



Hunter Water Operating Licence Review

Draft Report

February 2022

Water >>

Tribunal Members

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Invitation for submissions

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

Submissions are due by Friday, 8 April 2022

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

Hunter Water Operating Licence Review
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

If you require assistance to make a submission (for example, if you would like to make a verbal submission) please contact one of the staff members listed above.

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. 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 above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, 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.

The Independent Pricing and Regulatory Tribunal (IPART)

Further information on IPART can be obtained from IPART's [website](#).

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

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Chapter 1 >>

We want to know your views on the Hunter Water Operating Licence

We are conducting this Review to assess whether the
Licence meets its objectives

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We are conducting this Review to assess whether the 2017-2022 Hunter Water operating licence, Customer Contract and Reporting Manual meet their objectives. The current objectives of the operating licence are set out in clause 1.1:

- a. provide transparent and auditable terms and conditions for Hunter Water to lawfully undertake its activities at industry good practice
- b. recognise the interests of stakeholders within its Area of Operations, and
- c. impose the minimum regulatory burden on Hunter Water by avoiding duplication or conflict with other regulatory instruments.

We have considered whether the current operating licence achieves its objectives in a way that imposes the lowest possible cost on Hunter Water (and therefore its customers).¹ Similarly, we have also reviewed the current Reporting Manual and Customer Contract. We expect to make our recommendation for a new operating licence (Licence), Customer Contract and Reporting Manual (Licence package) to the Minister for Lands and Water (the Minister) to come into effect by 1 July 2022.

We have published the draft Licence package on our [website](#) for your feedback.

This Report outlines our draft recommendations for the Licence package for your feedback. It references a few supporting documents that we have published separately on our [website](#):

- Information Paper 1 – Contextual information
- Information Paper 2 – Cost benefit analysis
- Information Paper 3 – Summary of changes to the Customer Contract
- Information Paper 4 – Summary of submissions to our Issues Paper

The Contextual information outlines the scope of the Review, our approach and timeline, and identifies matters that we must consider in the Review.

1.1 We seek your views on our recommendations

This is an opportunity for you to provide feedback on our draft recommendations for the proposed Licence, Customer Contract and Reporting Manual and raise any issues of concern. In this report, we discuss our draft recommendations, and explain how we developed them.

We seek to recommend terms and conditions for the Licence that reflect customers' preferences and needs. This is particularly important for customers of monopoly suppliers such as Hunter Water where most customers cannot change their provider. Your feedback allows a customer-focused approach to the Review. This will improve outcomes and ensure we have the right customer protections in the proposed Licence - a key objective in regulating water utilities.

¹ In Chapter 5, we discuss whether these objectives should be updated in a new Licence to more closely align with Hunter Water's principal functions, to allow people to easily understand why specific conditions are included in the Licence. The current operating licence objectives reflect the process for developing the Licence and are useful to assess against in a review process. However, they may not provide value to Hunter Water's customers.

We welcome your feedback on the recommendations in this draft report, with a focus on the following areas:

- Retain requirements in the proposed Licence for water quality management systems consistent with the Australian Drinking Water Guidelines and the Australian Guidelines for Water Recycling, and any additional health-based requirements specified by NSW Health (section 2.1).
- Retain most of the current system performance standards for service interruptions, and the service levels they require. These include system performance standards for water continuity, water pressure and dry weather wastewater overflows. We recommend deleting one of the water continuity standards for multiple short unplanned service interruptions as we consider that it is not necessary to achieve the intended outcome (section 2.2).
- Retain the requirement for Hunter Water to use an economic approach to water conservation, as a transition arrangement, until the introduction of the NSW Government's Water Efficiency Framework (section 3.1).
- Include a new requirement for Hunter Water to prepare a drought response plan and update requirements to reflect the transition from the Lower Hunter Water Plan to the Lower Hunter Water Security Plan (section 3.2 and 5.2.2).
- Retain requirements for publishing the Customer Contract, making timely variations and communicating those variations (section 4.1.1).
- Support the changes to the Customer Contract proposed by Hunter Water with some additional changes such as acknowledging those customers with non-standard connections that do not have separate agreements with Hunter Water (section 4.1.1).
- Expand the customer protections available under the Customer Contract that extend to 'consumers' that are not usually party to the Customer Contract (such as tenants who rent a property) (section 4.1.1).
- Retain requirements to maintain, implement and communicate to customers and the general public about assistance options and actions for non-payment (section 4.2.1), an internal complaints handling procedure (section 4.2.3), and an external dispute resolution scheme (section 4.2.4), and any variations to this information.
- Allow Hunter Water the option of membership of the Energy and Water Ombudsman NSW (EWON) or another external dispute resolution scheme approved by IPART (section 4.2.4).
- Include a new requirement for Hunter Water to develop, implement and communicate to customers and the general public about a family violence policy and any variations to it (section 4.2.2).
- Replace the current prescriptive requirements for Hunter Water to maintain a Customer Advisory Group with more flexible requirements that allow Hunter Water to undertake customer consultation in a manner it considers most effective (section 4.3).
- Retain requirements for an Asset Management System, Environmental Management System and Quality Management System (organisational management systems) (section 5.1).

- Retain requirements for Hunter Water to use its best endeavours to maintain Memoranda of Understanding (MoUs) with NSW Health, Department of Planning and Environment (DPE) and Fire and Rescue NSW. Hunter Water must comply with these MoUs (section 5.2).
- Include a new requirement for Hunter Water to include relevant stakeholders, such as the Rural Fire Service, in its working group with Fire and Rescue NSW (section 5.2.3).
- Include requirements to protect WIC Act licensees and other potential competitors when dealing with Hunter Water as they are wholesale customers to Hunter Water (section 0).
- Reduce prescriptive requirements for annual reporting on Hunter Water's compliance with its operating licence conditions for water quality management (section 2.1.3), system performance standards for service interruptions (section 2.2.5), organisational management systems (section 5.1.4) and customer and stakeholder relations (section 4.4) to exception reporting only.

The full list of all draft recommendations made in this report are available in section 7.1.

1.2 How we developed our recommendations

We have generally applied the Best Practice Licensing Framework¹ when recommending the terms and conditions in the proposed Licence, as well as reporting requirements to support these Licence conditions. As this is a mature operating licence, our Review has considered changes that may be necessary to the current operating licence, rather than developing a new licence.

We undertook a cost-benefit analysis (CBA) to inform our recommendations. Where feasible, we considered the costs and benefits of the current licensing approach compared to the costs and benefits of removing a licence requirement. It was not always possible to accurately calculate costs and benefits. In particular, the broader societal benefits of some licence conditions were difficult to quantify. Where we thought it was necessary, we also considered unquantified matters of broader public interest and protection of customers when applying the Framework.

We also considered the broader regulatory context. This context was informed by stakeholder views, Hunter Water's compliance and audit history, lessons learnt from other public water utility's compliance history and relevant examples of current good or best practice in the regulation and operation of utilities in Australia and other countries.

We received stakeholder views to our Issues Paper that we published in September 2021, as well as additional consultation we conducted separately. We received submissions to the Issues Paper from Hunter Water, DPE², EWON, the Public Interest Advocacy Centre (PIAC), Sydney Water and some anonymous individuals.³

² In December 2021, the previous Department of Planning, Industry and Environment became the Department of Planning and Environment.

³ The stakeholder submissions to our Issues Paper are available on our [website](#).

We have explained how we considered stakeholders' views in the relevant sections of this draft report as well as in the summary of submissions to the Issues Paper in Information Paper 4 on our [website](#).

1.3 How you can submit feedback

We invite all interested people to make submissions in response to our draft recommendations for the proposed Licence, Customer Contract and Reporting Manual using the link below.

Your input is valuable to our review process.

[Make a submission >](#)

You can be involved by making a submission in response to this Issues Paper.

We request that you make your submission by **8 April 2022**. We will publish all submissions on our website. For more information on how to make a submission and how to manage confidential or commercially sensitive information in your submission, please see our [submission policy](#) on our [website](#).

We will also have an online public hearing on **22 March 2022** where you can provide feedback. Please register your attendance [here](#).

You may provide feedback at both the public hearing and in response to this report, if you wish, or to only one.

1.4 Next steps

We intend to provide our recommendation for a new Licence, Customer Contract and Reporting Manual to the Minister by May 2022. This will allow the new Licence to come into effect by 1 July 2022.

We will complete the Review according to the timeline below:



Chapter 2 »

Water quality and system performance standards





Performance standards directly impact on the level and quality of service that customers receive

02

2.1 Water quality standards

The *Hunter Water Act 1991* (the Act) requires the Licence to include quality and performance standards. Quality and performance standards define the levels of quality and/or performance that a utility must meet to satisfy a regulatory or other requirement. They generally focus on one or more aspects of the level of service customers can expect from the utility.

Draft recommendations for stakeholder comment:

-  1. Retain requirements in the Licence for water quality management systems consistent with the Australian Drinking Water Guidelines (ADWG) and the Australian Guidelines for Water Recycling (AGWR).
-  2. Retain requirements in the Licence to implement the water quality management systems.
-  3. Expand the definition of the AGWR in the proposed Licence to include all volumes of the guidelines.
-  4. Clarify NSW health's role in specifying reasonable health-based requirements made in writing. These are intended to be additional to the requirements set by the ADWG/AGWR (and are not intended to depart from the guidelines).

Since the first operating licence, the water quality standards have been based on National Health and Medical Research Council (NHMRC) guidelines.⁴ Under the current operating licence, Hunter Water is required to maintain a drinking water quality management system consistent with the ADWG and a recycled water quality management system consistent with the AGWR (the current NHMRC water quality standards).

⁴ The second reading speech for the *Hunter Water Board (Corporatisation) Act 1991* (as the Act was previously known) in the Legislative Assembly, stated that the water quality standards in the first operating licence would be based on the National Health and Medical Research Council (NHMRC) guidelines.

