



Independent Pricing and Regulatory Tribunal

# **Review of the Operating Licence for Sydney Water Corporation**

Issues Paper

**Water — Issues Paper**

September 2009





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## Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

IPART expects that the submission from Sydney Water Corporation will be available on the IPART website after 26 October 2009.

**Submissions from all other parties are due by 23 November 2009.**

We would prefer to receive them by email <[ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)>.

You can also send comments by fax to (02) 9290 2061, or by mail to:

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Our normal practice is to make submissions publicly available on our website <[www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au)>. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed on the previous page.

We may choose not to publish a submission—for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. IPART will then make every effort to protect that information, but it could be subject to appeal under Freedom of Information legislation.

If you would like further information on making a submission, IPART's submission policy is available on our website.



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# 1 Introduction

Sydney Water Corporation's (Sydney Water) current Operating Licence<sup>1</sup> (Operating Licence, Licence) will expire on 30 June 2010.<sup>2</sup> IPART is reviewing the Operating Licence and will recommend to the Minister for Water the terms of an amended or new Operating Licence, which will take effect on 1 July 2010.<sup>3</sup>

The Operating Licence imposes operating, reporting and auditing obligations on Sydney Water. The original Licence came into effect in 1994 and was reviewed in 2000 and 2005. Since 2005, Sydney Water has achieved predominantly full compliance with the requirements of the current Operating Licence.

## 1.1 Scope of IPART's review

Sydney Water's current Operating Licence requires that IPART review the Licence to:

- ▼ determine whether the Licence is fulfilling its objectives
- ▼ review some specific matters (see Box 1.1)
- ▼ determine the terms of any renewal of the Licence.<sup>4</sup>

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### Box 1.1 Matters required to be reviewed

The Operating Licence requires the following specific matters to be reviewed during the term of the licence:

- ▼ System Performance Standards (SPS), being the water pressure standard, the water continuity standard and the sewage overflow standard (Operating Licence clause 4.6)
  - ▼ the Customer Contract (Operating Licence clause 5.1.5).
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<sup>1</sup> *Sydney Water Operating Licence 2005-2010*. A copy of the Licence may be viewed at [www.sydneywater.com.au](http://www.sydneywater.com.au)

<sup>2</sup> Operating Licence clause 1.2.1.

<sup>3</sup> Operating Licence clause 1.3.1.

<sup>4</sup> Operating Licence clause 1.3.1.

## 1.2 Review process

As part of the review process, IPART will consult with key stakeholders, including Sydney Water and environmental, community and water user advocacy organisations. IPART invites all interested parties, including members of the public, to make submissions to IPART on the issues highlighted in this Issues Paper and any other matters relating to the Operating Licence.

IPART has requested that Sydney Water make its submissions by 26 October 2009. Other interested parties are invited to provide IPART with their submissions by 23 November 2009. This timing will allow those parties to take account of Sydney Water's views in formulating their submissions.

IPART also plans to hold a public workshop on 18 December 2009 to provide further opportunities for interested parties to present their views. It will publicise arrangements for this workshop closer to the date.

IPART is mindful of concerns about the burden of regulation, the costs that such regulation adds to Sydney Water's business activities, and the fact that these costs must ultimately be passed on to customers. To address these concerns, IPART will consider the costs and benefits of its recommendations to the Minister and will summarise its findings in a Regulatory Impact Statement (RIS).

The timetable for the review is provided below. Details on how to make a submission can be found at the front of this Issues Paper.

**Table 1.1 Timetable for review**

Action	Timeframe
Release Issues Paper and invite submissions	15 September 2009
Receive Sydney Water submission	26 October 2009
Receive stakeholder submissions	23 November 2009
Public workshop	18 December 2009
Finalise draft Operating Licence	Early April 2010
Sydney Water comments on draft Operating Licence	End April 2010
Stakeholder briefings on draft Operating Licence	End April 2010
Release final recommendations to Government	Mid May 2010

### 1.3 Purpose and structure of this Issues Paper

To assist interested parties in making submissions, this Issues Paper explains how the Licence review will be undertaken, provides background information, and outlines the issues about which IPART is particularly interested in receiving comments.

- ▼ Chapter 2 of the paper provides an overview of Sydney Water’s regulatory framework and the role of the current Operating Licence
- ▼ Chapter 3 provides an overview of the form of the Licence
- ▼ Chapters 4 to 10 consider each section of the Licence.

## 2 The role of the Operating Licence and Sydney Water's regulatory framework

Sydney Water is a State Owned Corporation wholly owned by the NSW Government. Its primary role is to manage potable water supply and wastewater systems to protect public health and the environment for the benefit of Sydney and surrounding urban areas.<sup>5</sup> These roles and responsibilities are prescribed by the *Sydney Water Act 1994* (Act) and the Operating Licence issued to Sydney Water under Part 5 of the Act.

### 2.1 Sydney Water's objectives and functions

Part 6 of the Act defines the principal objectives of Sydney Water as follows:

1. To be a successful business and to this end:
  - a) to operate at least as efficiently as any comparable businesses, and
  - b) to maximise the net worth of the State's investment in the Corporation, and
  - c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
2. to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991*, and
3. to protect public health by supplying safe drinking water to its customers and other members of the public in compliance with the requirements of any operating licence.

The principal functions of Sydney Water are to provide, construct, operate, manage and maintain systems and services for:

- ▼ supplying water
- ▼ providing sewerage and drainage services
- ▼ disposing of waste water

subject to the terms of the Operating Licence.<sup>6</sup>

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<sup>5</sup> Sydney Water now also supplies recycled water in some urban areas, mainly Rouse Hill.

<sup>6</sup> Act s.12.

## 2.2 The Operating Licence

The Act specifies that the Operating Licence must include terms and conditions requiring Sydney Water:<sup>7</sup>

- ▼ to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for supplying water, providing sewerage services and disposing of waste water within a defined area of operations
- ▼ to provide, operate and maintain a stormwater drainage system unless arrangements have been made to transfer responsibility for the drainage system to another body
- ▼ to ensure its systems and services meet the quality and performance standards specified in the Operating Licence in relation to water quality, service interruptions, price levels and other matters determined by the Governor
- ▼ to collect and report on indicators of the environmental impact of its activities
- ▼ to establish and regularly consult with one or more customer councils.

The Operating Licence must also provide for the preparation of an operational audit.<sup>8</sup>

The Licence applies in an “area of operations” which is referenced in section 10 of the Act and defined in Schedule 4 of the Licence.

## 2.3 Sydney Water's regulatory environment

IPART's role as economic regulator is one component of the broad regulatory environment in which Sydney Water operates. IPART is responsible for monitoring and reporting on Sydney Water's compliance with its Operating Licence. IPART is also responsible for setting maximum prices that can be charged by Sydney Water and other metropolitan water agencies for monopoly services.

Additionally, the following Government agencies have regulatory roles in relation to Sydney Water:

- ▼ Office of Water (NOW) has primary responsibility for the management of water resources throughout NSW. NOW issues Water Management Licences to water authorities, which regulate water extractions, environmental flow requirements in natural waterways and other resource management issues.
- ▼ Department of Environment and Climate Change and Water (DECCW) licenses sewage treatment systems and ensures that effluent discharges do not adversely impact on receiving waters.

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<sup>7</sup> Act s.14 and s.15.

<sup>8</sup> Act s.14. Operational audits are discussed in section 10.4 of this Issues Paper.

- ▼ NSW Health is responsible for regulating the quality and safety of drinking water.

Sydney Water's regulatory framework is illustrated in Appendix A.

## 2.4 The National Water Initiative

In 2004, NSW, along with other States and Territories, signed a National Water Initiative (NWI) Agreement with the Commonwealth Government.

This Agreement requires the establishment and maintenance of a nationally consistent framework for benchmarking price and service quality and pricing information. IPART co-ordinates the NSW component of this benchmarking project for major urban water utilities, including Sydney Water. The benchmarking project involves the collection and audit of various performance, customer service and financial data, with the combined results forwarded to the National Water Commission.

IPART intends to incorporate its existing arrangements for the collection and audit of NWI data into the Operating Licence. This will avoid duplication and ensure that the cumulative impact of the various information requirements imposed on Sydney Water are reasonable, efficient and effective.

## 2.5 Role of the Operating Licence

The Operating Licence is a key element in Sydney Water's regulatory framework. It sets the direction and performance criteria for Sydney Water, and monitors its performance against these criteria. The objectives and key features of the Operating Licence are discussed in the following paragraphs.

### Objectives of the Sydney Water Operating Licence

Clause 1.1 of the Operating Licence sets out the objectives of the Licence. The overriding objective is "to enable and require Sydney Water to lawfully provide the Services within its Area of Operations. Consistent with this objective, the Operating Licence requires Sydney Water to:

- ▼ meet the objectives and other requirements imposed in the Sydney Water Act
- ▼ comply with the quality and performance standards in this Licence
- ▼ recognise the rights given to Customers and Consumers, and
- ▼ be subject to operational audits of compliance with this Licence."

