This fact sheet summarises our approach to the review of Sydney Water’s operating licence and provides a brief overview of the draft operating licence and supporting documents (the package), which we are now releasing for public consultation.

A public forum will be held on 30 March 2015 to discuss the package. Written submissions are requested by 7 April 2015.

Overview

The Independent Pricing and Regulatory Tribunal (IPART) is conducting an end of term review (review) of Sydney Water Corporation’s (Sydney Water) operating licence.1

This review is a requirement of the current Sydney Water operating licence, and must be conducted prior to the renewal of the operating licence. We last undertook such a review in 2009/10. Sydney Water’s current operating licence expires on 30 June 2015.

In undertaking this review, we have considered ways the licence can be amended to improve Sydney Water’s operational efficiency and reduce costs for customers, while maintaining appropriate service standards. We have sought to achieve greater consistency in licensing for major public water utilities; including the further adoption of system based management approaches where there are clear benefits in terms of performance and costs.

We released an issues paper on the review of the operating licence on 17 June 2014. In response to the Issues Paper we received 15 submissions.

We have considered the submissions and completed a preliminary cost benefit analysis of proposed changes to the operating licence. This is to further inform the drafting of the proposed operating licence.

What is the purpose of the Operating Licence?

The operating licence exists to enable and require Sydney Water, which is a monopoly supplier of essential services, to provide services within its area of operations. It imposes conditions on Sydney Water to ensure that it appropriately carries out its functions and provides an adequate level of service to its customers at the most efficient cost.

The granting of licences and the terms and conditions of the operating licence are governed by Part 5 of the Sydney Water Act 1994.

Licences are granted for a maximum term of five years.

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1 The Sydney Water operating licence is granted under the Section 12 of Sydney Water Act 1994.
What is the purpose of the review?

The primary purpose of the review is to determine whether the operating licence is fulfilling its objectives and to recommend to the Minister for Natural Resources, Lands and Water the terms and conditions of Sydney Water’s new operating licence.

In reviewing Sydney Water’s licence, our approach is to maintain the existing conditions unless it is clear that a proposed change will likely result in a net benefit to the community.

We have considered Sydney Water’s functions as well as the requirements imposed on Sydney Water by other regulatory instruments.

Throughout this review, we have sought to avoid duplicating the requirements of other regulatory instruments and to avoid unnecessary costs, while identifying any gaps in the regulation of Sydney Water’s functions.

Draft package

Draft operating licence

In general, the draft operating licence has been prepared taking into account stakeholder submissions and best practice regulatory principles, including consideration of the costs and benefits of proposed regulatory requirements and their impacts on customers.

Some of our proposed major changes to Sydney Water’s operating licence are outlined below.

1. Systems Based Outcomes

In line with a general move from prescriptive regulation in public water utility licenses, we are proposing a system based approach to the regulation of key elements of Sydney Water’s operations.


This approach would reduce auditing costs and the regulatory burden, while allowing for third party certification against international standards. It would also provide Sydney Water greater flexibility in how it achieves its required performance outcomes, as long as these outcomes are met.

2. Water Conservation (Quantity)

We are proposing a number of changes to the water conservation requirements Sydney Water needs to meet under its operating licence. These include:

- A new publicly available annual report on Sydney Water’s water conservation activities and its performance against key water conservation measures – including the level of water use, volumes of recycled water and the economic level of leakage. Details of these reporting requirements are contained in the reporting manual accompanying the draft licence.

- The provision of a formal methodology for determining the economically efficient level of water conservation activity, including water leakage, water recycling and water efficiency.

- A new licence obligation requiring Sydney Water to use its best endeavours to develop a protocol with the Metropolitan Water Directorate, which is the Government agency primarily responsible for the development of the Metropolitan Water Plan. This proposed licence requirement is aimed at enhancing the water planning process for Sydney. This licence obligation would be auditable, and Sydney Water would need to demonstrate its efforts in developing and implementing the protocol.
These new measures would replace the specific water use and water leakage targets that are in the current operating licence. They are aimed at providing transparency and accountability around Sydney Water’s water conservation program. They also provide flexibility for Sydney Water to respond to changing circumstances, such as drought conditions (if necessary), to achieve the optimal mix of conservation activities.

3. Customer Contract

Sydney Water’s Customer Contract is included as part of its operating licence.² There are a number of proposed changes in the Customer Contract, which are intended to increase clarity and readability for customers, as well as changes to the payment of rebates payable in the event of service failures.

Rebates are currently paid as a percentage of the final bill, with a minimum rebate set, and are deducted from future bills after the event. We propose to increase the minimum rebate amounts to account for inflation. For recurring service failures, we also propose the rebate be provided in one lump sum in the next available bill, rather than be spread over the next four quarters.

Sydney Water is also proposing some changes to its account management practices, including the ability to charge late fees. Under the proposed Customer Contract for the new licence, the terms and conditions and the maximum amount of any late fee would be set by IPART. Further, the late fee would not apply to customers on hardship arrangements.