Box 1 Risk management approach in the ADWG/AGWR frameworks

The ADWG and AGWR follow a risk-based approach, where the level of water quality required for an intended use is determined with regard to the extent of exposure to harmful pathogens and nutrients, the frequency of that exposure and the corresponding negative health implications.

The ADWG⁵ and AGWR set out a process for developing a preventative risk management framework to achieve health-based targets. These targets are consistent with those adopted by the World Health Organisation (WHO)ⁱⁱ and by more than 93 other countriesⁱⁱⁱ

In the Issues Paper, we sought feedback whether alternative water quality standards should be recommended in the new Licence. Alternative standards may present a more cost-effective option for ensuring health and environmental outcomes and allow for innovation. In effect, a more cost-effective option would likely mean a standard that prescribes a health-based target lower than the current level of tolerable risk for Hunter Water's customers and lower than the standard accepted by the WHO. We have not identified any alternative water quality standards through this review.

Neither Hunter Water nor NSW Health support using alternative water quality standards. NSW Health has stated that the ADWG/AGWR are the NSW Government endorsed water quality guidance in NSW. NSW Health does not support setting water quality standards based on customers' willingness to pay (though we note we did not specifically raise this in the Issues Paper) because it could result in different standards applied in different areas.

PIAC strongly supports retaining the current drinking water and recycled water quality management conditions, including an explicit condition to comply with any requirement specified by NSW Health.

We seek your feedback on our proposed Licence conditions for drinking water and recycled water outlined in the following sections.

⁵ The next ADWG version (expected later in 2022) is expected to finalise the full adoption of Health Based Targets for pathogens.

2.1.1 Drinking Water

Hunter Water is a 'supplier of drinking water' under the *Public Health Act 2010 (NSW)* (the Public Health Act).^{iv} The Public Health Act requires all drinking water suppliers to implement a quality assurance program (QAP) for the safe supply of drinking water that addresses the Framework for Management of Drinking Water Quality⁶ (as set out in the ADWG).^v Hunter Water is currently exempt from this requirement because it is subject to the requirement to maintain management systems consistent with the ADWG under the current operating licence. The exemption under the Public Health Act ensures there is no regulatory duplication. We anticipate that if this operating licence condition were removed, Hunter Water's exemption under the Public Health Act would be likely revoked by the Chief Health Officer, which would trigger the requirements of the Public Health Act.

NSW Health strongly supports maintaining the obligation in the Licence. Specifying a different drinking water standard in the Licence to the ADWG carries risks and would result in Hunter Water being subject to a different standard than other utilities.

Our CBA found that there was a net benefit in providing drinking water treated to a standard consistent with the ADWG. Costs were derived from data⁷ previously collected from Sydney Water and relate to the cost of constructing and operating water treatment plants equivalent in size to that required to service Hunter Water's customers. The benefits relate to avoided economic losses from improved health outcomes for Hunter Water's customers.

NSW Health supports clarifying the requirement that NSW Health can specify additional requirements to the ADWG rather than departing from it, consistent with the Sydney Water Operating Licence. We consider this to be a reasonable clarification of the current arrangements.

Hunter Water indicated in its submissions that it is satisfied with current arrangements regarding the compliance regime.

We seek your feedback on the proposed draft Licence conditions in relation to drinking water, shown in Box 2 below.

⁶ The Framework for Management of Drinking Water Quality consists of 12 elements considered good practice for system management of drinking water supplies.

⁷ Our CBA used data from the 2019 Review of the Sydney Water operating licence for drinking water treatment plant construction and operation.

Box 2 Proposed Licence requirements in relation to drinking water

16 Drinking Water

(1) Hunter Water must maintain a Management System that is consistent with the Australian Drinking Water Guidelines and any health-based requirements that NSW Health specifies in writing (the **Drinking Water Quality Management System**).

(2) In the event of inconsistency between the requirements specified by NSW Health referred to in clause 16(1) and the Australian Drinking Water Guidelines, the requirements specified by NSW Health prevail.

(3) Hunter Water must fully implement the Drinking Water Quality Management System and carry out all relevant activities in accordance with the Drinking Water Quality Management System, and to the satisfaction of NSW Health.

[Note: Hunter Water is to apply the Drinking Water Quality Management System to the Drinking Water system under its control, having regard to the entire Drinking Water supply system – from water catchment to the Consumer.]

2.1.2 Recycled Water

The AGWR presents an overarching risk management framework that is based on principles of food safety where biological, chemical and physical hazards are analysed and controlled. NSW Health recommends the use of the AGWR because it advocates a preventive public health risk management approach.

Recycled water is addressed in the Public Health Act as 'any other water', for which the Minister has power to take action and give directions if the Minister suspects there is a risk to public health. However, the Public Health Act does not require recycled water to be produced to a defined standard.

Box 3 A Management System that is consistent with the Australian Guidelines for Water Recycling

The AGWR risk management framework:

- provides a mechanism for identifying the major hazards, risks and appropriate preventive measures (treatment and on-site controls)

- sets targets for pathogenic bacteria, protozoa and viruses for a range of specific uses of recycled water based on tolerable risk
- describes how these targets can be achieved using combinations of treatment (to reduce pathogen concentrations) and on-site controls (to reduce exposure)
- provides an operational monitoring approach designed to detect faults before use of recycled water
- provides for the use of verification (compliance) monitoring to ensure that management systems function effectively
- provides for establishment of incident protocols
- provides for implementation of supporting requirements including training, community involvement, documentation and reporting.

Adapted from the *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1)*, November 2006

Hunter Water reports that it has [15 recycled water schemes](#) linked to its system in the lower Hunter.^{vi} The main uses of the recycled water are watering open space, industrial and residential uses. The NSW Government's draft Lower Hunter Water Security Plan^{vii} signals its intent to increase recycled water production for industrial schemes and public space irrigation schemes in the Lower Hunter.

The Lower Hunter Water Security Plan also intends for Hunter Water to continue to explore viable opportunities for recycling in new residential developments. Producing and distributing recycled water for non-drinking purposes in residential developments is costly. This is because recycled water delivered to homes must be treated to a high standard to protect public health in the event of improper use and must be delivered through a second plumbing network to protect drinking water from cross contamination.

Our CBA notes that while recycled water is produced only for non-drinking purposes, the cost of treating to the standard required by the AGWR for residential uses is likely to result in a disbenefit. We were unable to compare the costs of producing recycled water to the standard required under the AGWR to the cost of producing recycled water to an alternative, less stringent standard. This is because we were unable to identify any applicable standards that would specify a lower level of treatment and realise a cost reduction.

The economics of producing and supplying highly treated recycled water improve where recycled water can be supplied for drinking water and delivered to residential premises through a single plumbing network. The Lower Hunter Water Security Plan notes that Hunter Water will engage with the community about purified recycled water for drinking. The AGWR Phase 2^{viii} has been drafted to guide the safe production of recycled water for drinking and could be called on should Hunter Water begin producing purified recycled water for drinking. We have proposed a broader definition of AGWR in the draft Licence to include Phase 2^{ix}. Given the potential for Hunter Water to implement further recycling projects in line with the proposed Lower Hunter Water Security Plan, we consider it is appropriate to allow for future uses of recycled water.

The application of the AGWR in the Licence ensures that public confidence in the production and supply of safe recycled water can be maintained. The AGWR is flexible and risk based. It provides for Hunter Water to expand its recycled water programs targeting economic recycled water projects and using treatment technologies and on-site controls that are appropriate for the recycled water's intended use.

There are several direct and indirect benefits of producing recycled water that could not reasonably be quantified in our CBA analysis and for which we were unable to calculate a cost. However, the analysis provides indicative information about the relative costs of producing safe recycled water and may assist Hunter Water to make future decisions about whether potential new recycled water systems are likely to be cost effective.

We seek your feedback on the proposed draft Licence conditions in relation to recycled water, shown in Box 4 below.

Box 4 Proposed Licence requirements in relation to recycled water

17 Recycled Water

(1) Hunter Water must maintain a Management System that is consistent with the Australian Guidelines for Water Recycling and any health-based requirements relating to water recycling that NSW Health specifies in writing (the **Recycled Water Quality Management System**).

(2) In the event of inconsistency between the requirements specified by NSW Health referred to in clause 17(1) and the Australian Guidelines for Water Recycling, the requirements specified by NSW Health prevail.

(3) Hunter Water must fully implement the Recycled Water Quality Management System and carry out all relevant activities in accordance with the Recycled Water Quality Management System and to the satisfaction of NSW Health.

2.1.3 Reporting requirement for water quality management

Draft recommendations for your comment:



5. *[Reporting Manual]* Retain most of the current water quality reporting requirements but replace annual compliance and performance reporting on the water quality management systems with exception reporting only.

Section 3.1.4 of the current Reporting Manual requires Hunter Water to prepare an annual compliance and performance report on Hunter Water's management of drinking water and recycled water quality. Specifically, Hunter Water must report on its drinking water and recycled water quality management activities and programs to meet water quality objectives. Hunter Water must include in the report any significant changes made to the water quality management systems, and any non-conformances and action(s) taken to resolve those non-conformances. This report is provided to IPART only.

We recommend amending these reporting requirements so that Hunter Water need only provide this information if it has been non-compliant with the water quality management systems in the reporting year. We consider that this exception-based reporting is appropriate as that is the most critical information for us to know and to inform the operational audits. We can review Hunter Water's compliance with the water quality management systems generally when we undertake the operational audits.

We have provided further context and explanation for making this change in section 6.3.2. Hunter Water's reporting requirements can be viewed in full in the draft Reporting Manual.

2.1.4 Fluoridation

Draft recommendations for your comment:



6. Do not include a new Licence requirement for fluoridation. We can assess fluoridation performance under the water quality management system requirements in the Licence for drinking water.

