



public interest
ADVOCACY CENTRE

**Submission to IPART Review of Central Coast
Council water, wastewater and stormwater
prices from 1 July 2022**

2 November 2021

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- Legal advice and representation, specialising in test cases and strategic casework;
- Research, analysis and policy development; and
- Advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- Anglicare;
- Good Shepherd Microfinance;
- Financial Rights Legal Centre;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- The Sydney Alliance; and
- Mission Australia.

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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

Contents

1. Introduction	1
Potential issues with the operating circumstances of Central Coast Council Water	1
Assessing Council performance and what has contributed to it	2
Assessing the need for structural reform	3
2. Response to Issues Paper questions	3
Question 1: What do you think about the quality of the water services you receive from the Central Coast Council and how much you pay for them?.....	3
Question 2: What are your views on the council's proposed increase to bills to improve the quality of the water services you receive?	3
Question 3: What do you think about the council's proposed costs?	4
Question 4: What do you think about how the council can improve its performance and be held to account?.....	4
Question 5: What does providing 'good quality water services' mean to you, and what do you expect the council to provide?	4
Question 6: If we decide to allow a price increase, how would you prefer to pay for it – would you prefer the increase to occur gradually over a few years, or all in one go in one year, and why?	5
Question 7: What influences how you use water, and how much you use (e.g. the COVID-19 pandemic and/or climate change)? If you are using less water, what are the reasons why?	5
Question 8: What do you think about the idea of higher water prices applying during drier conditions or drought?	6
Question 9: Should customers pay the same wastewater charge across the Gosford and Wyong areas? If so, would you prefer this to happen in one go, or should we increase the charge paid by Wyong customers gradually over several years?	6
Question 10: What do you think about the stormwater services the council provides, and the proposed prices?	6
3. Continued engagement.....	7

1. Introduction

The Public Interest and Advocacy Centre (PIAC) welcomes the opportunity to respond to the Independent Pricing and Regulatory Tribunal's (IPART) Review of Central Coast Council water, wastewater and stormwater prices from 1 July 2022 Issues Paper (The Paper).

This review comes during a difficult time, with the Central Coast Council (the Council) experiencing issues of financial viability. These are not easily separated from those faced by the Council's water business. The Council has undergone a merger in the current period which has disrupted usual business operations. In the Paper and during the public hearing on 26 October many serious issues regarding water quality, wastewater treatment and stormwater services in the Central Coast area were raised. PIAC is concerned the level of service quality delivered by the council is unacceptable, and the level of community complaints about the service may be evidence of more fundamental and systemic problems with the operation of the Council's water business.

Potential issues with the operating circumstances of Central Coast Council Water

The Council's water business operates under a unique set of circumstances. Unlike other water utilities operated directly by Local Government, the Central Coast Council's water operations are regulated by IPART. IPART regulates revenue and pricing for water, wastewater and stormwater enabling an independent, transparent and public process for assessing performance, efficiency and pricing. However, unlike other urban water businesses providing similar services, Hunter and Sydney Water, the Council does not have an operating licence.

An operating licence provides clear articulation of performance standards the community must receive, the responsibilities their water provider has, as well as the options the community has should they experience a problem with their service or with paying their bill. PIAC regards these aspects of an operating licence as fundamental community needs: they are not negotiable and cannot be traded off against other preferences or interests.

In previous decisions IPART has attempted to set service and performance expectations that the Council's water business must deliver, in order to reflect consumer and community needs and guide the Council's proposals. The performance of the Council has not met these expectations and this review must ask, why. It must also assess whether the circumstances of the Council and its unique regulatory position have contributed to the failure to deliver services that meet the community's needs.

The NSW Audit Office¹, the NSW Productivity Commission² and the national Productivity Commission³ have all highlighted issues with inconsistency and areas of ineffectiveness in the

¹ NSW Audit Office, '[Support for Regional Town Water Infrastructure](#)', 5-6.

² NSW Productivity Commission, '[White Paper 2021 Rebooting the Economy](#)', 187-212.

³ Productivity Commission, '[National Water Reform 2020](#)', Inquiry Report, 153-154.

governance and regulatory frameworks of water providers in NSW, and the impact this has on the efficiency and sustainability of water service delivery to the community. This may be particularly pertinent to the Council because of its unique circumstances.

The Council retains direct control of the water business, but unlike similar councils is subject to independent revenue and pricing oversight by IPART. Unlike other councils, the Central Coast Council does not have direct recourse to external infrastructure and risk management funding from the NSW Government, such as the Water and Waste Water Backlog program and the Safe and Secure Water Program⁴. PIAC notes these circumstances to highlight the need to examine the wider issues impacting the Council's water operations.

Assessing Council performance and what has contributed to it

IPART must examine performance in previous determination periods to understand what has contributed to the circumstances the Council's proposal is responding to. The Council reports critical issues meeting fundamental standards of drinking water quality, reliability and environmental protection. The Council also report that their service quality and assets have declined over time, requiring substantial investment, operational and pricing changes to rectify these issues.