4. Memorandum of Understanding with Fire and Rescue NSW

In response to a submission from Fire and Rescue NSW, we have included a proposed licence requirement for Sydney Water to use its best endeavours to develop a Memorandum of Understanding with Fire and Rescue NSW. This requirement is auditable and aims to ensure better communication and cooperation between Sydney Water and firefighting agencies.

5. Priority Sewerage Program

Sydney Water’s current operating licence requires Sydney Water to provide sewerage services under the Priority Sewerage Program (PSP) to a number of peri-urban areas. Sydney Water has serviced most of the sites. The remaining six sites have been listed in the last two licenses, but there has generally been no specific timeframe placed on when these sites must receive wastewater services.

We have retained the current obligations relating to PSP within the licence, except we have removed references to specific areas that have already been serviced. Further, we now propose that Sydney Water also publicly report on its progress in planning and implementing the remaining areas within the PSP.

6. System Performance Standards and Response times to water main breaks and leaks

While Sydney Water currently meets all the performance standards, the response time to water main breaks is not necessarily driving improvement in Sydney Water’s operations.

In particular, compliance with these standards may hinder the operational judgement of Sydney Water in responding to leaks and breaks with a range of factors in mind, including scheduling work to minimise inconvenience to customers.

We consider that responses to leaks and breaks should form part of Sydney Water’s Asset Management Framework/ System, which is subject to regular audit.

We therefore propose that the response time to water main breaks be changed from a standard in the current operating licence to performance indicators in the reporting manual. Reporting requirements for additional information explaining performance have also been included in the draft reporting manual.

² Sydney Water Act 1994, s 54(1).
This approach will maintain public accountability and transparency in relation to Sydney Water’s performance, while also avoiding any unnecessary costs by allowing for enhanced flexibility in scheduling and prioritising works. This can provide cost savings to Sydney Water and its customers, and reduce interruptions to customers during inconvenient times (both for customers having water supply turned off and for those interrupted by repair crews at night).

The system performance standards for water pressure, water continuity and sewerage overflows have been reworded, for greater clarity. However, their intent remains the same.

7. Five-year Environmental Plan
As an objective of the review is to minimise regulatory duplication, we are proposing to replace the current requirement for a five-year Environmental Management Plan (EMP) with simplified reporting requirements linked to the Environmental Management System, including a new annual report.

This would be in addition to the annual report required under the Sydney Water Act 1994, which is reviewed by the Environment Protection Authority, and would largely eliminate the duplication of the EMP reporting obligations of the current licence.

**Reporting Manual**
Sydney Water’s reporting requirements have been placed in a Reporting Manual.

The reporting manual provides us with greater flexibility to address reporting issues as they occur during the term of the operating licence, if necessary. It also assists in developing consistent compliance reporting across public and private water utilities.

We have updated Sydney Water’s reporting manual to reflect the proposed changes to the operating licence.

**Cost Benefit Analysis**
We are mindful of minimising the burden of regulation. In particular, we are aware that the costs of regulation are ultimately passed on to Sydney Water’s customers. To address these concerns, and in accordance with good regulatory practice, we have considered the costs and benefits of our proposed changes to Sydney Water’s operating licence.

Our analysis considered the costs and benefits of the proposed changes relative to the ‘base case’ of the existing licence and Sydney Water’s ‘business as usual’ activities. Our analysis used information provided by Sydney Water and in other stakeholders’ submissions.

We have also used the cost benefit analysis document to set out our reasons for our recommendations. This document, titled *Cost benefit analysis of proposed changes to Sydney Water Corporation’s operating licence*, is part of the licence package.

**What happens next?**
IPART invites written comment on the draft licence package and encourages all interested parties to provide submissions addressing the matters discussed.

**The submissions are due by 7 April 2015.**

We would prefer to receive them electronically via our [online submission form](http://www.ipart.nsw.gov.au).

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

**Review of the Operating Licence for Sydney Water Corporation**
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240
Our normal practice is to make submissions publicly available on our website. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning Kaye Power on (02) 9113 7753.

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. We will then make every effort to protect that information, but it could be disclosed under the Government Information (Public Access) Act 2009 (NSW) or the Independent Pricing and Regulatory Tribunal Act 1992 (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART’s submission policy is available on our website (www.ipart.nsw.gov.au).

Finally, a public forum will be held at SMC Conference & Function Centre, 66 Goulburn Street, Sydney on 30 March 2015, commencing at 10am. The public forum will provide an additional opportunity for stakeholders to understand, ask questions and comment on IPART’s draft licence package for Sydney Water.

The agenda for the public forum will be available on our website shortly. To indicate your interest in attending the public forum, please contact Emma Smith on (02) 9290 8472 or emma_smith@ipart.nsw.gov.au.