The current operating licence does not include requirements for fluoridation. We raised the question about whether a new licence condition prescribing compliance with the NSW Code of Practice for Fluoridation of Public Water Supplies (Fluoridation Code) was necessary in the Issues Paper. This was because the Sydney Water Operating Licence has a similar licence condition, and the 2 utilities perform similar water supply functions. Hunter Water does not support a new requirement for fluoridation in the Licence as it considers that it is duplicating existing legislation without additional benefit.

Hunter Water's fluoridation of drinking water is regulated under the Fluoridation Code and the *Fluoridation of Public Water Supplies Act 1957* (Fluoridation Act). Hunter Water has discretion to fluoridate drinking water with the approval of NSW Health. Where it chooses to fluoridate, it must comply with the Fluoridation Code^x and it must provide a monthly report on its fluoridation monitoring to NSW Health, under section 3.1.2 of the Hunter Water Reporting Manual. NSW Health has previously specified, as it is able to do under clause 3.1.1 of the current operating licence, that Hunter Water's fluoridation monitoring and reporting in its DWQMS must be consistent with the Fluoridation Code.

In the 2019 end-of-term review of the Sydney Water Operating Licence, NSW Health and Sydney Water supported retaining the fluoridation requirement^{xi} because they had previously observed benefits for auditing purposes. In 2017, we audited that licence condition and identified opportunities for Sydney Water to improve how it complies with the Fluoridation Code. NSW Health cited this example as a benefit of retaining the condition in the Sydney Water Operating Licence. We sought to understand if similar benefits could be applicable to the proposed Licence for Hunter Water, and if they were necessary.

Sydney Water states in its submission to our Issues Paper for this review that the main benefit of having a requirement to comply with the Fluoridation Code in the Sydney Water Operating Licence is that it reiterates Sydney Water's commitment to fluoridating the water supply. It provides assurance to the public that Sydney Water is meeting its obligations under the Fluoridation Act. The main cost to Sydney Water is additional auditing of the fluoridation licence requirements. In Sydney Water's experience, this can and does mean that fluoridation is audited under both the drinking water quality management and the Fluoridation Code clauses in the Sydney Water Operating Licence. This means that one non-compliance can result in breaches of 2 operating licence conditions.




We agree with Hunter Water's position that Hunter Water's fluoridation performance, and implementation of the Fluoridation Code, can be audited when we audit implementation of the DWQMS. We consider that a separate condition to comply with Fluoridation Code is not necessary in the Licence and it will duplicate the current fluoridation regulation without providing additional benefit.

NSW Health has not identified any additional benefit in prescribing compliance with the Fluoridation Code in the Licence. The only benefit identified is that the Licence would be the most appropriate mechanism to set out key government requirements of public interest. At this stage, we consider that this may not be adequate reason to duplicate the fluoridation requirements in the Licence.

We seek your feedback on our recommendation to not include a new clause in the Licence.

2.2 System performance standards for service interruptions

Draft recommendations for stakeholder comment:

-  7. Retain 4 of the current 5 system performance standards for water continuity, water pressure and dry weather wastewater overflows in the Licence.
-  8. Do not include one of the current water continuity standards for multiple short unplanned service interruptions.
-  9. Retain the service levels specified by the system performance standards in the current operating licence (i.e. do not increase or lower service levels).



10. Express the standards as a proportion of properties supplied to account for customer growth.



11. Retain the current approach to set minimum standards in the Licence and do not optimise the standards.

The current operating licence contains 5 system performance standards for service interruptions. These include 2 water continuity standards, one water pressure standard and 2 dry weather wastewater overflow standards (onto private properties) (clause 3.3). These system performance standards set hard limits on the maximum number of properties that can be affected by the service interruption in any one financial year. A property count above the target level for any of the standards represents a breach of the operating licence.

We propose to retain 4 out of 5 of these system performance standards in the new Licence and remove one water continuity standard for multiple short unplanned service interruptions (that is in the current operating licence). We consider that having the standard for multiple service interruptions in the Licence is not necessary to achieve the intended outcome.

Hunter Water consulted its customers to understand their preferences about the service levels that the customers value as well as the service level failures for which customers would expect a rebate. This consultation showed that including performance standards for water continuity, water pressure and dry weather wastewater overflows reflects customer preferences.

These system performance standards protect customers from inferior quality products and services and the wastewater overflow standard protects public health by minimising overflow events. Further, they satisfy the requirement of the Act for the Licence to include performance standards for service interruptions.^{xii} In the absence of mandatory requirements there is a risk that over time, Hunter Water's standards would not be maintained, and customers may receive services that do not meet quality expectations. We consider that this is an unacceptable risk particularly for customers of monopoly suppliers that do not have many options for their water and wastewater services.

We propose to maintain the service levels set by these system performance standards in the current operating licence. We did consider whether to change the service levels, but this would either drive expenditure above what customers are willing to spend or involve several risks. For example, reducing service levels could result in increased service interruptions for customers who are already disproportionately affected by service interruptions due to rapidly deteriorating infrastructure.

Hunter Water supports our proposal. Hunter Water's position is supported by a CBA^{xiii} it undertook to investigate the relative costs and benefits of either increasing or lowering the current service levels and whether they reflect customers' willingness to pay. Hunter Water's CBA indicated that the current service levels remain appropriate because they act as a safety net, preventing unacceptable deteriorations in service standards. Conversely, they do not drive overinvestment (exceeding the cost that customers are willing to pay) - a risk with high standards.

Hunter Water's CBA assumes that Hunter Water could undertake additional activities to reduce the number and/or impact of these events, but the cost of these activities will ultimately be recovered from customers via water and wastewater bills. Similarly, Hunter Water could reduce costs, and ultimately customer bills, by spending less on managing its networks, but this would result in customers experiencing more of these inconvenient events. Hunter Water's CBA found that the cost of increasing expenditure on asset performance would exceed customers' willingness to pay. Conversely, the cost savings associated with reducing performance are valued by customers far less than the disbenefits that customers would suffer.

The service levels we have recommended for Hunter Water are slightly lower than those in the Sydney Water operating licence. We have not recommended increasing them to match those in the Sydney Water operating licence as this is not supported by the CBA.

Box 5 Hunter Water's CBA is robust and was applied in a professional manner

We reviewed Hunter Water's CBA for system performance standards in the current operating licence. Hunter Water applied a robust CBA methodology and implemented it in a disciplined, professional manner. We consider that Hunter Water's CBA results were reasonable, and the results provided weight to Hunter Water's proposal.

We note that some aspects of Hunter Water's initial conclusions did not support the status quo. At our request, Hunter Water provided further sensitivity analysis to test those conclusions. Ultimately, we decided to maintain the existing system performance standards because this sensitivity analysis showed the case for change was not sufficiently strong.

We acknowledge the diligence and transparency of Hunter Water's CBA work.

Finally, we propose to express the system performance standards as a proportion of properties supplied to account for customer growth. This is consistent with the approach taken in the Sydney Water operating licence. In the current Hunter Water operating licence, the standards are expressed as absolute thresholds (i.e. total number of properties supplied in a financial year) which is not a flexible mechanism that considers growth.

We seek your feedback on our recommendations for the system performance standards in the new Licence. In making our recommendations, we considered submissions from DPE, PIAC, Sydney Water and EWON as well as Hunter Water's CBA.

2.2.1 Water Continuity Standard

Currently there are 2 standards in the current operating licence for unplanned water interruptions to drinking water supply (clause 3.3.2):

- One for long unplanned interruptions - Hunter Water is required to ensure that in a financial year, no more than 10,000 Properties experience an unplanned water interruption that lasts more than 5 continuous hours.
- The other for multiple short unplanned water interruptions - Hunter Water is required to ensure that in a financial year, no more than 5,000 Properties experience 3 or more unplanned water interruptions that each last more than one hour,

We propose to retain the first system performance standard, but as above, express it as a proportion of properties supplied. We also propose to express the standard as the minimum number of properties (per 10,000 properties) that should be 'unaffected' by an unplanned interruption (rather than the maximum limit of properties that are affected). This is a minor change to bring greater consistency with the Sydney Water operating licence, for greater administrative and regulatory efficiency, but does not materially impact the standard that Hunter Water must currently meet.

We propose to remove the second standard for multiple short unplanned drinking water supply interruptions as we consider that a licence standard is not necessary to achieve the intended outcome. In the absence of a licence performance standard, Hunter Water would achieve the same outcomes by basing its asset management decisions on the cost of repair compared with the cost of replacement. As replacement is more expensive, Hunter Water would undertake more regular repairs, which would result in fewer short interruptions. However, we plan to continue to maintain the repeat event measure as an IPART performance indicator that Hunter Water must report against so that we are still able to monitor the trend.

Removing this standard would be consistent with changes made to the Sydney Water Operating Licence in the 2019 end-of-term review. At that time, we did not recommend a standard for short unplanned interruptions because the available data did not permit us to perform a meaningful optimisation.

Hunter Water's customer consultation suggests that customers are more inconvenienced by long interruptions, justifying that the Licence should focus on long service interruptions.

Proposed Licence conditions for the water continuity standard

We seek your feedback on the proposed draft Licence conditions for the water continuity standard, shown in Box 6 below.

Box 6 Proposed water continuity standard

18 Water Continuity Standard

(1) Hunter Water must ensure that, in each financial year, at least 9,820 per 10,000 Properties (in respect of which Hunter Water provides a Drinking Water supply Service) receive a Drinking Water supply Service unaffected by an Unplanned Water Interruption (the **Water Continuity Standard**).

(2) A Property is taken to have experienced an unplanned water interruption where, in relation to a Property:

- (a) the supply of Drinking Water at the first cold water tap of the Property is interrupted without the Customer or Consumer having received prior notice of that interruption from Hunter Water; and
- (b) it takes more than 5 continuous hours for normal supply of Drinking Water to be restored to the Property.

(Unplanned Water Interruption).