To what extent have the Council's unique circumstances contributed to outcomes, and how? To what extent have the Council's policy or decision-making processes resulted in the circumstances the Council must respond to in this determination? These assessments are critical to determining whether the Council's proposal is credible and reasonable, and whether the community can have confidence that it will deliver acceptable outcomes. In making this assessment IPART should ask:

- What governance structures and business decisions led to a situation where the Council notes 'severe, ongoing degradation of its sewage treatment plants, network and water treatment plants'⁵ ?
- What business decisions, over time, led to a circumstance where failure to meet mandatory standards and maintain infrastructure is so great that 28% more revenue is required?
- What were the drivers behind a 20% increase in expenditure over that approved by IPART during the last two years of the determination period? Is this a failure of investment and business planning, the result of a structural issue with the Council, or simply catch-up from previous underspending?
- Why are bills consistently and unsustainably lower than comparable businesses and in the lowest 37 percentage in NSW? What decisions have driven this? Is this a result of consistent policy priority or a fundamental failure to balance community needs with affordability?
- What are the contributors to these circumstances and what are the decision-making processes involved?

⁴ Website: [NSW Department of Planning, Industry & Environment, Water and Sewerage Infrastructure Programs](#)

⁵ Central Coast Council '[Pricing Proposal](#)' September 2021, 11

- Can the community have confidence the Council is capable of planning for the long-term and meeting the needs and expectations of the community to deliver safe, healthy, affordable and sustainable water services?

These questions are key to assessing past performance, and the answers will help understand what confidence there can be in the Council's proposal and if the Council is able to deliver what is proposed.

Assessing the need for structural reform

The persistent low charging of water services by the Council, poor quality of water services and the Council's financial loss, could be signs of structural issues. It may be the case that fundamental long-term options need to be considered by the NSW Government to address the Council's issues. These options to consider could include:

- Applying an operating licence to Central Coast Councils water business.
- Changes to Central Coast Council Water so it operates independently as a State Owned Corporation (SOC), similar to Hunter Water or Sydney Water.
- Changes to Central Coast Council Water so it operates as part of Hunter Water, to take advantage of existing operational scale, efficiencies and systems.

The latter options would also help address inequity in exempt properties and rebate supports between residents in the Central Coast Council area and those who receive their water services through NSW Government owned water providers.

PIAC does not expressly recommend any of these options, but highlights that the issues facing the Council's water business may be structural and so significant as to require remedies beyond the scope of an IPART pricing review. IPART's assessment should consider this.

2. Response to Issues Paper questions

Question 1: What do you think about the quality of the water services you receive from the Central Coast Council and how much you pay for them?

PIAC has responded to this question in our answer to Question 2.

Question 2: What are your views on the council's proposed increase to bills to improve the quality of the water services you receive?

The water services the Central Coast community has been receiving are unacceptable. This is not an issue of community or consumer preference, but one of people's needs. The Central Coast community requires safe, high-quality services comparable to the communities they border with. The documented performance failures of the Council show the Council is not meeting this need.

As outlined earlier, IPART needs to examine why the Council has allowed such failures while maintaining consistently low bills. It would be unacceptable if any Council or political motivations influenced decisions on the appropriate or required level of water pricing. IPART will need to

ensure that any increase in prices will credibly result in necessary improvement in performance and water quality.

PIAC is concerned that most of the water price increase is in service charges. Whilst this gives the business more certainty in revenue, it undermines consumer control of their costs. This is out of step with established pricing policy across NSW and with consumer preferences. If price increases are considered necessary and reasonable, IPART should rebalance prices towards usage to help households manage their costs and the impact of these increases.

Payment assistance for the Council's consumers is not as generous as in state owned water utilities, so decisions to increase prices must consider affordability for households on low incomes.

Question 3: What do you think about the council's proposed costs?

PIAC does not have confidence in the Council's capability to deliver on its proposal.

The Council has not demonstrated an ability to identify community needs, plan and invest accordingly and operate efficiently.

Documented performance raises the real risk that promised improved outcomes will not be delivered, and that costs will continue to rise. After considering the circumstances and contributing factors outlined previously in this submission, IPART must examine the credibility of the Council's proposed costs and its capability to deliver them.

Costs should only increase where they are necessary and are an efficient means to deliver service quality that meets community needs in line with expressed community preferences. PIAC does not support changes to recover costs more quickly, or other changes to costs that will result in material and rapid changes to bills for households. It is not clear from the Paper whether the Council is proposing accelerated depreciation for all or some of its assets. PIAC does not support accelerated depreciation in this instance. If the Council is proposing changes to depreciation IPART needs to understand what is driving Council's decision making and assess whether it is in the interests of consumers and the community.

Question 4: What do you think about how the council can improve its performance and be held to account?

PIAC has responded to this question in our answer to Question 5.

Question 5: What does providing 'good quality water services' mean to you, and what do you expect the council to provide?

Questions about community and consumer expectations must be shaped by engagement with the local community. Input should be drawn from this submission process, and by engaging directly with local residents and businesses through face-to-face engagement and/or a survey. PIAC has considerable experience in engagement for regulatory purposes and would be happy to provide input into the design and conduct of this engagement.

