 'Sustaining the City', these Services Sydney's proposals were based upon the interconnection of the Sydney Sewage Reticulation Network with new sewage transmission infrastructure and the provision of transportation services to those interconnection points.

April 1999 to January 2000 - Discussions in relation to and execution of a formal Heads of Agreement (HoA) between Sydney Water and Services Sydney in October 1999. Implementation commenced with a pre-feasibility study undertaken by engineers, Connell Wagner jointly on behalf of Sydney Water and Services Sydney. This study investigated Services Sydney's alternative proposals to WaterPlan21 based on the provision of interconnection and transmission services by Sydney Water. The results of the pre-feasibility studies were positive. In **March 2000** Sydney Water notified Services Sydney it had terminated the HoA, that it did not intend to pursue the development of Services Sydney's waste water proposals and recommended a "whole of government approach to the water issue" given the positive outcomes.

April 2000 to March 2002 - Services Sydney made numerous attempts to re-engage with Sydney Water. Sydney Water consistently refused to be briefed and indicated that they did not intend to engage with Services Sydney in relation to the development of any of Services Sydney's proposed projects. During the same period financial models completed indicated positive outcomes for Services Sydney's proposal over the outcomes of WaterPlan 21. Services Sydney briefed the NSW Government Premier's Department, Infrastructure Co-ordination Unit on these studies and options for integrated water infrastructure.

April 2002 - Services Sydney briefed Sydney Water Chairperson, Gabrielle Kibble, and Managing Director, Alex Walker, on options for integrated water infrastructure and requested to enter into commercial negotiations in relation to the development of Sustaining the City, including the provision of interconnection and transmission services by Sydney Water. Sydney Water refused to engage in negotiations and confirmed its intention to implement WaterPlan21.

June 2002 - NSW Premier, Bob Carr, and Minister for Sydney Water, Kim Yeadon were briefed on Services Sydney's 'Sustaining the City' proposal.

July 2002 - 'Sustaining the City' was considered in a NSW Government Premier's Department meeting attended by the relevant government agencies' CEO's and a Value Management Study was proposed.

August 2002 to September 2002 - Services Sydney sought terms in the form of a draft HoA with Government to conduct the Value Management Study. Upon request, Services Sydney provided further information and formally submitted 'Sustaining the City'. The Infrastructure Co-ordination Unit classified 'Sustaining the City' as a private sector proposal.

November 2002 to April 2003 - 'Sustaining the City' was presented to a 'Whole of Government' Review Committee comprising 18 Government agencies and departments. John Anderson from the then Department of Land and Water Conservation (now Department of Commerce) was appointed by the NSW Government Premier's Department to undertake an independent review of 'Sustaining the City' against WaterPlan21. The draft Anderson report recommending further consideration of 'Sustaining the City' was circulated to all Government agencies for comment.

May 2003 to August 2003 - Services Sydney sought direct negotiations with NSW Government based on the 'Working with Government Guidelines'.

September 2003 - Services Sydney sought to brief the Board of Sydney Water and the Expert Water Panel of the NSW Government on 'Sustaining the City'. Both offers were declined. The NSW Government Premier's Department, Infrastructure Co-ordination Unit informed Services Sydney that no further resources would be committed to assessing 'Sustaining the City' and that any further dealings were to be with NSW Government Premier's Department.

November 2003 - Services Sydney met with NSW Government Premier's Department and Sydney Water to formalise consideration of the 'Sustaining the City' proposal including the provision of interconnection and transmission services by Sydney Water. The NSW Government Premier's Department and Sydney Water indicated that a decision has been made not to direct more resources to assessing Services Sydney's proposal. Services Sydney informed the NSW Government Premier's Department and Sydney Water of its intention to obtain rights of access through the Independent Pricing and Regulatory Tribunal (IPART) for the purpose of the provision of sewage collection services by Services Sydney on a competitive basis.