(3) Hunter Water must use the best available data (taking account of water pressure data, where available) to determine whether a Property has experienced an Unplanned Water Interruption.

(4) A Property that experiences an Unplanned Water Interruption caused by a Third Party or a power failure is taken not to have experienced an Unplanned Water Interruption for the purposes of this clause 18.

(5) For the purpose of the Water Continuity Standard:

- (a) each separately billed part of a Multiple Occupancy Property is to be counted as a separate Property; and

[Note: For example, a complex of 5 townhouses where each townhouse receives a separate Bill from Hunter Water is to be counted as 5 separate Properties. However, a block of 5 flats that only receives one Bill from Hunter Water is to be counted as a single Property.]

- (b) each separate instance, in a financial year, of a single Property experiencing an Unplanned Water Interruption is to be counted as a separate Property that has experienced an Unplanned Water Interruption.

21 Interpretation of standards

In the case of any ambiguity in the interpretation or application of the Water Continuity Standard, the Water Pressure Standard or the Dry Weather Wastewater Overflow Standard, IPART's interpretation or assessment of the standard or clause will prevail.

The proposed requirement under draft clause 18(5)(b) is a new condition that is not in the current operating licence. We have proposed this condition to clarify that a property that experiences multiple service interruptions must be counted as separate properties, for the purpose of this performance standard. Similarly, separately billed parts of a multiple occupancy property must be counted as separate properties. These changes reflect the intent of the standard and do not seek to raise the standard.

We note that we have not experienced issues with Hunter Water under reporting against this performance standard and the proposed licence condition does not reflect a current compliance problem. Rather, it seeks to provide clarity and avoid misinterpretation.

The proposed clause 18(2) is not a new clause. The current operating licence operating licence defined an 'Unplanned Water Interruption' in the list of definitions to the Licence. We have proposed to include the definition within the clause for ease of use. Further, this is consistent with the Sydney Water operating licence.

Rebates for unplanned service interruptions

Hunter Water proposed to increase the rebates it provides for service interruptions. Hunter Water provided details on the rebates provided in its proposed changes to the Customer Contract.⁸

We support Hunter Water's proposals as they reflect customers' expectations. For unplanned service interruptions, Hunter Water has proposed to:

- Increase rebates from 15kL to 20kL for the first and second events in a financial year.
- Increase rebates from 30kL to 32kL for third event in a financial year.
- No longer limit rebates to only apply to peak hour interruptions due to interpretation complexities.

⁸ Hunter Water's proposed changes are available on our [website](#). We have summarised our recommended changes to the Customer Contract in Information Paper 3 on our [website](#).

Currently, Hunter Water provides the same rebate for the first unplanned water interruption as it does for low drinking water service pressure. Hunter Water has proposed to keep this connection between unplanned water interruptions and low drinking water service pressure but increase the rebate to 20kL⁹ in the Customer Contract. The proposed rebate will apply equally to customers experiencing frequent or occasional low water pressure, despite a lower expectation from customers for a rebate for the latter.¹⁰ Further, Hunter Water has proposed to provide greater rebates when the customer has repeatedly faced an unplanned service interruption (lasting more than 5 hours), which aligns with customer expectations.

Hunter Water has also proposed to provide greater rebates for planned interruptions. While this is not linked to the water continuity standard, it does reflect customers' expectations. We have summarised the proposed rebates in the summary of changes to the Customer Contract in Information Paper 3 on our [website](#).

2.2.2 Water Pressure Standard

Under the current operating licence, Hunter Water must ensure that no more than 4,800 properties experience a water pressure failure in a financial year (clause 3.3.1). A water pressure failure occurs when a property experiences water pressure of less than 20m head for a continuous period of 30 minutes or more. However, it is not a water pressure failure if this low-pressure event occurs on a day when the peak day demand exceeds 370 ML/day.

We recommend retaining the water pressure standard because we consider that it provides benefit by driving preventive maintenance. Increased scale or slime inside water distribution piping can greatly reduce hydraulic performance of the system and Hunter Water's ability to supply water at the required pressure. Asset management and conservation strategies share a common goal to supply water at a pressure that meets service needs while minimising excess pressure and pressure fluctuations in the system that cause leakage and infrastructure damage.

As with the water continuity standard, we propose to express the water pressure standard as a proportion of properties supplied and as the minimum number of properties (per 10,000 properties) that should be 'unaffected' by a water pressure failure.

Proposed Licence conditions for the water pressure standard

We seek your feedback on the proposed draft licence conditions for the water pressure standard, shown in Box 7 below.

⁹ Hunter Water provides rebates to customers for service interruptions by reducing the volume specified in the Customer Contract from the customer's usage in their next bill. This is a different approach to the Sydney Water customer contract which specifies the dollar value for the rebate provided for service interruptions.

¹⁰ Hunter Water proposes a program of tackling zones of persistent low water pressure or hot spots, rather than changing rebate structure.

Box 7 Proposed water pressure standard

19 Water Pressure Standard

(1) Hunter Water must ensure that, in each financial year, at least 9,910 Properties per 10,000 Properties (in respect of which Hunter Water provides a Drinking Water supply service) receive a Drinking Water supply service that is not affected by a Water Pressure Failure.

(the **Water Pressure Standard**).

(2) A Property is taken to have experienced a Water Pressure Failure when:

(a) a person notifies Hunter Water that the Property has experienced a Water Pressure Failure and Hunter Water confirms that the Property has experienced a Water Pressure Failure; or

(b) Hunter Water identifies that the Property has experienced a Water Pressure Failure (including through its data collection systems and hydraulic analysis).

(3) A Property is not taken to have experienced a Water Pressure Failure if that Water Pressure Failure occurred only because of:

(a) a Planned Water Interruption or Unplanned Water Interruption;

(b) water usage by authorised fire authorities in the case of a fire; or

(c) a short term or temporary operational problem (such as a main break), including where caused by a Third Party, which is remedied within 4 days of its commencement.

(4) For the purpose of the Water Pressure Standard:

(a) each separately billed part of a Multiple Occupancy Property is to be counted as a separate Property;

[Note: For example, a complex of 5 townhouses where each townhouse receives a separate Bill from Hunter Water is to be counted as 5 separate Properties. However, a block of 5 flats that only receives one Bill from Hunter Water is to be counted as a single Property.]

(b) where a Property experiences multiple Water Pressure Failures in a day, only one of those Water Pressure Failures is to count as a Water Pressure Failure experienced by that Property; and

(c) where a Property experiences a Water Pressure Failure that affects more than one day, each day affected is to be counted as a separate Water Pressure Failure.

21 Interpretation of standards

In the case of any ambiguity in the interpretation or application of the Water Continuity Standard, the Water Pressure Standard or the Dry Weather Wastewater Overflow Standard, IPART's interpretation or assessment of the standard or clause will prevail.

We have proposed to retain the allowance that a property will not be counted towards the water pressure standard, where a water pressure failure was only observed due to a planned or unplanned water interruption (draft clause 19(3)(a)). This will avoid Hunter Water being penalised against both its water continuity and water pressure standards for events with the same root cause.

We note that a similar allowance has not been included in the Sydney Water operating licence. However, we propose not to remove this provision in the Licence as that would raise this standard without reason. We have generally been satisfied with how Hunter Water investigates its service interruptions and their root causes and do not consider that removing the allowance, resulting with Hunter Water being penalised against both its standards, is reasonable. At the 2021 operational audit, we observed that while Hunter Water may not include low pressure incidents caused by water interruptions when counting towards the water pressure standards, it does include them in its asset maintenance system to provide a resolution for customers.

As with the water continuity standard, we have proposed new conditions under clause 19(4) to clarify that where a property experiences multiple water pressure failures over multiple days, each day is to be counted as a separate water pressure failure for the purpose of this standard. Similarly, water pressure failures experienced at differently billed parts of a multiple occupancy properties must be counted as separate water pressure failures. By doing this, we seek to provide greater clarity about the intent of this clause and are not seeking to raise the standard. We have not observed issues with how Hunter Water reports against this performance standard to date.

However, the proposed licence conditions do allow that if one property experiences multiple water pressure failures in one day, this need only be counted as one water pressure failure. It will only be counted as another water pressure failure if it continues into the next day. We acknowledge that this is a more lenient standard than the water continuity standard however we consider that this is appropriate and consistent with customer preferences. Hunter Water's customer consultation showed that customers value water continuity and are less inconvenienced by occasional low water pressure.

Rebate for low water pressure

We support Hunter Water's proposal to increase the rebates it provides for water pressure failures, consistent with customers' expectations.

The rebate for low drinking water pressure under the proposed Customer Contract is the same as for the first unplanned water interruption. Hunter Water proposes to keep this connection and increase the rebate to 20kL.

The rebate applies equally to customers experiencing frequent or occasional low water pressure, despite lower expectation from customers of a rebate for the latter.

2.2.3 Dry weather wastewater overflows

There are 2 standards in the current operating licence for dry weather wastewater overflows in a financial year (clause 3.3.3):

- No more than 5000 properties experience an uncontrolled wastewater overflow.
- No more than 45 properties experience 3 or more uncontrolled wastewater overflows.

Maintaining wastewater collection networks to minimise overflows is an important component of asset management. The cause of the overflow must be addressed as soon as practicable. Reasonable and practicable containment of the overflow must be undertaken to prevent the continued risk of pollution on private property and to the environment.

As with the water continuity and water pressure standards, we propose to express the dry weather wastewater overflow standard as a proportion of properties receiving a wastewater service and as the minimum number of properties (per 10,000 properties) that should be 'unaffected' by a dry weather wastewater overflow.

Proposed Licence conditions for the dry weather wastewater overflow standard

We seek your feedback on the proposed draft Licence conditions for the dry weather wastewater overflows standard, shown in Box 8 below.