### Regulatory co-ordination

IPART views the Operating Licence as Sydney Water's overarching regulatory instrument. While IPART supports the need to avoid unnecessary duplication of regulation, it recognises the profound and far-reaching impact that businesses like Sydney Water can have on their customers, public health generally and the environment. For the Licence to provide for a proper assessment of performance, it must consider health, environmental and customer issues. However, IPART believes that the Licence should also complement, and be consistent with, other regulatory requirements imposed on Sydney Water. The Operating Licence therefore needs to reflect the broader regulatory framework applying to Sydney Water, without unduly duplicating requirements prescribed by other regulatory instruments. To reflect the regulatory framework while avoiding duplication, IPART intends to include a comprehensive statement of Sydney Water's obligations in a Reporting Manual<sup>9</sup>.

### Public reporting

An important strength of the Operating Licence is that it requires performance to be publicly reported through an annual audit. Stakeholders (including the public) also have the opportunity to participate in IPART's public review processes, by making submissions and participating in the public workshop. In this, the Licence differs from many other regulatory instruments which are often negotiated largely on a bilateral basis between the agency and regulator and may not explicitly provide for public reporting of the outcomes delivered. IPART sees the Operating Licence as an important instrument of transparency and accountability for Sydney Water.

## 2.6 Regulatory best practice

The terms of the Licence should represent regulatory best practice. This means that they should achieve the desired outcomes without imposing unnecessary compliance and administration costs. In its review of the Hunter Water Operating Licence, IPART established a set of principles for best practice regulation which are pertinent to this and other Operating Licences.<sup>10</sup>

An application of these best practice principles to Sydney Water's Operating Licence would require the terms of the Licence to:

- ▼ **Be effective and justified.** The Licence should focus on outcomes that are materially significant. It should be directed at regulating issues that cannot be more efficiently or effectively addressed by the market, by individuals acting without government involvement, or other available alternatives.

<sup>9</sup> The Reporting Manual is further discussed in Chapter 10 of this Issues Paper.

<sup>10</sup> IPART, *Review of the Operating Licence for Hunter Water Corporation – Issues Paper*, September 2006.

- ▼ **Provide a net benefit to society.** Licence requirements should provide a net benefit to society. They should not impose unnecessary administrative or compliance costs on the regulated utility or IPART and should avoid perverse outcomes.
- ▼ **Not be unduly prescriptive.** Licence obligations can prescribe particular actions or they can require specified outcomes. While prescribing actions can provide certainty in compliance, IPART believes that, where possible, the Licence should stipulate performance goals or outcomes that encourage cost effective compliance.
- ▼ **Minimise regulatory overlap and avoid regulatory inconsistency.** As far as possible, the Licence should avoid inconsistency with or duplication of other regulatory requirements, particularly in relation to the collection and reporting of environmental and other performance indicators. Inconsistencies or overlap can waste resources, create confusion and reduce the regulated entity's level of accountability.
- ▼ **Be enforceable through an audit process.** Audits are the primary means of assessing compliance with the Licence, so performance measures or requirements in the Licence should be able to be readily verified – they should be measurable and auditable.
- ▼ **Include only matters that are within the control of the regulated utility.** In order to ensure accountability, Licence requirements must be within the power of the regulated utility to achieve.
- ▼ **Express the regulated utility's obligations clearly and concisely.** Licence obligations must be simply and unambiguously expressed to ensure that the regulated utility, IPART, and the community understand clearly what the regulated utility must do to comply with the Licence.

In its 2006 report on regulation in NSW,<sup>11</sup> IPART advocated greater co-ordination of regulatory effort, streamlining of regulatory processes and the identification and removal of unnecessary reporting requirements.

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<sup>11</sup> IPART, *Investigation into the burden of regulation in NSW and improving regulatory efficiency – Final Report*, November 2006.

### 3 Form of Sydney Water's Operating Licence

The previous chapter set out a number of principles for best regulatory practice. In essence, they suggest that the form of the Operating Licence should promote flexibility, efficiency and effectiveness. However, as pointed out in section 2.2 of this Issues Paper, the Act requires the Licence to contain some specific obligations.

In recent years, regulatory instruments have increasingly been moving from prescriptive specifications to more adaptive and preventative management forms. These forms achieve adaptability by including the following general feed-back elements:

- ▼ statements of objectives
- ▼ risk assessment processes to identify risks and determine priorities for risk management
- ▼ preventative measures to reduce the identified risks to an acceptable level
- ▼ audits to evaluate the success of the preventative measures
- ▼ reviews of audit outcomes to refine the strategy to better meet the defined objectives.

Examples of instruments that have employed this risk-based, outcome oriented approach include the Australian Drinking Water Guidelines 2004<sup>12</sup> (ADWG 2004), the 2006 NSW Metropolitan Water Plan (MWP) and the licensing regime associated with the *Water Industry Competition Act 2006* (WIC Act).

The benefits of this form of regulation are that it:

- ▼ is clear and concise, since the process is directed by the objectives
- ▼ maintains the focus on outcomes that are materially significant
- ▼ is adaptive to changing circumstances, including social and technological change;
- ▼ is not unduly prescriptive
- ▼ is enforceable, since it incorporates an audit process
- ▼ ensures accountability, since decisions on action steps are typically left to the regulated entity.

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<sup>12</sup> National Health and Medical Research Council: *Australian Drinking Water Guidelines 6*, 2004.

It follows that an adaptive licence form, similar to that detailed in the WIC Act, fulfils many of the requirements for best practice regulation outlined in chapter 2.

### 3.1 Current form of the Operating Licence

The current Operating Licence was designed as a comprehensive statement of Sydney Water's responsibilities. It combines specific requirements prescribed by the Act with requirements set out in other legislation relevant to the administration of the Operating Licence. The range and content of current Licence conditions have not changed substantially from those of the original Licence granted to Sydney Water upon its corporatisation in 1994.

The current Operating Licence covers the following broad range of operational areas:

- ▼ drinking water (health and aesthetic) requirements
- ▼ infrastructure performance requirements
- ▼ customer and consumer rights
- ▼ system performance standards (SPS) (continuity, water pressure & sewage overflows)
- ▼ water conservation targets, demand management and recycling requirements
- ▼ environment - indicators and management
- ▼ the Customer Contract.

The scope and content of these operational areas has evolved over each new version of the Operating Licence (in 1994, 2000 and 2005). The current Operating Licence built upon the previous Licence by including:

- ▼ targets for leakage reduction and mains break response times
- ▼ targets for reducing potable water use and introduction of water efficiency audits at Sewage Treatment Plants
- ▼ an examination of the costs, benefits and challenges of individual metering for multi-unit dwellings
- ▼ Priority Sewerage Program completion and connection eligibility requirements
- ▼ evaluation and audit of Asset Management
- ▼ indicators of environmental performance, customer service and service quality and system performance
- ▼ requirements for an ISO certified Environmental Management System<sup>13</sup>
- ▼ the introduction of a risk-based auditing regime.

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<sup>13</sup> An environmental Management System certified by the International Organisation for Standardization, based in Geneva, Switzerland.

### 3.2 Does the current licence comply with regulatory best practice?

Some elements of the current Licence incorporate the adaptive, outcomes-oriented approach described above, particularly water quality, environment, and (to a lesser extent) asset management. While the Act requires some prescriptive elements to be included in the Operating Licence, IPART has found that use of the prescriptive approach in other areas has not achieved the desired outcomes.

Examples include:

- ▼ Licence requirements that failed to address all elements associated with a particular issue. As noted in chapter 4 of this Issues Paper, the terms of the current Licence do not cover all aspects of ADWG 2004.
- ▼ Licence requirements being superseded by government policy or nationally agreed initiatives. As noted in chapter 4 of this Issues Paper, the current Licence requires compliance with the 1996 Australian Drinking Water Guidelines (ADWG 1996), whereas the NSW Government adopted ADWG 2004 as policy in 2005.
- ▼ Licence targets against which performance is not easily measured. As an example, the leakage target of 105 megalitres per day, set out in clause 4.11 of the current Licence appears definitive. However, leakage is derived from a number of parameters, many of which are estimates rather than precisely measured quantities. The consequence is that it is difficult to measure leakage precisely.

A further problem is that prescriptive targets can sometimes be too narrowly defined and, as a consequence, may lead to less efficient, and sometimes perverse, outcomes.

While the details of particular issues will be dealt with in later chapters, it is relevant to consider here whether some of these issues may be addressed by modifying the form that the Operating Licence takes.

### 3.3 Is a more preventative and adaptive Operating Licence suitable for Sydney Water?

As already noted, the WIC Act form of licensing is characterised by a combination of prescriptive licence conditions and more outcome-oriented obligations. These outcome-oriented obligations involve the preparation and implementation of licensing plans relating to:

- ▼ water quality management
- ▼ infrastructure operation
- ▼ environmental management
- ▼ sewage management
- ▼ retail supply management.