December 2003 - Services Sydney briefed and requested IPART to confirm whether access rights are available under IPART regulatory powers. IPART confirmed that such rights of access are not available under IPART regulatory powers and that Services Sydney should consider making an application to the National Competition Council (NCC) for recommendation with respect to declaration.

March 2004 - Application for recommendation with respect to declaration of interconnection and transmission services lodged with the NCC. Services Sydney informed Sydney Water and the Premier of New South Wales of the application.

Services Sydney also informed shareholder ministers of Sydney Water and requested assistance in facilitating discussions with Sydney Water. Sydney Water was copied on this correspondence.

April 2004 – The NCC released an Issues Paper and called for submissions. Sydney Water publicly stated that it was prepared to negotiate with the private sector. Services Sydney requested clarification of statement from Managing Director, David Evans in writing and through telephone message. No response received.

May 2004 - Services Sydney wrote to NSW Government requesting that it facilitate negotiations with Sydney Water for the provision of interconnection and transmission services by Sydney Water. Services Sydney received a letter from Sydney Water in response to Services Sydney letter to shareholder ministers of Sydney Water in March 2004 indicating that a response to Services Sydney's request to discuss 'Sustaining the City' with Sydney Water would be "premature".

July 2004 - NSW Government informed Services Sydney that sewer mining is available under IPART regulatory regime. Services Sydney responded that sewer mining does not provide access to customers, does not provide a commercial timeframe has a non-commercial price. Services Sydney once again requested NSW Government assistance to facilitate negotiations with Sydney Water. No response received from NSW Government.

In **August 2004** the NCC made a draft recommendation favourable to the application.

In **December 2004** a final recommendation went from the NCC to the Responsible Minister, in this case the NSW Premier. The NCC recommended that private companies be allowed into the market to compete with Sydney Water. The NSW Premier had 60 calendar days to accept it, reject it or to remain silent.

In **February 2005**, the Premier remained silent, which the NCC deemed to be rejection of the recommendation under the Trade Practices Act. When Mr Carr's position became public on **2 February 2005**, Services Sydney announced it would lodge an appeal to the Australian Competition Tribunal.

On **18 February 2005** Services Sydney formally lodged an appeal with the Australian Competition Tribunal, to review the NCC's determination and issue a ruling binding on all parties.

In **April 2005** Mr Carr applied to intervene in the Tribunal proceedings to explain his failure to make a decision to permit Services Sydney to obtain access to Sydney Water's sewerage infrastructure. The Premier advised the Tribunal that he failed to make a decision as the NSW Government did not have a view as to the right market structure for private sector involvement in the water and waste water sector. He said he had referred the matter to IPART (Independent Pricing and Regulatory Tribunal) to advise him in September 2005. At a hearing before Justice Roger Gyles on 6 April 2005 Stephen Gageler SC for Services Sydney told the Tribunal Mr Carr's intervention (on the basis that he had referred this matter to IPART) was 'an attempt by the State to hijack the processes of this Tribunal'.

Justice Gyles ruled that the Premier had not made a case to intervene in the proceedings, and accordingly dismissed Mr Carr's intervention application. Justice Gyles did indicate that if the NSW Government had a relevant policy position, then the Tribunal would be prepared to hear it.

In **September 2005** the Australian Competition Tribunal held several days of hearings, chaired by Justice Roger Gyles. Counsel for Services Sydney, Stephen Gageler, told the Tribunal the company wanted to compete with Sydney Water to provide better value for money by delivering a sustainable and 'green alternative' in the sewerage services market. Tribunal adjourned to consider its verdict on its review of the National Competition Council recommendation that Services Sydney be granted third party access to Sydney's sewerage services market.

On **21 December 2005**, the Tribunal handed down a ruling favourable to the company. This is a first for the Australian water industry. It gives Services Sydney the right to negotiate with the monopoly sewerage services provider, Sydney Water, terms of access to the sewerage network in Sydney. The Tribunal ruled that the access period be for 50 years until 20 December 2055.