Box 8 Proposed dry weather wastewater overflow standard

20 Dry Weather Wastewater Overflow Standard

(1) Hunter Water must ensure that, in each financial year, at least:

- (a) 9,913 Properties per 10,000 Properties (in respect of which Hunter Water provides a sewerage service but excluding Public Properties) receive a sewerage service unaffected by an Uncontrolled Wastewater Overflow; and
- (b) 9,999 Properties per 10,000 Properties (in respect of which Hunter Water provides a sewerage service but excluding Public Properties) receive a sewerage service affected by fewer than 3 Uncontrolled Wastewater Overflows in dry weather,

(the **Dry Weather Wastewater Overflow Standard**).

(2) A Property is taken to have experienced an Uncontrolled Wastewater Overflow when:

(a) a person notifies Hunter Water that a Property has experienced a Wastewater Overflow, where Hunter Water later confirms that the Wastewater Overflow is an Uncontrolled Wastewater Overflow; or

(b) Hunter Water's systems identify that a Property has experienced an Uncontrolled Wastewater Overflow.

(3) For the purpose of the Dry Weather Wastewater Overflow Standard:

(a) each Multiple Occupancy Property is considered to be one Property;

[Note: For example, a complex of 5 townhouses where each townhouse receives a separate Bill from Hunter Water is to be counted as a single Property.]

(b) for the purpose of clause 20(1)(a), each separate instance, in a financial year, of a single Property experiencing an Uncontrolled Wastewater Overflow is to be counted as a separate Property that has experienced, in that financial year, an Uncontrolled Wastewater Overflow; and

(c) for the purpose of clause 20(1)(b) each Property that experiences 3 or more Uncontrolled Wastewater Overflows in a financial year is to be counted once only as a Property that has experienced 3 or more Uncontrolled Wastewater Overflows in that financial year.

21 Interpretation of standards

In the case of any ambiguity in the interpretation or application of the Water Continuity Standard, the Water Pressure Standard or the Dry Weather Wastewater Overflow Standard, IPART's interpretation or assessment of the standard or clause will prevail.

As with the water continuity and water pressure standards, we have not sought to increase the standard with the new licence clause 20(3). Rather, we have sought to provide clarity about the intent of the standard. Also, the clarifications in clause 20(2) should not create a material change for Hunter Water as they were previously included in the definition of uncontrolled wastewater overflow.

Rebate for wastewater overflow onto private property

We support Hunter Water's proposals for increasing the rebates, in line with customers' expectations.

Hunter Water proposes to:

- Increase the rebate for the first event in a financial year from 30kL to 40kL.
- Maintain the rebate for the second event in a financial year at double the amount of first event, or 80kL, which aligns with customer expectations.
- Marginally increase the rebate for the third event in a financial year from 2270kL to 280kL. The rebate level is set equivalent to the entire wastewater service charge for a property.

The current rebates for uncontrolled dry weather wastewater overflows onto private property increase with frequency which aligns with customer expectations. Customer consultation showed that Hunter Water's customers consider wastewater overflows onto private property as the most rebate worthy events.

2.2.4 Maintaining minimum standards in the Licence only

Our recommendations for the system performance standards are based on specifying minimum standards in the Licence only. That is, the minimum standards that customers can and should expect from their service. This is consistent with the approach in the current operating licence. We consider that other service levels and customer outcomes are best addressed through pricing mechanisms as we have discussed in our review on *'How we regulate water businesses'*.

We sought feedback from stakeholders in the Issues Paper about whether the performance standards in the Licence should be optimised. In their submissions, Hunter Water and Sydney Water did not support optimisation. They consider that minimum standards are adequate.^{xiv} Hunter Water is concerned that if optimisation modelling were imposed, assumptions may not accurately reflect real-world conditions outside of Hunter Water's control and yet could expose Hunter Water to potentially severe enforcement actions. The 2 water utilities consider that other service levels and customer outcomes are best addressed through pricing mechanisms.

While DPE and PIAC agree that the Licence should include minimum levels of service, they have stated that the Licence should also allow Hunter Water flexibility to improve its performance in line with customer views and their willingness to pay. The submissions suggest that DPE and PIAC support optimisation. However, we consider that the current operating licence already allows Hunter Water the flexibility they seek, and optimisation of the system performance standards in the Licence is not necessary to achieve performance improvement. Minimum standards do not prevent Hunter Water from improving its performance above the specified standard. Indeed, Hunter Water already performs above the service standards set in the current operating licence. Based on its customer engagement work, Hunter Water's performance has been in line with customer preferences and willingness to pay.

As part of the IPART Water Regulatory Review, we have been investigating driving performance through pricing mechanisms instead of the Licence. Price determinations are more flexible than the Licence and would allow Hunter Water to trade-off higher levels of performance with community needs and willingness to pay, as DPE and PIAC have suggested. The next Hunter Water price determination will apply from 1 July 2025.

2.2.5 Reporting requirements for system performance standards

Draft recommendations for your comment:



12. *[Reporting Manual]* Do not include current annual compliance and performance reporting requirements for system performance standards and replace with exception reporting only.

The current Reporting Manual requires Hunter Water to prepare an annual compliance and performance report on Hunter Water's management of the performance standards to IPART for each financial year (section 3.1.5). Specifically, Hunter Water must report on how it has complied, or not complied, with the 3 system performance standards for service interruptions. Hunter Water must include in the report the major factors that have influenced Hunter Water's performance and any reasons for variation between Hunter Water's performance in the financial year compared to previous years. This report is provided to IPART only.

We recommend amending these reporting requirements so that Hunter Water need only provide this information if it has been non-compliant with the system performance standards in the reporting year. We consider that this exception-based reporting is appropriate as that is the most critical information for us to know and to inform the operational audits. We can review Hunter Water's compliance with the system performance standards generally when we undertake the operational audits.

We have provided further context and explanation for making this change in section 6.3.2. Hunter Water's reporting requirements can be viewed in full in the draft Reporting Manual.

Chapter 3 »

Water conservation and efficiency, and long-term planning

Water conservation and efficiency, and long-term planning
ensure the sustainable supply of water

03

Water conservation and planning are not specific requirements in the Act, but they are integral to efficient investment in the long-term interest of customers. The challenges that face all water utilities in addressing climate change and catering for a hotter, dryer climate mean that thoughtful, effective and efficient investment in water conservation and planning is critical.

Significant reforms to water management across NSW have been proposed by DPE on behalf of the NSW Government, and some of these reforms impact on our recommended changes to Hunter Water's Licence.



NSW Water Strategy (2021)

High level 20-year state-wide strategy and implementation plan to improve security of water resources developed by DPE for the NSW Government.



Water Efficiency Framework and programs for NSW (under development)

The NSW Water Strategy identifies the need for improved water efficiency and conservation. Currently being developed by DPE for the NSW Government.



Lower Hunter Water Plan (2014) /Lower Hunter Water Security Plan (draft)

The key planning tool to deliver water security for Hunter Water. The Plans identify a mix of actions, including increased investment in water conservation, continued focus on leakage management and other non-rainfall dependent drought response options. The current Lower Hunter Water Plan and draft Lower Hunter Water Security Plan are developed by Hunter Water and DPE. The draft Lower Hunter Water Security Plan will be considered by cabinet in March 2022.



Hunter Water Operating Licence 2022-2027

Proposed Licence conditions support the whole of whole of government approach to water conservation, efficiency, and planning. The MoU between DPE and Hunter Water clarifies the roles and responsibilities of each party in the implementation and review of plans. IPART recommends a Licence to the responsible portfolio Minister following a review. The Governor of NSW may grant a licence for a term of up to 5-years.



IPART Pricing Review and Determination

Independent price regulator assesses efficiency of Hunter Water's investments. Through the pricing determination process, IPART will test activities to be undertaken through the implementation of the Lower Hunter Water Security Plan and conservation programs to ensure efficient delivery of customer outcomes.

3.1 Water conservation and efficiency

3.1.1 System Yield

Draft recommendations for stakeholder comment:



13. Retain requirements in the Licence to calculate system yield in a manner agreed with DPE.



14. Retain requirements in the Licence to maintain and implement a water conservation work program in relation to Water Storage and Transmission. This water conservation work program must be in accordance with Hunter Water's Water Conservation Strategy.



15. Include transition arrangements in the Licence so that the water conservation work program in relation to Water Storage and Transmission will be superseded by requirements to develop a 5-year Water Efficiency Plan. The Water Efficiency Plan will consider the total water cycle from catchment to tap.

We propose to maintain a condition for Hunter Water to calculate system yield in a manner agreed with DPE. The calculation of system yield is a critical input into the long-term management of water supply as detailed in the Lower Hunter Water Plan and the draft Lower Hunter Water Security Plan.

Hunter Water is a vertically integrated utility responsible for bulk supply to itself, with ultimate responsibility for management of regional supply shared with DPE.

Stakeholders did not raise concerns with reporting on the maximum reliable quantity of water that Hunter Water can derive from one year to the next from its existing water storages.

DPE is the appropriate agency to interpret and use this information, with the MoU with DPE (see section 5.2.2) as the appropriate mechanism for detailing roles and responsibilities for calculation methodology and reporting.

We seek your feedback on the proposed draft Licence conditions in relation to system yield shown in Box 9 below.

Box 9 Proposed Licence requirements in relation to system yield

12 Catchment to water treatment plants

- (1) Hunter Water must calculate the System Yield either:
 - (a) in accordance with the memorandum of understanding with DPE referred to in clause 34; or
 - (b) if no such memorandum of understanding is in effect, in accordance with a reasonable methodology that Hunter Water considers suitable.
- (2) Subject to clauses 12(3) and 14(4), Hunter Water must maintain and implement a water conservation work program in relation to Water Storage and Transmission in accordance with the Water Conservation Strategy.
- (3) Clause 12(2) applies until a 5-year Water Efficiency Plan is developed and submitted to DPE and IPART under clause 14(4).