Use of licensing plans means that, overall, the WIC Act form of licence is less prescriptive than the current Operating Licence. However, this form of licensing does not result in a reduction of standards or safeguards. The conditions relating to these licensing plans provide that:

- ▼ the licensee must prepare the plans with prescribed content
- ▼ the adequacy of the plans must be audited and, if necessary, amended
- ▼ the plans must be fully implemented
- ▼ compliance with the plans must be audited to ensure that they are implemented.

As an example of the licensing plans applied to WIC Act licensees, Box 3.1 contains the provisions of the *Water Industry Competition (General) Regulation 2008* relating to water quality.

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**Box 3.1 Water quality plan provisions under the Water Industry Competition (General) Regulation 2008, Schedule 1**

**7 Water quality plans**

1. Before commencing to operate water infrastructure commercially, the licensed network operator for the infrastructure must prepare, and forward to IPART, a water quality plan, in relation to the water supplied from the infrastructure, that specifies:
    - a) if the water so supplied is drinking water, how the 12 elements of the framework for the management of drinking water quality, as detailed in the Australian Drinking Water Guidelines, have been addressed and will be implemented, and
    - b) if the water so supplied is non-potable water, how the 12 elements of the framework for the management of recycled water quality and use, as detailed in the Australian Guidelines for Water Recycling, have been addressed and will be implemented and, having regard to those guidelines, the purposes for which the water may be used and the purposes for which the water may not be used.
  2. A water quality plan in relation to water infrastructure for drinking water must be consistent with the Australian Drinking Water Guidelines.
  3. A water quality plan in relation to water infrastructure for non-potable water must be consistent with the Australian Guidelines for Water Recycling.
  4. The licensee:
    - a) must ensure that its water quality plan is fully implemented and kept under regular review and, in particular, that all of its activities are carried out in accordance with that plan, and
    - b) must, if the Minister so directs, amend its water quality plan in accordance with the Minister's direction.
  5. If the Minister or IPART so demands, or if any significant change is made to its water quality plan, the licensee:
    - a) must provide the Minister or IPART with a report, prepared by an approved auditor in such manner and form as the Minister or IPART may direct, as to the adequacy of the plan, or
    - b) must pay the Minister's or IPART's costs of conducting an investigation into the adequacy of the plan.
- 

If a licensing plan approach were adopted in framing Sydney Water's Operating Licence, a slightly modified and enhanced form of the WIC Act licence conditions could be applied. In summary, this would mean that:

- ▼ Sydney Water would be required to prepare the plans with prescribed content, including outcomes and any timelines for achieving those outcomes.
- ▼ The adequacy of the plans would be audited by IPART both before implementation and before any significant changes are made to the plans.

- ▼ Sydney Water would be required to make any amendments to the plans directed by IPART following an audit.
- ▼ Sydney Water would be required to fully implement and comply with the plans.
- ▼ IPART would conduct annual audits to ascertain compliance with the plans.
- ▼ Sydney Water's licence plans would be reviewed as part of IPART's end of term Operating Licence review.

IPART is reviewing Sydney Water's Operating Licence in a period of change, involving emerging technologies, increasing water recycling, shifting usage patterns and climate change. The increased flexibility provided by licensing plans would assist Sydney Water to adapt to these changes.

Not all of Sydney Water's current Operating Licence obligations could be addressed by licensing plans, as the Act provides that the Licence must include certain prescribed conditions. Therefore, Sydney Water's Operating Licence would comprise both prescriptive conditions as required by the Act and licensing plans.

IPART has analysed the current Operating Licence to identify those conditions that are prescribed by the Act and must be retained as prescriptive conditions, and those that could be regulated by licensing plans. Each of these conditions have been considered throughout this Issues Paper.

IPART seeks comments on the following

- 1 Does the form of the current Operating Licence reflect regulatory best practice?

## 4 Water quality

### 4.1 Objectives of water quality requirements

The assurance of public health is Sydney Water's paramount concern. The Operating Licence requires Sydney Water to provide customers with a safe and reliable supply of water at a quality that is fit for drinking. Recognising the increasing importance of recycled water, a further objective should be that recycled water supplied by Sydney Water should be fit for its intended uses.

The quality of Sydney Water's water supply is regulated by NSW Health. In the absence of more direct powers, NSW Health relies on the Operating Licence to proactively regulate water quality.

As outlined in section 2.2 of this Issues Paper, the Act requires Sydney Water's Operating Licence to include quality and performance standards relating to water quality.

### 4.2 Context and current water quality requirements

The water quality requirements in the current Operating Licence are drafted in accordance with ADWG 1996<sup>14</sup>. These require Sydney Water to comply with health guideline values and certain aesthetic guidelines in ADWG 1996, meet operating targets set out in the Fluoridation Code, and supply other grades of water which meet "relevant guidelines".

The current Operating Licence also requires that Sydney Water develop:

- ▼ a five year Drinking Water Quality Management Plan which addresses risks to public health and meets any particular requirement by NSW Health
- ▼ an annual Drinking Water Monitoring Plan
- ▼ a Drinking Water Quality Incident Management Plan
- ▼ an annual Water Quality Monitoring Plan

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<sup>14</sup> National Health and Medical Research Council and the Agriculture and Resource Management Council of Australia and New Zealand: Australian Drinking Water Guidelines, 1996.

- ▼ annual reporting to NSW Health against the five year Drinking Water Quality Management Plan and quarterly reporting of water quality monitoring test results.

### 4.3 Water quality issues

In May 2005, soon after the current Licence was gazetted, the NSW Government adopted ADWG 2004 as government policy. ADWG 2004 was then formally adopted by Sydney Water. It shifted the emphasis of water quality management from a focus on the definition of acceptable water quality using guideline values<sup>15</sup> to a regime that measures and manages water quality risks through the entire water supply system, from “catchment to tap”.

While the current Licence addresses some key elements of ADWG 2004, it does not address the current recycled water guidelines. IPART notes that ADWG 2004, together with the Australian Guidelines for Water Recycling 2006 (AGWR 2006), provide a comprehensive framework for potable and recycled water quality management that is recognised as best practice in Australia.

The Act requires that the Operating Licence includes conditions requiring Sydney Water to meet prescribed quality and performance standards. To satisfy this requirement, IPART proposes to update the water quality obligations of the Licence to require compliance with ADWG 2004 and AGWR 2006, or their equivalent replacements, as approved by NSW Health.

#### Adoption of licensing plans

The water quality section of the Operating Licence is especially suited to a licensing plan of the kind discussed in section 3.3 of this Issues Paper. To introduce a licensing plan, the Operating Licence would require that Sydney Water:

- ▼ develop a drinking water quality plan consistent with all elements of ADWG 2004 and report against this plan as required
- ▼ develop a recycled water quality plan consistent with all elements of the AGWR 2006 and report against this plan as required.

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<sup>15</sup> ADWG 1996 specified “guideline values” for a range of water contaminants. These guideline values represented the minimum water quality of water that should be supplied to consumers as safe drinking water.

Through reference to the ADWG 2004, the drinking water licensing plan would include the following elements:

- ▼ drinking water policy, responsibilities of employees and engagement of stakeholders (not addressed in the current Licence)
- ▼ water quality risk assessment and management plan (risk assessment is not specifically addressed in the current Licence; a management plan is addressed at clause 3.4 of current Licence)
- ▼ analysis of preventative measures and critical control points (not addressed in the current Operating Licence)
- ▼ identification, documentation and implementation of operational procedures and corrective action, maintenance and monitoring protocols (monitoring is addressed at clause 3.2 of the current Licence)
- ▼ verification of drinking water quality and corrective action (not addressed in the current Licence)
- ▼ management of incidents and emergencies (addressed at clause 3.5 of the current Licence)
- ▼ employee awareness and training, and community involvement (not addressed in the current Licence)
- ▼ research and development (not addressed in the current Licence)
- ▼ evaluation, audit and continual improvement (only a requirement to be audited is addressed in the current Licence)
- ▼ a requirement to report specific information to IPART in the form outlined in a Reporting Manual (addressed at clause 3.3 of the current Operating Licence).

### **Further water quality issues**

According to ADWG 2004, the water quality issues in a water supply system should be treated holistically. To achieve this, IPART sees merit in requiring Sydney Water to cooperate with the Sydney Catchment Authority (SCA) in undertaking a joint “catchment to tap” analysis of the drinking water supply system, compliant with ADWG 2004 elements 2 and 3. The annual audit would check the implementation of each of these elements.

Reliably consistent assessment against the requirements of ADWG 2004 creates challenges for audit assessment because these guidelines are essentially qualitative in nature. However, quantitative audit assessment processes have been developed which provide a scored evaluation against the requirements of qualitative requirements. These tools allow greater objectivity and reproducibility in the assessment of compliance.

The most widely used of such quantitative audit assessment tools for the management of drinking water quality is the “Aquality” tool developed by WSAA<sup>16</sup>. This tool explores each action step for all 12 elements of ADWG 2004 to derive an overall assessment of drinking water management. The full version of “Aquality” is quite demanding in time and effort. However, this tool can be tailored to meet the needs of specific applications, such as an annual audit.