These issues go beyond preferences or expectations. Questions of performance standards and service quality include consideration of consumer and community needs and interests, as well as their preferences. This distinction is important as it dictates how various standards and expectations should be set and prioritised.

Community and consumer needs

Standards of water quality, reliability and equitable service delivery are non-negotiable consumer and community needs, rather than issues subject only to consumer preference. These performance standard measures respond to Government policies on health, environment and social equity and would normally be detailed in an operating licence to provide unequivocal direction to the business regarding what must be delivered to the community.

Consumer and community interests

Community needs should be distinguished from consumer and community interests. Interests are determined by regulation and policy and augmented by engagement. These interests include issues such as efficiency and sustainability of investment and costs over the long term, which are to some degree objectively calculable.

Consumer and community preferences

Consumer and community preferences relate to how services are delivered, how prices are set to recover costs, how trade-offs between discretionary service standards are made, and what additional services are offered and to whom. Preferences should influence how needs and interests are met, but must not override them.

Question 6: If we decide to allow a price increase, how would you prefer to pay for it – would you prefer the increase to occur gradually over a few years, or all in one go in one year, and why?

PIAC does not support the substantial immediate price increase proposed by the Council. This issue has been explored in previous IPART decision processes and PIAC understands there is a consistent community preference for smoothed transitions and stability in pricing.

In general, it is not in the interests of consumers to make material changes to prices upfront as it increases the risk that changing circumstances result in further price increases. Considering the past performance of the Council, this is a valid concern. A transition path is both more sustainable and a fairer risk balance.

If there is a 'one jump and then stable' price change, the community must have confidence that prices will remain stable. IPART would need to be confident that this price stabilisation can be credibly achieved and be satisfied that the Council has demonstrated strong community support for this approach.

Question 7: What influences how you use water, and how much you use (e.g. the COVID-19 pandemic and/or climate change)? If you are using less water, what are the reasons why?

PIAC has responded to this question in our answer to Question 8.

Question 8: What do you think about the idea of higher water prices applying during drier conditions or drought?

PIAC strongly rejects pricing based on short term issues such as COVID-19 or drought. Temporary higher water prices during drought are not appropriate and are not an effective response to drought conditions. Drought pricing implemented for Sydney and Hunter water is a response to potential revenue shortfall when drought restrictions are in place and demand falls. Drought pricing acts as a short-term penalty on households at the point where reducing their usage has little impact on 'drought resilience'. Drought pricing is not in consumers' interests and should be regarded as a revenue guarantee measure instead of a drought response

Previous assessments by IPART and Sydney Water indicate that where consumers respond to price in water usage, they do so on a long-term timeframe. Effective responses to drought involve long term price signals coordinated with community education and messaging on conservation and behaviour change to influence water use. These measures must be supported by programs to assist households to use water more sustainably and long-term plans for water businesses to reduce wastage and improve conservation and efficiency.

PIAC prefers setting prices based upon credible demand and usage targets (at per person/household/aggregate levels) in conjunction with plans to meet them. These plans can include more efficient usage programs, leakage reduction programs and business efficiency. This allows for more stable pricing and an incentive for more efficient operation by the business.

Question 9: Should customers pay the same wastewater charge across the Gosford and Wyong areas? If so, would you prefer this to happen in one go, or should we increase the charge paid by Wyong customers gradually over several years?

PIAC does not consider alignment of wastewater charges between the Gosford and Wyong areas has been justified. IPART has previously noted that the two systems are not linked and are subject to the different operating and maintenance costs drivers. It is not in the interests of the community in Wyong to pay charges that are not efficient or representative of the costs associated with delivering services to them. As outlined previously, community and consumer interests must be considered alongside expressed preferences.

The community may have been reported by the Councils expressing a general preference for prices to be the same for services across the area served by the Council. But PIAC has not seen evidence the community was presented with adequate information to apply this preference to wastewater services in a way that would justify such a material change. If the Council sees aligning the charges as a positive change, then they will need to demonstrate why this is the case, that they have community support for it and that support is strong enough to override the interests of consumers and community in Wyong.

Question 10: What do you think about the stormwater services the council provides, and the proposed prices?

PIAC agrees with IPART's initial assessment that stormwater services and charging should be a direct Council responsibility funded through general rates. It is more effective to have a single entity responsible for all the aspects of stormwater and for a single charging mechanism to pay

for this. In this case, the entity best placed to most comprehensively deal with all issues related to stormwater is the Council itself. The Council is responsible for the roads and public infrastructure which stormwater services connect to. This is unlike Sydney and Hunter Water services where infrastructure and responsibility is split between councils and water service providers.

If there are specific duties that the Council as water provider undertakes in relation to storm water charging (such as where any treatment is undertaken) then this should be identified separately and costed discretely to assess whether an ongoing stormwater charge by the Council as water provider is also appropriate.

3. Continued engagement

PIAC welcomes the opportunity to meet with IPART and other stakeholders to discuss these issues in more depth.