[Note: Hunter Water's water conservation work program in relation to Water Storage and Transmission will be replaced by a new 5-year Water Efficiency Plan once the NSW Government Water Efficiency Framework is introduced (see clause 14).]

3.1.2 Water conservation and efficiency

Draft recommendations for stakeholder comment:

- 16. Retain requirements in the Licence for Hunter Water to use an economic approach to water conservation (for water supplied from treatment plants to consumers).
- 17. Allow flexibility in the Licence for Hunter Water to use any economic approach once it has been approved by the Minister, and not be limited to the Economic Level of Water Conservation methodology only.
- 18. Include transition arrangements in the Licence so that the water conservation work program based on the economic approach (for water supplied from treatment plants to consumers) will be superseded by requirements to develop a 5-year Water Efficiency Plan. The Water Efficiency Plan will consider the total water cycle from catchment to tap.

We reiterate what we stated in our Issues Paper, that It is our preference that investment in programs such as water conservation should be economic. That is, the benefit derived through the investment should outweigh the cost of the investment.

The [NSW Water Strategy](#) and the [draft Lower Hunter Water Security Plan](#) identify water efficiency and water conservation as NSW Government priorities. DPE is currently reviewing the current economic methodology as part of the efforts to drive greater water efficiency and water conservation in NSW. A new NSW Government Water Efficiency Framework (Framework) will replace the current methodology and will set out a new economic water efficiency assessment approach.

The new Framework will recommend that utilities incorporate analysis of qualitative considerations including strategic objectives, key drivers and enablers. DPE has advised that this would inform and complement quantitative economic assessments undertaken.^{xv} It is intended to work as a best practice guide for planning and implementing an organisation's water efficiency program, providing guidance on areas that should be considered when developing a water efficiency program.

DPE has proposed including a new licence obligation that would require Hunter Water to undertake water conservation planning and implementation in alignment with the new Framework.

We recommend that while the NSW Government Water Efficiency Program is being developed, the Licence require Hunter Water to implement the water conservation programs it developed during the 2017-2022 licence period. In order to facilitate transition to the new Framework, the Licence should provide for Hunter Water to revise its water conservation program, through the development of a 5-year Water Efficiency Plan for submission to DPE and IPART, once the Framework has been finalised.

Box 10 Economic assessment applied to water conservation

Hunter Water's 2017-2022 operating licence replaced prescriptive water conservation targets with an obligation to develop economic assessment methodology. Hunter Water developed the economic assessment methodology and determined an 'Economic Level of Water Conservation Methodology' or the optimal level of water conservation for elements such as water leakage and water efficiency.

The methodology considers the costs and benefits of candidate water conservation projects, applied consistently to ensure objective assessment.

A methodological approach ensures water conservation projects are subjected to robust scrutiny based on sound economic principles. The economic assessment considers costs and benefits from utility and societal (including environmental) perspectives. It provides flexibility to adapt to changes in circumstances, such as increasing water conservation programs during water scarcity.

Under the current operating licence, Hunter Water is not required to apply the economic assessment methodology for its catchments (and transmission to water treatment plants), only for transmission from water treatment plants to customers and consumers. The new Framework will focus on the total water cycle from catchment to tap.

Stakeholders support retaining requirements for water conservation. While a new Framework will replace the current methodology, we expect the new methodology will be consistent with stakeholders' expectations for ongoing economically efficient water conservation programs.

Hunter Water indicated in its submission that it supports a review of the economic assessment methodology to strengthen quantitative and qualitative features of the assessment method and associated reporting.

Through the pricing determination process, IPART will test activities to be undertaken through the implementation of conservation and efficiency plans and programs to ensure efficient delivery of customer outcomes.

We had further discussions with Hunter Water on the proposed obligations by DPE to prepare a 5-year water efficiency plan to replace the current Water Conservation Strategy and Economic Level of Water Conservation Methodology, where Hunter Water expressed concerns around having a static 5-year plan or work program. The current Water Conservation Strategy offers the flexibility of an annual work program under a long-term strategy.

We consider the intent of DPE's request was to maintain this flexibility and our proposed condition refers to a 5-year Water Efficiency Plan that is reviewed annually. The review would allow for updated economic assessments to be applied to ensure the programs and projects are efficient and economic.

We seek your feedback on the proposed draft Licence conditions in relation to water conservation and efficiency shown in Box 11 below.

Box 11 Proposed Licence requirements in relation to water conservation and efficiency

13 Water treatment plants to tap

(1) This clause 13 applies until a 5-year Water Efficiency Plan is developed and submitted to DPE and IPART under clause 14(1).

(2) Hunter Water must:

- (a) maintain a water conservation work program for Water Treatment and Transmission consistent with the Current Economic Method; and
- (b) implement water conservation measures that have been assessed as economic as determined by the Current Economic Method.

[Note: Hunter Water's water conservation work program for Water Treatment and Transmission and water conservation measures will be replaced by a new 5-year Water Efficiency Plan once the NSW Government Water Efficiency Framework is introduced (see clause 14(4)).]

(3) Hunter Water must make:

- (a) a copy of the Current Economic Method; and
- (b) a plain English summary of the Current Economic Method,

available free of charge:

- (c) to any person upon request made through the General Enquiry Process; and
- (d) on Hunter Water's website.

(4) Hunter Water must update the economic level of water conservation using the Current Economic Method for the purposes of clause 13(2) annually by 30 September of each year.

(5) Hunter Water may, with the Minister's written approval, update the Current Economic Method from time to time.

(6) The Minister may, at any time during the term of this Licence and in writing, direct Hunter Water to revise the Current Economic Method in any way the Minister requires.

[Note: The Minister may request IPART to undertake a review of the Current Economic Method during the term of this Licence. Such review may precede a direction given under clause 13(6)]

(7) Hunter Water must submit to the Minister the Current Economic Method revised in accordance with the written direction within:

- (a) the timeframe specified in the direction or, if no timeframe is specified, 30 days of receipt of that direction; or
- (b) any other timeframe agreed by the Minister.

(8) If the Minister approves the revised Current Economic Method, he or she will give written notice of the approval to Hunter Water.

(9) Hunter Water must update the information referred to in clause 13(3) to reflect any variations made to the Current Economic Method or to the plain English Summary within 60 days of the variations taking effect.

14 Water Efficiency Plan

(1) Within 12 months of publication of the NSW Government Water Efficiency Framework (or such later date approved by IPART in writing), Hunter Water must develop, and submit to DPE and IPART, a water efficiency plan for the following five years (**5-year Water Efficiency Plan**).

(2) The 5-year Water Efficiency Plan must:

- (a) be consistent with the Water Efficiency Framework;
- (b) consider the strategic context provided by the Lower Hunter Water Security Plan;
- (c) include details of proposed programs and projects over the life of the plan; and
- (d) address any written guidance that the Minister provides to Hunter Water.

(3) The 5-year Water Efficiency Plan is to be reviewed and updated annually by the anniversary of the date referred to in clause 14(1). Hunter Water must submit each subsequent updated 5-year Water Efficiency Plan to DPE and IPART.

(4) The 5-year Water Efficiency Plan replaces the water conservation work programs for Water Storage and Transmission and for Water Treatment and Transmission referred to in clauses 12(2) and 13(2) respectively.

3.2 Long-term planning

Draft recommendations for stakeholder comment:



19. Include a new requirement in the Licence to prepare a drought response plan.

In our Issues Paper, we considered water planning in the context of Hunter Water's existing obligations. The current operating licence includes an obligation for Hunter Water to use its best endeavours to maintain a memorandum of understanding (MoU) with DPE. It details the roles and responsibilities for DPE and Hunter Water in respect of the review and implementation of the Lower Hunter Water Plan.

Both Hunter Water and DPE support retaining the requirement as it is a flexible way to promote collaboration. DPE proposes to expand the requirements for the MoU between Hunter Water and DPE to include long term integrated water cycle management planning as well as including a new requirement for Hunter Water to prepare an emergency drought response plan¹¹. Other stakeholders generally support Hunter Water participating in long-term water planning.

DPE has also requested that additional obligations to complete plans and implement activities for which Hunter Water is responsible in the Lower Hunter Water Security Plan be included in the Licence. These obligations are consistent with those that have been included in the Sydney Water operating licence. We note that this change may have long term implications for costs and prices to customers. In pricing reviews, IPART tests the implementation of the Lower Hunter Water Security Plan and conservation program to ensure efficient delivery of customer outcomes.

We could make a recommendation to the Minister to make a mid-term amendment to the Licence to incorporate changes once the draft plan is finalised. The draft Lower Hunter Water Security Plan was on public exhibition for six weeks between August and September 2021 and is estimated for release in the first quarter of 2022 after NSW Government endorsement.^{xvi} We had informal discussion with DPE and Hunter Water and they do not support delaying aligning the Licence requirements.

We consider that where possible, an approach that seeks to achieve efficient outcomes but aligns with the NSW Government's publicly stated approach to water security is the better option. After considering stakeholder comments, we have reconsidered this obligation in the broader context of Hunter Water's role in water supply and demand planning. An efficient and orderly transition is in the best interest of Hunter Water and its customers.

¹¹ We had further discussion with DPE in December 2021 where the request was made to include a requirement for preparation of an emergency drought response plan, consistent with the requirements in Sydney Water's operating licence.

We propose conditions that are consistent with those that apply to Sydney Water to cover the roles and responsibilities between DPE and Hunter Water and reflect the transition from the Lower Hunter Water Plan to the Lower Hunter Water Security Plan. This is discussed in section 5.2.2.

The 2019 Sydney Water operating licence includes requirements for Sydney Water to submit emergency drought response plans to the portfolio Minister. We have proposed similar requirements for Hunter Water. The plan would reflect NSW Government policy and making the plan available to Government would be useful to inform DPE's water planning for NSW. It would not be burdensome as the plan would use related information to prepare other operational and investment plans, as well as water demand forecasts for pricing purposes.