The National Water Commission funded the development of an analogous assessment tool to measure the management of recycled water systems against the requirements of AGWR 2006. This new tool is known as “Requality”.

NSW Health supports both “Aquality” and “Requality”. IPART is interested in exploring the applicability of these tools to the Sydney Water Licence.

IPART seeks comments on the following

- 2 Apart from ADWG 2004 and AGWR 2006 or their updated equivalents, should further water quality standards be introduced into the Operating Licence?
- 3 Are there any issues with water quality which would necessitate further consideration in IPART’s review?

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<sup>16</sup> Water Services Association of Australia (WSAA) is the peak body of the Australian urban water industry. Its 33 members and 29 associate members provide water and wastewater services to approximately 15 million Australians and many of Australia's largest industrial and commercial enterprises.

## 5 Infrastructure management

### 5.1 Objectives of infrastructure management requirements

Sydney Water operates extensive infrastructure associated with the water supply and the sewerage system. As discussed in section 2.2 of this Issues Paper, the Act provides that Sydney Water's Operating Licence must require it to construct and maintain infrastructure that is adequate to fulfil its functions.

### 5.2 Context and current infrastructure management requirements

As required by the Act, the infrastructure management section of the current Operating Licence includes system performance standards (SPS) which cover water pressure, continuity of water supply and overflows from the sewer system onto private property. IPART's review of Sydney Water's SPS is separately discussed in chapter 6 of this Issues Paper.

The Licence also covers the main components of infrastructure management crucial to any major water utility, including:

- ▼ a water leakage target
- ▼ response times for water main breaks
- ▼ asset management system obligations
- ▼ a priority sewerage program
- ▼ service quality and system performance indicators.

These matters are discussed in the following section.

### 5.3 Infrastructure management issues

In the current Licence, there are targets for both water leakage and response times for water main breaks. In each case, minimum acceptable results are specified.

The benefit of this approach is that the minimum requirement is specifically enunciated and a clear statement of the expected standard is communicated to the utility. The difficulty of this approach is:

- ▼ Targets are necessarily set so that they apply in the future. They may be overtaken by technological change or developments in the regulatory environment. This is especially true of targets relating to infrastructure management.
- ▼ Unless they are based on a thorough analysis of operational application, some targets may have unintended outcomes. For example, by requiring that water flow from all leaks and breaks be stopped as soon as possible, the response time target for water main breaks may conflict with Sydney Water's continuity standard and lead to uneconomic outcomes. On the positive side, the introduction of these targets precipitated a major rearrangement of Sydney Water's maintenance practices. There is now likely to be sufficient historical data to permit a review of this target based on objective analysis of Sydney Water's maintenance capabilities.
- ▼ While appearing to be clear and unambiguous, performance measures such as leakage are often difficult to measure precisely.
- ▼ Once the target is met, there is no incentive to improve on it and pursue best practice.

On the other hand, the asset management system obligations employ a different approach to that used for water leakage and response times. They set out best practice asset management objectives and require Sydney Water to maintain its asset management systems to best practice. These obligations could easily be dealt with through an asset management licensing plan of the kind discussed in section 3.3 of this Issues Paper.

The requirement concerning the priority sewerage program reflected Government policy to achieve specific goals when the current Licence was revised in 2005. If required, updated requirements could be accommodated within an infrastructure management plans.

Service quality and system performance indicators provide useful a useful historical data series. These could be included in a reporting manual, discussed in section 10.2 of this Issues Paper.

### Use of WIC Act style licensing plans

As previously discussed, the Act requires that the Operating Licence includes prescribed conditions requiring Sydney Water to ensure that its systems and services meet specified quality and performance standards in relation to service interruptions. To satisfy this requirement, system performance standards must be retained in the Operating Licence and cannot be converted to licensing plans of the kind used in the WIC Act and discussed in section 3.3 of this Issues Paper.

However, other elements of Sydney Water's infrastructure management obligations are well suited to the implementation of a licensing plan. The required content of the plan would include outcomes and timelines to achieve these outcomes.

The Infrastructure Management Plan (IMP) would include the following elements:

- ▼ Operations Plan
- ▼ Maintenance Plan
- ▼ Capital Works Plan
- ▼ Management, Monitoring and Quality Control Plan.

These elements would provide a more comprehensive overview of infrastructure management than that provided in the current Operating Licence. They are discussed briefly in the following paragraphs.

#### Operations Plan

The Operations Plan should comprise an operational analysis of the assets to meet present and future needs. Outputs from the operational analysis would include:

- ▼ an analysis of asset condition and risk assessment
- ▼ a schedule of required capital works for asset renewal, replacement and development
- ▼ examples of system operating rules and procedures to operate the infrastructure in the most effective manner during normal and breakdown conditions
- ▼ performance requirements for assets consistent with system performance standards in this licence and obligations included in other regulatory instruments.

These issues are covered in clause 4.8 and 4.9 of the current Operating Licence (asset management obligation).

### Maintenance Plan

The Maintenance Plan would link maintenance procedures to asset life cycle optimisation, safe and reliable performance of the infrastructure, service criticality and business risk. The Plan would demonstrate that these procedures incorporate a blend of reactive, preventive and predictive maintenance.

The Maintenance Plan would address the following issues:

- ▼ Leakage management (addressed in clause 4.11 of the current Licence).
- ▼ Response times for leaks and bursts (addressed in clause 4.13 of the current Licence).
- ▼ Alternative service arrangements when infrastructure is inoperable (not specifically addressed in the current Licence).
- ▼ Maintenance, monitoring and reporting of system performance standards (System performance standards need to be specified in the Operating Licence. The reporting is addressed in clause 4.5 of the current Operating Licence).

IPART envisages that leakage and response times would be part of the “prescribed content” of the Maintenance Plan rather than a specific condition of the Operating Licence. As such, Sydney Water would be required to develop an economically and technically defensible program to address these issues. This program would include targets, timeframes and best practice measurement and management processes (especially for leakage). As with all licensing plans, IPART would need to audit the Maintenance Plan prior to its use to determine that it meets IPART’s requirements. The program, targets and timeframes would then be subject to annual audits to determine compliance.

### Capital Works Plan

The Infrastructure Investment/Capital Works Plan would reflect sound strategic service planning and incorporate:

- ▼ required levels of service, including future growth in customer base and/or demand and documented performance targets
- ▼ security of supply or service provisions, including inherent reliability, redundancy, alternative sources of supply or service, emergency management and business continuity
- ▼ whole of life cycle cost evaluation.

These issues are partially covered in clause 4.8 of the current Operating Licence (asset management obligation).

### **Management, Monitoring and Quality Control Plan**

The Management, Monitoring and Quality Control Plan would outline systems for monitoring, implementing and documenting the Infrastructure Management Plan. The monitoring and control systems, where relevant, would provide information on key operational features.

### **5.4 Infrastructure management standards/other requirements**

While some aspects of infrastructure management may be addressed through a licensing plan, others are more appropriately addressed directly through specific Licence conditions. As outlined at section 2.2 of this Issues Paper, the Act provides that the Operating Licence must include certain prescribed provisions, including SPS. These are separately discussed in the next chapter.

IPART seeks comments on the following

- 4 How can the Operating Licence best reflect Sydney Water's infrastructure management obligations?

## 6 System Performance Standards (SPS)

Sydney Water's Operating Licence requires that Sydney Water meet certain quality and performance standards in relation to service interruptions. To this end, previous Operating Licences have required SPS for the continuity of supply of drinking water, water pressure at the customer's point of connection to the supply system and overflows from the sewerage system onto private land<sup>17</sup>.

Clause 4.6 of the current Licence also requires that IPART review these standards at least once during the term of the Licence.

In this chapter, a performance measure is defined as a means of assessing a specific activity of a water agency. Two types of performance measures are standards and indicators. A standard is a performance measure in an Operating Licence for a water agency that is used to ensure that the agency provides a predetermined level of performance in meeting its primary service activities. A standard includes a target or prescriptive value, which, if not met by the agency, is considered a breach of the Licence. An indicator is a performance measure that provides contextual and/or explanatory information on agency performance (to assist stakeholder understanding). Indicators do not have targets or prescriptive values.

### 6.1 Existing SPS

SPS are the performance measures specified in the Operating Licence. Originally they served two purposes: to act as asset management obligations and as customer service guarantees. They have been included in the Operating Licence since the first Licence was granted to Sydney Water in 1994. The form of the SPS has changed only slightly over that time.

However, during this period infrastructure management requirements have evolved substantially. An asset management requirement that specified detailed outcomes was introduced into the Operating Licence when it was reviewed in 2005. IPART's price determinations now include specific output measures. The Infrastructure Management Plan discussed in chapter 5 of this Issues Paper would fill in some important detail and refine this process of infrastructure oversight. Together with provision for a dedicated audit, these provisions will be consistent with best regulatory practice.

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<sup>17</sup> Sewer overflows onto public land are regulated by DECCW.