We seek your feedback on the proposed draft Licence conditions in relation to undertaking long term planning consistent with the MoU and emergency drought planning shown in Box 12 below. (We separately discuss the MoU with DPE in in section 5.2.2.)

Box 12 Proposed Licence requirements in relation to emergency drought planning

15 Water Planning

- (1) Hunter Water must undertake long term water planning consistent with its memorandum of understanding with DPE-Water referred to in clause 34.
- (2) By 1 December 2023 (or another date approved by the Minister in writing) Hunter Water must develop, and submit to the Minister, an emergency drought response plan.
- (3) The emergency drought response plan referred to in clause 15(2) must address any written guidance that the Minister provides to Hunter Water and consider the strategic context provided by the Lower Hunter Water Security Plan.
- (4) Hunter Water must deliver its actions as specified in the emergency drought response plan referred to in clause 15(2).

3.3 Reporting requirements

Draft recommendations for stakeholder comment:



20. *[Reporting Manual]* Retain reporting requirements to support the proposed water conservation and water planning Licence conditions.

We propose to update the reporting requirements so that Hunter Water's annual report outlines how Hunter Water's water conservation activities relate to the Lower Hunter Water Plan or Lower Hunter Water Security Plan, whichever is in force for the reporting period.

The reporting requirements we have proposed in the draft Reporting Manual are intended to support DPE and IPART in monitoring Hunter Water's compliance with its Licence requirements for water conservation and planning. Once the Water Efficiency Framework is approved by Cabinet and published, we will review the water conservation reporting requirements set out in the Reporting Manual to make sure that they are efficient, effective and fit-for-purpose. The review of the Reporting Manual can be undertaken separately and could happen within the Licence period (i.e. it does not need to wait until the next end-of-term review of the Licence.)

3.4 Integrated water cycle management

DPE seeks to introduce an integrated water planning clause into Hunter Water's Licence to outline the need for long-term, whole-of-water-cycle planning to occur for a plan to be periodically provided to Government, reviewed and adapted. If we were to recommend this in the Licence, it would replace the current requirements under Licence clause 5.10.1(a).

DPE states in the submission that as a principle across all water utilities, the NSW Government expects long-term strategic planning to be undertaken on a whole-of-water-cycle basis.

Hunter Water can apply integrated water cycle management (IWCM) but is not required to do so. We do not consider it appropriate to require Hunter Water to apply IWCM in the Licence. IWCM refers to the joint management of water resources in the urban environment and spans the provision of water, wastewater and stormwater services.^{xvii} The Water Efficiency Framework and Program being developed by DPE considers the total water cycle.

As we noted in our submission to the Productivity Commission's Issues Paper on National Water Reform, in our view, IWCM is not a benefit or 'end'. Rather, it can be means of achieving a range of objectives, which are largely related to environmental protection and enhanced liveability.^{xviii}

Our preferred approach to licensing is to specify the outcomes or performance standards that the licensee must achieve, and only specify the means of achieving them where necessary. The Licence does not, and is not intended to, prescribe how Hunter Water provides its services.

The MoU between Hunter Water and DPE, addressed in section 5.2.2, is the appropriate mechanism for detailing roles and responsibilities for applying integrated water cycle management.

Chapter 4 »

Hunter Water's obligations to its customers

Protection for customers' rights and requirements for consultation with customers



4.1 Protecting customers' rights

Hunter Water is a monopoly supplier and provides services to almost 600,000 customers.^{xix} Having adequate measures to protect customers' rights is important to prevent suppliers from potentially abusing their monopoly power and adversely affecting the quality and delivery of essential water and sewerage services.

The current operating licence includes terms and conditions that aim to ensure that a minimum level of customer service is provided to Hunter Water's customers and consumers (where relevant) and that they experience minimal financial loss. The current operating licence includes a Customer Contract (in Schedule B of the current operating licence) as well as the following requirements for protecting customers' rights:

- make services available to properties in its area of operations (clause 1.5.1)
- have policies in place for payment difficulties, including payment assistance and non-payment options (clause 5.3)
- have internal complaints handling procedures (clause 5.5)
- facilitate external dispute resolution (clause 5.6)
- provide information to customers and the general public (clause 5.7).

In this section, we discuss the relative costs and benefits of the customer protections of the current operating licence. We seek your feedback on our recommendations for updating the Customer Contract and other terms and conditions for protecting customers' rights in the new Licence.

Our recommendations seek to ensure that Hunter Water's customers continue to be provided a minimum level of customer service and protections. Further, they seek to minimise the risk that Hunter Water may avoid offering consumer protections where it is not in its commercial interest to do so.

4.1.1 Customer Contract

The Customer Contract is the contract between Hunter Water and its customers that are connected to, and use, Hunter Water's services. Section 35(1) of the Act requires the terms and conditions of the customer contract to be set out in the Licence. We consider that it is important for the Licence to include such terms and conditions, not only because it is required by the Act, but because the Customer Contract protects customers' rights and aims to ensure that customer service is provided at a quality that meets customers' expectations.

It does this by setting out the terms under which Hunter Water provides, where available, water supply, wastewater and stormwater drainage services to customers. It also sets out the rights and obligations of both Hunter Water and the customer, including what customers pay, billing arrangements, complaints handling and the customer's rights in any dispute with Hunter Water.

Hunter Water's customers are owners of land that is connected to a water main or sewer main that Hunter Water owns. This does not include those the current operating licence defines as 'consumers'. Consumers include 'any person who consumes or uses the services and includes, but is not limited to, a tenant or an occupier'.

Licence requirements for the Customer Contract

Draft recommendations for your comment:



21. Retain requirements for publishing the Customer Contract, making timely variations and communicating those variations.

We propose to retain the requirements of the current operating licence for maintaining an up-to-date Customer Contract and making it easily accessible to customers and the general public. Our CBA concludes that there is a net benefit to society from including the proposed Licence requirement.

The current operating licence requires Hunter Water to publish a copy of the Customer Contract on its website for easy accessibility to any person, free of charge (clauses 5.7.2(a)) and provide an explanation to customers about their rights under the Customer Contract annually with their bills (clause 5.7.1(a)). The publishing and communication requirements are important, from a customer protection perspective, because they ensure that Hunter Water's customers are aware of their rights and protections under the Customer Contract and empowered to access Hunter Water's processes to address their needs.

Clause 5.7.3 requires Hunter Water to reflect any changes made to the Customer Contract within 60 days to ensure currency of the Customer Contract. Section 38(1) of the Act provides that the Customer Contract may be varied by Hunter Water publishing in the Gazette or NSW legislation website an order setting out or summarising the changes in the Customer Contract (subject to Governor approval). We consider that the current operating licence requirement to also update the copy of the Customer Contract on its website to reflect these changes is an important aspect of communication to customers as it will aid understanding and help avoid confusion. In this way, it supports the requirements of section 38 of the Act and does not duplicate them.

We have therefore proposed to retain similar requirements in the draft Licence that require Hunter Water to make a copy of the varied Customer Contract available to any person, free of charge. However, we have proposed to require Hunter Water to make the varied Customer Contract available from the date that the variation takes effect, and not continue the 60-day allowance in the current operating licence. Under section 38(1A) of the Act, Hunter Water must publish the order setting out or summarising the changes to the Customer Contract at least 6 months before the variation comes into effect. We consider that it is reasonable to expect Hunter Water to update the Customer Contract within this notification period.

We seek your feedback on the proposed draft Licence conditions in relation to the Customer Contract, shown in Box 13 below.

Box 13 Proposed Licence requirements in relation to the Customer Contract

25 Customer Contract

(1) The Customer Contract sets out the rights and obligations of Customers and Hunter Water in relation to the Services provided in accordance with this Licence, except to the extent that the terms and conditions of a contract for the provision of water supply or sewerage services, or either of them, have been specifically agreed to by Hunter Water and a Customer. The Customer Contract is set out in Schedule C of this Licence.

(2) Hunter Water must make a copy of the Customer Contract available to any person, free of charge:

(a) on its website; and



(b) upon request made through the General Enquiry Process.

(3) If the Customer Contract is varied, Hunter Water must make a copy of the varied Customer Contract available in accordance with clause 25(2) from the date the variation takes effect.

[Note: Section 38 of the Act makes provision for the amendment of the Customer Contract and the manner in which Hunter Water must notify members of the public of variations to the Customer Contract.]

Proposed changes to the Customer Contract

Draft recommendations for your comment:

- 
 22. Support Hunter Water's proposed changes to the Customer Contract, except in some cases as explained in the Summary of changes to the Customer Contract published in Information Paper 3 on our [website](#).
- 
 23. Make explicit in the Customer Contract which clauses apply to those customers that have a non-standard connection to Hunter Water's services and are not party to a separate agreement (i.e. are deemed to be included in the Customer Contract).

In November 2021, Hunter Water provided its proposed changes to the Customer Contract for stakeholder consideration. EWON expressed its support for Hunter Water's proposed changes. We have summarised these changes, including Hunter Water's proposed changes to rebates to customers, and provided our responses, in Information Paper 3 on our [website](#).

We have also separately provided the draft Customer Contract for your comment.

We have proposed changes to acknowledge those customers with non-standard connections that do not have separate agreements with Hunter Water. These customers are deemed to be included in the Customer Contract.

For example, Hunter Water has separate agreements with some customers for the supply of water from the Chichester Trunk Gravity Main, but not all. Those customers who are not party to a separate customer agreement are deemed to be included in the Customer Contract. However, these customers are not effectively covered by the current Customer Contract as they receive unfiltered water and the current Customer Contract does not cover the provision of unfiltered water.

Our proposed changes, as shown in Box 14, seek to address this gap and articulate the provisions of the Customer Contract that are relevant for customers with non-standard connections that do not have a separate agreement with Hunter Water.