With these more specific and detailed asset management regulatory instruments, there is less need to rely on SPS to monitor asset management. IPART now considers that SPS are better seen solely as customer service guarantees.

## 6.2 2006 GHD review of SPS

Different SPS apply to Sydney Water and Hunter Water. IPART sought to develop a consistent set of standards for these two utilities. In 2006, IPART commissioned GHD to review the system performance standards for both Sydney Water and Hunter Water. IPART accepted GHD's final report on the form of these standards in November 2006. This report recommended that targets be developed after a period of operational analysis. IPART believes that sufficient time for analysis has elapsed to enable these to be codified.

GHD's report defined SPS as levels of service that are expected to be delivered to customers for the price they pay, or are willing to pay. This definition is consistent with the concept of SPS as customer service guarantees, and was developed in line with the principles of regulatory best practice outlined in chapter 2 of this Issues Paper.

## 6.3 GHD recommended standards

In total, GHD investigated 13 water continuity measures, 2 water pressure measures and 5 sewage service measures. A summary of the report's recommended standards for Sydney Water is set out in Table 6.1.

### Continuity standards in the GHD report

The GHD report recommended that the water pressure and sewer overflows SPS remain unchanged and that the continuity SPS be rationalised, with a focus on unplanned interruptions.

The current Operating Licence has two continuity SPS, namely:

- ▼ the number of properties in a financial year experiencing a **planned and notified water interruption** exceeding 5 hours (planned interruptions)
- ▼ the number of properties in a financial year experiencing an **unplanned water interruption** exceeding 5 hours (unplanned interruptions).

**Table 6.1 Existing and proposed System Performance Standards**

<b>Existing Standard - Sydney Water</b>	<b>Proposed Standard</b>
<p><b>Water Pressure</b> The number of properties in a financial year experiencing water pressure below the reference level (For Sydney Water - less than 15 metres for more than 15 minutes).</p>	<p><b>Water Pressure</b> The number of properties in a financial year experiencing water pressure below the reference level. (This is unchanged)</p>
<p><b>Unplanned Interruption</b> The number of properties in a financial year experiencing an unplanned water interruption exceeding 5 hours.</p>	<p><b>Unplanned Interruption</b> The number of properties in a financial year experiencing an unplanned water interruption exceeding 5 hours. (This is unchanged, but the standard for planned interruptions was proposed to be deleted)</p>
<p><b>Planned Interruption</b> The number of properties in a financial year experiencing a planned water interruption exceeding 5 hours.</p>	<p><b>Multiple unplanned interruption</b> The number of properties in a financial year experiencing 3 or more unplanned interruptions. (This is a new standard)</p>
<p><b>Sewer Overflow</b> The number of private properties in a financial year experiencing an uncontrolled sewage overflow in dry weather.</p>	<p><b>Sewer Overflow</b> The number of private properties in a financial year experiencing an uncontrolled sewage overflow in dry weather. (This is unchanged)</p>
	<p><b>Multiple Sewer Overflows</b> The number of private properties in a financial year experiencing 3 or more sewage overflows in dry weather. (This is a new standard)</p>

GHD's report does not favour an SPS for planned interruptions. Where extended work is required, an SPS on the number of properties experiencing a planned interruption exceeding 5 hours provides an incentive for a utility to replace a single interruption with multiple interruptions, each lasting less than 5 hours. GHD argue that customer value is optimised if multiple interruptions are avoided wherever possible.

IPART notes that an SPS for planned interruptions may provide an incentive for the utility to become more efficient in its planned maintenance. However, this is outweighed by the fact that it also provides an incentive to break a long maintenance job into multiple jobs, each lasting less than the time threshold (5 hours).

### **Standards for multiple events in the GHD report**

GHD's Report cited research showing customers were reasonably tolerant of a single supply interruption event, especially if they were notified, but were increasingly dissatisfied with repeat interruptions. To incorporate these views, GHD recommended new standards for repeat supply interruption and sewer overflow events.

Apart from customer satisfaction, there are other reasons to support an SPS on repeat events. Performance against SPS dealing with repeat events is, in most cases, entirely within the control of the utility and addresses important customer needs. While a utility may not be able to initially predict a problem in a specific piece of equipment, management of that problem is entirely within the utility's control once an initial problem has become evident. In very many cases, repeat events are problems that have not been adequately addressed by the utility in the first instance.

#### **6.4 SPS targets from Sydney Water and future review**

As mentioned above, GHD's report recommended a staged process of data gathering by the utilities prior to formal target setting. GHD envisaged that targets would be set in conjunction with the next pricing review, which had been scheduled for 2009. However, this was not possible as the Government subsequently required a review of Sydney Water's prices in 2008.

IPART has requested that Sydney Water's response to this Issues Paper should include proposals for targets for the SPS set out in Table 6.1.

The Act requires that the Operating Licence include SPS. Consequently, IPART intends to specify the standards and targets which result from this review in the Licence.

The Operating Licence will also need to specify a process for conducting future SPS reviews and deriving associated targets. If the new Licence includes an Infrastructure Management Plan, the methodology to establish these targets and a timetable to collect the required information over time could be included within that plan. The targets could then be reviewed again towards the end of the term of the new Licence.

IPART seeks comments on the following

- 5 What targets should be set for Sydney Water's SPS?

## 7 Sustainability and environmental management

### 7.1 Objectives of sustainability and environmental management requirements

This chapter deals with sections in the current Licence titled “Environment – Indicators and Management” and “Water Conservation and Demand Management”.

These sections of the Licence provide Sydney Water with an incentive to take all practical steps to fulfil the objective “to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development set out in section 6(2) of the *Protection of the Environment Administration Act 1991*”.<sup>18</sup>

IPART believes that Sydney Water is uniquely placed to encourage and influence its water customers to conserve water resources and use water resources responsibly.

### 7.2 Context and current sustainability and environmental management requirements

The current Operating Licence provides that Sydney Water must carry out the following sustainability and environmental management requirements:

- ▼ develop and report against an Environment Plan
- ▼ meet a target for potable water use in its Sewage Treatment Plants
- ▼ investigate the provision individual meters in multi-unit buildings
- ▼ meet water conservation target of 329 litres per person per day
- ▼ develop and report against a Demand Management Strategy
- ▼ meet re-use targets to reduce discharges
- ▼ support water conservation rating and labelling of appliances.

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<sup>18</sup> Act s.21.

### 7.3 Sustainability and environmental management issues

These sections of the current Licence incorporate a mix of targets specifying minimum acceptable results together with more flexible plans, such as the Environment Plan and the Demand Management Strategy.

The benefits of the targets are that they focus Sydney Water on achieving a result and clearly communicate a minimum requirement to Sydney Water. IPART supports the inclusion of targets that meet the principles of regulatory best practice set out in section 2.4 of this Issues Paper.

The Water Conservation Target ensures that Sydney Water focuses on demand management and water conservation. However, there are measurement difficulties with this target, such as the extent to which water restrictions should be taken into account. Further, Sydney Water has limited ability to ensure that it achieves the outcome, as customers determine water usage and thus water conservation.

#### The Metropolitan Water Plan (MWP)

The MWP sets out how the NSW Government will provide a secure supply of water to meet the long term needs of Sydney. This means ensuring that Sydney has:

- ▼ sufficient water available over time to meet the needs of a growing city and to protect river health, and
- ▼ the ability to withstand current and future droughts, and impacts from climate change.

An important element of the MWP is the ability to assess changing needs and the flexibility to implement demand and supply options that address these needs while minimising risks and costs.

On the demand side, a broad range of water efficiency initiatives are now in place to deliver large water savings at low costs across all sectors, including government, business, farms and households; as well as building water efficient homes and reducing leaks. The MWP envisages that by 2015, wise water use and improved technology will reduce Sydney's water needs by 24 per cent.

Sydney's desalination plant, recycling projects and access to deep water in dams are all projects aimed at increasing Sydney's water supply. The desalination plant will provide up to 15 per cent of Sydney's water needs when completed next year. This new source of water is important for the future because it does not rely on rainfall and can therefore provide a guaranteed supplement to supply during droughts. In 2008, Greater Sydney used 25 billion litres of recycled water in industry, gardens and for irrigation. Plans to recycle over 70 billion litres of water (12 per cent of Sydney's water needs) by 2015 and 100 billion litres a year by about 2032 are on track.

The MWP is a comprehensive “whole of government” initiative that is overseen by the Chief Executive Officers from a range of NSW Government agencies with statutory interests in NSW water resources (including Sydney Water). As a consequence, the responsibility for meeting these targets is spread across these agencies. Private industry involvement in water efficiency and recycling projects will also play an important role.

Although Sydney Water will have a significant role within the MWP, it is not solely responsible for the selection or implementation of initiatives under this plan. The principles of good regulatory practice suggest that, in such circumstances, Sydney Water can not be held responsible for demand outcomes because the selection and implementation of initiatives necessary to achieve these outcomes are not fully within its control.

The current MWP incorporates elements that coincide with some requirements in Chapter 9 of the current Operating Licence, including the water conservation target. However, IPART believes that the MWP process provides a mechanism to require Sydney Water to contribute to supply/demand issues in a manner that is more consistent with good regulatory practice than that used in the current Operating Licence.

However, the MWP is currently subject to a major review by Government. This review is scheduled for completion in early 2010. IPART is therefore of the view that it will not be able to identify which demand management/water efficiency measures should be recommended for inclusion in the Operating Licence until the MWP review is completed. In particular, IPART will be interested to see how clearly Sydney Water’s role is defined within the revised MWP. If the revised MWP does not clearly specify Sydney Water’s future role in demand management and water efficiency, it may be necessary to continue with a more prescriptive approach to these outputs of Sydney Water’s Operating Licence.

### Licensing plans

IPART suggests that the Environment Plan and the Demand Management Strategy could be amalgamated in the Operating Licence as one licensing plan of the kind discussed in section 3.3 of this Issues Paper. Under a licensing plan, Sydney Water would be required to:

- ▼ prepare a sustainability and environmental management plan with prescribed content (which may include outcomes and timelines to achieve these outcomes)
- ▼ have the adequacy of the plan audited by IPART before implementation or prior to any significant change
- ▼ make any amendments to the plan as directed by IPART as a result of any audit
- ▼ implement and comply with the plan
- ▼ cooperate with IPART’s annual audit of compliance with the plan

- ▼ cooperate with IPART's review the plan as part of the end of term Operating Licence review.

As an example, the plan could require Sydney Water to meet specific obligations in the MWP with regard to demand management and water conservation. The plan could also draw on leakage outcomes from the Maintenance component of the Infrastructure Management Plan, discussed in section 5.3 of this Issues Paper.

### Scarcity pricing

In its final report for the determination of Sydney Catchment Authority (SCA) prices, IPART suggested that it may be appropriate to consider wholesale scarcity pricing between SCA and Sydney Water in future pricing determinations.<sup>19</sup> The benefits of this approach would be to signal to Sydney Water when it might be appropriate to draw on alternative sources of water in preference to SCA supply; to provide incentives to Sydney Water to invest in additional water conservation and demand management measures, where efficient; and providing signals to potential new suppliers of bulk water. It therefore follows that if wholesale scarcity pricing was adopted, there may be implications on the Operating Licence requirements on water conservation and demand management. IPART would like to receive submissions that address these matters.

## 7.4 Environmental management standards/other requirements

The Act prescribes that the Operating Licence includes a requirement that Sydney Water collect and report on the impact that its activities have on the environment.

IPART seeks comments on the following

- 6 What sustainability and environmental management requirements should be imposed through the Operating Licence and how should they be expressed?

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<sup>19</sup> IPART, *Review of prices for the Sydney Catchment Authority – From 1 July 2009 to 30 June 2012 – Determination and Final Report*, June 2009.

## 8 Retail supply management and customer service

### 8.1 Objectives of retail management requirements

One of the fundamental purposes of the Operating Licence is to protect the rights of customers who rely on the essential services it provides. For most of its customers, Sydney Water is a monopoly service provider, so customers cannot switch to an alternative supplier if they are unhappy with their dealings with it.

The Operating Licence provides a substitute for market forces by mandating minimum levels of customer service and ensuring Sydney Water takes the views of customers and the community into account in its decision-making.

The Customer Contract is an agreement made between Sydney Water and each of its customers. It governs the way in which Sydney Water provides services to each customer. The Act provides that the terms and conditions of its Customer Contract must be set out in the Operating Licence<sup>20</sup>. The current Operating Licence requires that IPART review certain aspects of the Customer Contract and report its findings to the Minister.

This chapter considers Sydney Water's retail management requirements. Matters associated with the Customer Contract are presented in the next chapter of this paper.

### 8.2 Context and current retail management requirements

The current Operating Licence requires Sydney Water to do the following things in connection with its retail management:

- ▼ monitor and report against indicators of customer service performance, including response times to complaints, telephone and account contacts
- ▼ establish customer councils and committees
- ▼ specify the rights and obligations of customers and the agencies in a legally enforceable customer contract and agreement

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<sup>20</sup> Act s.54.

- ▼ establish complaint handling and dispute resolution processes to ensure customer grievances are addressed, including an internal complaint handling procedure and participation in an external dispute resolution scheme
- ▼ provide flexible payment options and hardship policies via a code of practice and procedure for debt management and disconnection.

### 8.3 Retail management issues

Through its audit program, IPART has observed very few issues associated with those sections of the Operating Licence dealing with retail supply management and customer service.

If a licensing plan (of the kind discussed in section 3.3 of this Issues Paper) were adopted for this component of the Operating Licence, Sydney Water's retail management and customer service obligations could be addressed through a combination of:

- ▼ obligations imposed directly through the Operating Licence, including an obligation to develop a licence plan with prescribed content
- ▼ a licensing plan – called a Retail Supply Management Plan
- ▼ reporting requirements for both compliance with the Operating Licence and any customer service indicators.

The following retail supply management obligations could be addressed by means of a licensing plan:

- ▼ code of practice and procedures for debt and disconnection
- ▼ internal dispute resolution scheme.

Under a Retail Supply Management Plan Sydney Water would be required, as a condition of its Licence, to:

- ▼ prepare the plan with prescribed content (which may include outcomes and timelines to achieve these outcomes)
- ▼ have the plan audited by IPART before its implementation or if any significant change is made to it
- ▼ make any amendments to the plan as directed by IPART as a result of any audit of the plan
- ▼ fully implement and comply with the plan
- ▼ cooperate with IPART's annual audit of compliance with the plan
- ▼ cooperate in a review of the plan as part of the end of term Operating Licence review.

### Debt and disconnection procedures

Sydney Water's current Licence requires Sydney Water to develop a code of practice and procedure on debt and disconnection.<sup>21</sup> The code must:

- ▼ provide for deferred or instalment payment options for consumption bills
- ▼ provide for these payment options to be advised in bills
- ▼ be included in the Customer Contract.

Sydney Water must also report annually on a range of indicators for debt and disconnection, including the total number of disconnections and flow restrictions, debt recovery levels and the number and value of payment assistance vouchers provided.

Through its operational audit program,<sup>22</sup> IPART has found that Sydney Water has complied with its Licence requirements in relation to the code of practice on debt and disconnection throughout the Licence term.<sup>23</sup>

### Internal dispute resolution procedures

The current Operating Licence requires Sydney Water to establish an internal complaints handling procedure to the relevant Australian Standard.<sup>24</sup> It also requires Sydney Water to provide information to customers on these procedures, and to report annually on the number of complaints it receives.<sup>25</sup>

Throughout the Licence term, IPART's operational audit of Sydney Water has found that Sydney Water has fulfilled all substantial requirements in its Operating Licence relating to internal dispute resolution procedures. Sydney Water's report on customer complaints is usually concise and informative, and includes analysis of systemic problems and the implementation of strategies to resolve any issues.<sup>26</sup>

Sydney Water's current internal complaint handling procedure is based on the new Australian Standard for complaint handling (AS ISO 10002-2006). IPART intends to update the relevant section of the Operating Licence to take account of this new Standard.

<sup>21</sup> See Operating Licence clause 5.3.

<sup>22</sup> Operational audits are discussed in section 10.4 of this paper.

<sup>23</sup> IPART, *Sydney Water Corporation Operational Audit 2007/08*, December 2008, p 13.

<sup>24</sup> Currently the relevant Australian Standard is AS4269-1995 Complaint Handling.

<sup>25</sup> See Operating Licence clauses 5.5 and 6.1.

<sup>26</sup> IPART, *Sydney Water Corporation Operational Audit 2007/08*, December 2008, p 15.

### External dispute resolution processes

The current Licence requires Sydney Water to participate in an independent external dispute resolution scheme. It must also report annually to IPART on the functioning of this scheme, including the number and type of complaints made to the scheme or to other bodies (such as courts or tribunals) and any systemic problems identified.<sup>27</sup>

Sydney Water satisfies the requirement that it participate in an independent external dispute resolution scheme through its membership of the Energy and Water Ombudsman New South Wales (EWON) scheme. This scheme is funded by the participating utilities, and investigates and resolves complaints for customers of Sydney Water and other NSW electricity, gas and water utilities at no charge to customers.

As part of its operational audits<sup>28</sup> of Sydney Water over the term of the current Operating Licence, IPART has found Sydney Water to be fully compliant with requirements relating to external dispute resolution processes. In 2007/08, it also found Sydney Water's report on customer complaints complied with all requirements of the licence, including analysis of systemic problems, and the implementation of strategies to resolve these issues.<sup>29</sup>

### 8.4 Retail management and customer service standards/ other issues

While some aspects of Sydney Water's retail management and customer service obligations may be addressed through a licensing plan, others are more appropriately addressed directly through specific Licence conditions. The Act provides that the Licence must include certain provisions, including:

- ▼ establishment and consultation with one or more Customer Councils<sup>30</sup>
- ▼ the terms and conditions of customer contracts, including particulars of the contract charges or the manner in which the contract charges are to be calculated or determined in relation to the provision of water supply or sewerage services to customers.<sup>31</sup>

IPART agrees that an obligation relating to membership of an external dispute resolution scheme should remain in the Operating Licence.

<sup>27</sup> See Operating Licence clause 6.2.

<sup>28</sup> See section 10.4 of this paper.

<sup>29</sup> IPART, *Sydney Water Corporation Operational Audit 2007/08*, December 2008, p 15.

<sup>30</sup> Act s.15.

<sup>31</sup> Act s.54.

### Effectiveness of customer councils and consultative committees

Sydney Water's Operating Licence requires it to establish and regularly consult with one or more customer councils. The aim of this requirement is to ensure that Sydney Water consults with the community about its operations and considers community views in its decision-making process. The Licence also requires that these councils develop charters that govern their operations and specify their role, membership and the resources available to them.

Sydney Water has established one customer council. This council has developed a charter which may be viewed on Sydney Water's website.

ADWG 2004 (element 8) notes that community consultation, involvement and awareness can have a major impact on public confidence in the water supply and an organisation's reputation. ADWG 2004 identifies customer councils as a component of an effective community involvement and awareness program, together with communication strategies to provide an active two-way exchange of information.<sup>32</sup>

As part of its operational audit of Sydney Water in 2007/08, IPART found that Sydney Water had operated its Customer Council in accordance with Operating Licence requirements. The Corporate Customer Council Annual Report is posted on the Sydney Water website.

Hunter Water has a slightly enhanced process for community consultation whereby the agenda for its Consultative Forum meetings is published on its website prior to the meeting. This provides greater transparency in the operation of the Forum and potentially a more effective process by giving interested parties an opportunity to discuss agenda issues with Forum members prior to a meeting.

IPART seeks comments on the following

- 7 Are the retail management and customer service requirements in the current Operating Licence adequate?
- 8 Would the imposition of a licensing plan (of the kind discussed in section 3.3 of this Issues Paper) be an effective mechanism to capture these requirements?

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<sup>32</sup> National Health and Medical Research Council: *Australian Drinking Water Guidelines 6*, 2004, pp 3-27 to 3-29.

## 9 Customer Contract

The current Operating Licence requires that IPART review the Customer Contract<sup>33</sup> during the term of the Licence to evaluate the effectiveness of its financial hardship and customer protection provisions. IPART is also required to report its findings to the Minister. IPART intends to conduct the review of the Customer Contract concurrently with its broader review of the Operating Licence. The report on the review of the Customer Contract will be included in IPART's Report to the Minister on the Operating Licence review.

### 9.1 Objectives of the customer contract

The Act requires that Sydney Water set out the terms and conditions of service in a standard customer contract and provides that any landowner whose property is connected to a water or sewer main owned by Sydney Water is taken to have entered into a customer contract with Sydney Water.<sup>34</sup> The objective of the Customer Contract is to define the relationship between Sydney Water and its customers.

### 9.2 Context and current customer contract status

Sydney Water's current Customer Contract was implemented in 2005, following a full public review and workshop as part of the end of term Operating Licence review. The Contract sets out the rights and obligations of customers in relation to the provision of water, sewerage and, where applicable, stormwater services. It also deals with the rights of consumers who are not customers by providing that Sydney Water must provide occupiers with reasonable notice of the intention to restrict supply.

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<sup>33</sup> The Customer Contract is a schedule to the Operating Licence, which may be found at [www.sydneywater.com.au](http://www.sydneywater.com.au).

<sup>34</sup> See Act s.14 and s.55(1).

### 9.3 Customer Contract issues

In 2005/06, IPART conducted a full audit of Sydney Water's compliance with the Operating Licence requirements relating to the Customer Contract. Since that time, and based on the full compliance exhibited at that audit, IPART has conducted desk-top reviews of evidence supporting compliance with these requirements. Sydney Water has demonstrated compliance at each of these reviews.

EWON<sup>35</sup> collects information concerning customer protection issues for various NSW utilities. EWON reports indicate that complaints against Sydney Water are among the lowest of the group of utilities monitored by EWON.

Customer service data for Sydney Water is also included in the National Performance Report, published by the National Water Commission. This data shows that customer complaints against Sydney Water are among the lowest of Australian water utilities.

The Customer Contract includes provisions for rebates to be paid to customers for any shortfalls in service. IPART will consider these rebates as part of its review of the Customer Contract.

Based on the current evidence, IPART does not see the need to make any significant amendments to the Customer Contract.

IPART seeks comments on the following

- 9 Does the existing Customer Contract effectively address financial hardship and customer protection issues?
- 10 Do the existing rebates provide a satisfactory balance between costs imposed on Sydney Water and costs incurred by customers because of system failures?

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<sup>35</sup> The Energy and Water Ombudsman of NSW.

## 10 Other Sydney Water responsibilities

### 10.1 Scope and objectives of other Sydney Water responsibilities

IPART is required by legislation to monitor Sydney Water's compliance with its Operating Licence. IPART does this by receiving reports from Sydney Water and undertaking and publishing annual compliance audits. IPART then reports its findings to the Minister.

To be effective, the compliance reporting and auditing process must be rigorous. However, it must also be efficient in order to avoid becoming an unreasonable administrative burden on either Sydney Water or IPART.

This chapter discusses some minor changes to IPART's compliance processes, monitoring and reporting that IPART considers will be more effective and efficient than the current arrangements. The proposed changes are consistent with the approach IPART has in place for private water utility licensees under the WIC Act and for energy licensing.

### 10.2 Compliance and performance reporting

#### Existing monitoring and reporting arrangements

Under the current Operating Licence, Sydney Water's performance reporting obligations consist of a monitoring and reporting protocol obligation and numerous individual reporting obligations spread across the Licence relating to individual areas of responsibility. The protocol obligation compels Sydney Water to:

...develop and provide to IPART a protocol...that includes how Sydney Water will record, compile, monitor, measure and report against the service quality and system performance indicators in Schedule 1, the customer service indicators in Schedule 2, and the environmental performance indicators in Schedule 3.<sup>36</sup>

Other reporting obligations set out under the current Operating Licence are outlined at Table 10.1.

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<sup>36</sup> Operating Licence clause 2.4.1.

**Table 10.1 Reporting obligations contained in current Sydney Water Operating Licence**

Clause	Area of responsibility
3.3	Drinking Water Quality – Reporting
4.5	Reporting on system performance standards
4.7	Service quality and system performance indicators
4.9	Reporting on the asset management system
4.11	Water leakage
4.12	Reports related to water leakage
4.13	Response time for Water main breaks
5.5	Customer service indicators
6.3	Complaints to other bodies
7.1	Environmental indicators
9.2	Demand Management Strategy
9.3	Reducing discharges
9.4	Water conservation rating and labelling

### Reporting Manuals

IPART intends to develop a Reporting Manual (Manual) that consolidates all Licence and other reporting obligations, and include in the Operating Licence a requirement that Sydney Water report in accordance with the Manual. Performance against the majority of licence obligations would continue to be audited under the licence plan arrangements outlined in earlier chapters. Reporting arrangements for all obligations and performance indicators would be outlined in the Manual.

The Manual would be publicly available on IPART's website. A similar manual has been prepared for private suppliers under the WIC Act, and can be viewed at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au)

Licence obligations prescribed by the Act would not be duplicated in the Licence but included in the consolidated list of Licence conditions in the Manual. Section 14(1)(c) of the Act provides that an Operating Licence must include terms and conditions requiring Sydney Water:

...to ensure that the systems and services meet the quality and performance standards specified in the operating licence in relation to water quality, service interruptions, pricing and other matters determined by the Governor and set out in the operating licence.

Consequently, the Manual could be used only to outline reporting arrangements. Requirements to comply with standards must be included in the Operating Licence.

The proposed Manual may also include detail relating to IPART audit activities, including any licence and operational audit scopes and audit panel arrangements.

This approach to compliance reporting and auditing will provide IPART with greater flexibility to address reporting issues during the term of the Licence where necessary. It will also assist in developing a more consistent approach to compliance reporting across public water utilities.

IPART seeks comments on the following

- 11 Are the proposed Reporting Manual arrangements adequate to consolidate and coordinate reporting requirements under the Operating Licence?

### 10.3 Indicators

Sydney Water currently reports a range of indicators to IPART under various arrangements. These are outlined in Table 10.2.

**Table 10.2 Indicators currently reported to IPART**

Indicators	Reporting requirement
National performance reporting indicators	NSW responsibility under the NWI
System performance indicators	Sydney Water Operating Licence
Customer service indicators	Sydney Water Operating Licence
Environment performance indicators	Sydney Water Operating Licence
Pricing outcomes indicators	Collected by IPART under section 24AB of the <i>Independent Pricing and Regulatory Tribunal Act 1992</i>
Annual information return (AIR) and Special information return (SIR)	Collected by IPART under section 24AB of the <i>Independent Pricing and Regulatory Tribunal Act 1992</i>

On 25 June 2004, NSW and most other States and Territories signed the NWI Agreement with the Commonwealth Government. This Agreement requires the establishment of a nationally consistent framework for benchmarking price and service quality information. IPART co-ordinates the NSW component of this benchmarking project for the major urban water utilities, including Sydney Water. The benchmarking project involves the collection and audit of various performance, customer service and financial data, and forwarding the combined results to the National Water Commission.

Before the implementation of a nationally consistent performance reporting framework, setting and reporting on performance indicators for Sydney Water had been achieved under the Operating Licence or the *Independent Pricing and Regulatory Tribunal Act 1992* (IPART Act). There is now considerable duplication in the national performance reporting indicators and the indicators imposed by the current Operating Licence. In some cases, there are also minor inconsistencies in these indicators that impose additional costs for Sydney Water to collect and report.

To address issues of duplication and inconsistency, IPART proposes the performance, customer service and pricing indicators for Sydney Water should be aligned and rationalised. In addition, under the Reporting Manual arrangement outlined at section 10.2 of this Issues Paper, Sydney Water would be required to report one set of indicators as outlined in the Reporting Manual. These indicators should be amended as required to maintain consistency with the national performance indicators.

#### 10.4 Operational and Licence Plan Audits

The Act provides that the Operating Licence must provide for the preparation of an operational audit.<sup>37</sup> IPART must ensure the operational audit is prepared in accordance with the Operating Licence and must report annually to the Minister on each operational audit.<sup>38</sup> Under the current Operating Licence, the annual audit must be conducted by IPART or by a person appointed by IPART.<sup>39</sup>

IPART has already established a risk-based auditing regime, which establishes an audit program for the term of the Operating Licence. The audit program evaluates, for each clause of the Operating Licence, the risks associated with non-compliance, and sets out the scope of each annual audit based on this risk assessment.

Under the proposed licensing plan arrangement discussed in section 3.3 of this Issues Paper, Sydney Water's compliance with its licence plans would be audited annually as part of the operational audit and the scope of the operational audit (as set out in the risk-based audit program) would be outlined in the proposed Reporting Manual.

IPART has established an audit panel, the Water Licensing and Audit and Technical Panel (Panel), the members of which may undertake audit activities under the WIC Act. Under the audit panel arrangements:

- ▼ firms/individuals may apply for appointment to the Panel with specific staff nominated in various roles
- ▼ IPART assesses applications to join the Panel according to established criteria
- ▼ authorisation may be granted to perform audits in the following audit categories based on an applicant's industry and auditing experience:
  - water quality
  - sewage management
  - infrastructure performance
  - licence and regulatory compliance
  - retail supply
  - environment and catchment management.

<sup>37</sup> Act s.14(2).

<sup>38</sup> Act s.31.

<sup>39</sup> Operating Licence clause 12.1.2.

Successful applicants are required to execute a Panel Agreement prior to appointment to the Panel, being the contract between IPART and each Panel member. Before providing auditing services, a Panel member is required to:

- ▼ submit a detailed Scope of Work to IPART and amend the Scope of Work as directed by IPART
- ▼ enter into a contract with the licensee
- ▼ effect professional indemnity insurance
- ▼ submit to IPART an executed Deed Poll outlining the licensee's acknowledgements and undertakings to IPART in relation to the audit services and confirming the Panel member's obligations to IPART.

IPART proposes that the operational audit requirements in the next Operating Licence should be drafted with some flexibility to move towards an audit panel arrangement consistent with WIC Act arrangements.

## 10.5 Memoranda of Understanding (MoU)

The Act requires that Sydney Water enter into separate MoU with each of the NSW Department of Health, the Water Administration Ministerial Corporation and the Environment Protection Authority.<sup>40</sup> These memoranda formalise the relationship between the parties by recognising their different roles and responsibilities and setting out agreed areas of study, research and data exchange. The current Operating Licence reflects this requirement,<sup>41</sup> and requires that each of the MoU be used to "...form the basis for cooperative relationships between the parties...".<sup>42</sup>

Sydney Water has the required memoranda in place and maintains cooperative relationships with these regulatory agencies. IPART's audit program has found no substantive problem with these memoranda.

IPART seeks comments on the following

- 12 Are any amendments required to the MoU obligation in the Operating Licence?

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<sup>40</sup> Act s.35.

<sup>41</sup> Operating Licence clause 2.3.

<sup>42</sup> Operating Licence clause 2.3.2.

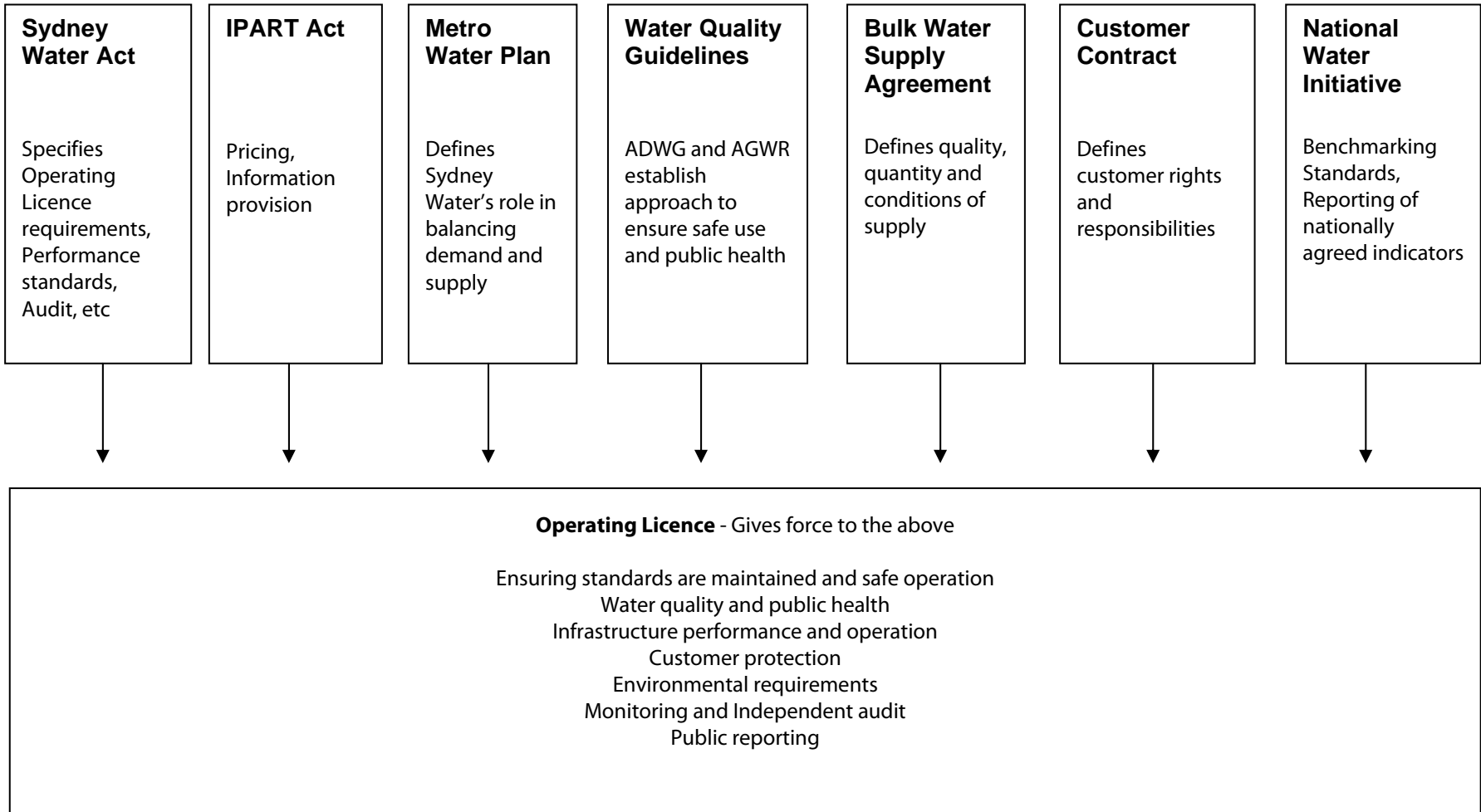




**Appendices**



## A | Sydney Water Operating Licence framework



B Sydney Water's compliance with requirements of the current Operating Licence

	2005/06	2006/07	2007/08
Water Quality			
Infrastructure performance	1	2	
Complaint & dispute handling	3		4
Environment- indicators & management	5		
Water conservation & demand management			
<p>Notes:</p> <p>1 Full compliance apart from moderate compliance for response time to main breaks.</p> <p>2 Full compliance apart from high compliance for response time to main breaks.</p> <p>3 Full compliance apart from high compliance for some reporting requirements.</p> <p>4 Full compliance, increased complaints due to problems with meter reading contractor which was immediately rectified.</p> <p>5 Full compliance apart from some reporting requirements.</p>			

**Legend**

Full Compliance	High Compliance	Moderate Compliance	Low Compliance	Non Compliance