Box 14 Proposed new clauses in the Customer Contract to address customers with non-standard connections that are not subject to a separate agreement

2.2 Who is covered by this contract?

(2) If we approve a **non-standard connection** that is not subject to a **separate agreement** the following clauses of this **Customer Contract** will apply to you: 2.5, 6, 7, 8.7, 9, 10, 11.1, 11.2, 12 (other than clause 12.2), 13 and 15). References to **services** in those clauses include the supply of **unfiltered water** for these **customers**.

8.7 Non-standard connections

(1) A standard connection is one that gives you the level of service outlined in this **Customer Contract**. If a standard connection is not available, then you may request a **non-standard connection**. If we approve a **non-standard connection**, this will give you access to our **services**, but these **services** will be provided at a different level to those outlined in this **Customer Contract**. In most cases, we will enter a **separate agreement** with you for the **non-standard connection**. The level of service we give you, and your responsibilities to maintain any equipment, will be listed in that **separate agreement**. **Approval** of a **non-standard connection** will be at Hunter Water's discretion.

Please refer to the draft Customer Contract for the remainder of our recommended changes.

Communicating customers' rights under the Customer Contract

Draft recommendations for your comment:

- 24. Include requirements in the Licence to communicate information to customers and the general public about customers' rights under the Customer Contract, available account relief and rebate claims available.
- 25. Include requirements in the Licence to update communications following any changes to the information in the Customer Contract, available account relief and rebate claims available.
- 26. Allow flexibility in the Licence for Hunter Water to use any method of communication with its customers and remove the current restriction of communicating through 'pamphlets'.

We propose to require Hunter Water to make information on the following matters available to customers and the general public:

- the Customer Contract and its provisions (including an explanation and a brief summary of customers' rights and obligations)
- account relief availability for customers experiencing payment difficulties under the Customer Contract
- the rights of customers to claim a rebate and the conditions that apply to those rights available to customers.

This is generally consistent with the requirements of the current operating licence (clause 5.7). Hunter Water would need to update its communications following any changes to the Customer Contract or other information specified in this licence condition. The proposed communication requirements aim to ensure that customers are aware when the Customer Contract is varied and understand what these variations entail. Stakeholders support including requirements to make these communications to customers and the general public, as demonstrated in their responses to the Issues Paper.¹²

¹² We also recommend that the Licence should retain requirements for communicating Hunter Water's assistance options for payment difficulties and actions for non-payment, internal complaints handling process and the external dispute resolution service. We have discussed this in sections 4.2.1, 4.2.3 and 4.2.4 where we discuss other Licence requirements for those matters.

Section 38(2) of the Act requires Hunter Water to publish an order setting out or summarising changes it has made to the Customer Contract and then provide a copy of this order to customers with their next bill. While we acknowledge that the proposed Licence conditions for communicating changes about the Customer Contract may seem duplicative of the Act's requirements, we consider that they will help support enforcement as the Licence is auditable. The Act allows for this as section 38(5) states that copies of the varied Customer Contract and explanatory material are to be made available in the manner provided for in the Licence.

Our CBA concludes that the costs related to retaining these requirements is low, and there is a net benefit in making information on customers' rights available. Customers will be better able to raise any issues about the quality of the service they receive either with Hunter Water, an ombudsman, or other regulatory authorities.

We seek your feedback on the proposed draft Licence conditions for communicating to Hunter Water's customers and the general public about its customer protections, in Box 15 below.

Box 15 Proposed Licence requirements providing information to customers and the general public

26 Provision of information to Customers and the general public

- (1) Hunter Water must prepare one or more communications that:
 - (a) provide a brief explanation of the Customer Contract;
 - (b) summarise the key rights and obligations of Customers under the Customer Contract;
 - (c) refer to the types of account relief availability for Customers experiencing payment difficulties;
 - (d) outline the rights of Customers to claim a rebate and the conditions that apply to those rights;
 - (e) contain information about how to contact Hunter Water by telephone, email or post, including the General Enquiry Process (or any replacement of it); and
 - (f) contain information regarding the ability of a Customer to enter into agreements with Hunter Water separate to the Customer Contract for the provision of Services by Hunter Water to the Customer.
- (2) Hunter Water must update the communication or communications to reflect any variations made to the Customer Contract or the information within 60 days of the variations taking effect.
- (3) Hunter Water must provide the communication or communications and any updates, free of charge:

(a) on its website;

(b) to all residential Customers, at least annually with their Bills; and

(c) to any person upon request made through the General Enquiry Process.

(4) Hunter Water must publish on its website and advertise at least annually in a manner that Hunter Water is satisfied is likely to come to the attention of members of the public, information as to:

(a) the types of account relief available for Customers experiencing payment difficulty; and

(b) rights of Customers to claim rebates and the conditions that apply to those rights.

Providing IPART with prior notice of changes to Customer Contract

Draft recommendations for your comment:



27. Do not include the current requirement to provide IPART with a copy of any notice of changes to the Customer Contract, before publishing that notice (current operating licence clause 5.1.2).

The current operating licence requires Hunter water to provide IPART with a copy of any notice of changes to the Customer Contract, before publishing (clause 5.1.2). In the Issues Paper, we proposed to remove this requirement, as we do not require advance notice. It imposes unnecessary administrative burden without adequate benefit. Hunter Water supports this change, but one individual submission raised concern that removing this licence condition could lead to unchecked changes to the Customer Contract leaving customers at a disadvantage.

Removing the current operating licence condition will not remove the requirement for Hunter Water to publish a notice about proposed changes to the Customer Contract in accordance with section 38 of the Act. Under the current operating licence, Hunter Water must provide us with a copy of the notice under section 38 of the Act before publishing it, but does not require our approval of these changes. The decision to approve varying the Customer Contract sits with the Governor.

Therefore, there is minimal difference in whether we (IPART) become aware of the proposed changes at the time of publication or prior to that. We consider that customers are adequately protected by the Act's requirements and removing the current operating licence condition to notify us before publishing notice of variations to the Customer Contract will not negatively impact customers. The benefit is that it will reduce administrative burden on both Hunter Water and us by simplifying the notificatoin process.

Consumers

Draft recommendations for your comment:



28. Retain Licence conditions extending customer protections under the Customer Contract to 'consumers' that are not usually party to the Customer Contract.

Hunter Water's Customer Contract is with its customers and not with 'consumers'. This means that Hunter Water would be in a contract with the landholder but any tenants occupying a property would not be party to, and protected by, the Customer Contract. The current operating licence recognises that this is a gap and consumers should be protected when using Hunter Water's services. It therefore extends some of the provisions under the Customer Contract to also apply to consumers who are connected to, and using, Hunter Water's services (under clause 5.2.1).

The extended provisions of the Customer Contract include:

- Complaint handling and complaint resolution procedures (clause 17 of the current Customer Contract)
- Redress (clause 16 of the current Customer Contract)

We propose to retain extending such provisions to protect consumers. While the Australian Consumer Law provides some protections for consumers,^{xx} seeking redress under clause 12 of the Customer Contract is simpler and cheaper than seeking redress under the consumer law.

We also propose to extend more of the provisions of the Customer Contract to apply to consumers, as follows:

- About the Customer Contract (clause 2).
- What Customers pay (clause 9)
- Payment difficulties and assistance options (clause 10)
- Restriction or disconnection of services (to the extent that this applies to consumers, clause 11)
- Customer consultation and privacy (clause 19).

Hunter Water stated in its response to the Issues Paper that it considers that consumers are already adequately covered by the provisions of the Customer Contract that are of most direct impact to them including rebates, redress, damage and complaint handling. Therefore, further extensions are not necessary. PIAC on the other hand did support further extensions to protect tenants and occupants that are not property owners. EWON supported retaining the current operating licence condition but did not comment on allowing for additional extensions.

Our proposal to extend more provisions of the Customer Contract to consumers is not intended to create additional burden. The proposed Licence condition seeks to clarify all the clauses of the Customer Contract that include provisions for consumers.

Our CBA concludes that there is a net benefit with the proposed change as the costs are expected to be low and the benefits are potentially significant.

We seek your feedback on the proposed draft Licence conditions, shown in Box 16 below. (The referenced clause numbers of the Customer Contract differ slightly to those listed above because those in the draft Licence reference those in the amended draft Customer Contract.)

Box 16 Proposed Licence requirements extending Customer Contract provisions to consumers

27 Consumers

(1) Hunter Water's obligations under the following clauses of the Customer Contract are extended to Consumers as though the Consumers were parties to the Customer Contract:

- (a) Clause 2 – what is a customer contract?
- (b) Clause 5 – what you pay
- (c) Clause 6 – what can I do if I am unable to pay my bill?
- (d) Clause 7 – restriction or disconnection of services
- (e) Clause 12 – redress
- (f) Clause 13 – what can I do if I'm unhappy with the service provided by Hunter Water?
- (g) Clause 15 – Consultation, Information and Privacy.

[The clause numbers differ from those listed in the discussion above because these reference clauses of the draft 2022-2027 Customer Contract, and not the current 2017-2022 contract.]

4.2 Obligation to make services available to properties

Draft recommendations for your comment:



- 29. Retain requirements to make services available to properties in its area of operations, on request

The current operating licence requires Hunter Water to make services available to properties in its area of operations, on request (clause 1.5.1). We consider that retaining this clause is a necessary customer protection measure as without the clause, there is a risk that Hunter Water may refuse to connect to properties even where there is a connection available. Our CBA confirms that removing the current operating licence requirement would not be beneficial as it would strengthen Hunter Water's already substantial market power in a manner that would not be in the public interest (by allowing it to refuse connections).

We acknowledge that there are currently no major issues with how Hunter Water makes its services available and we have not observed issues with Hunter Water's compliance with this current operating licence requirement to date. However, this does not justify removing the licence clause as that could leave customers vulnerable. Customers, or potential customers, should be protected from Hunter Water refusing their requested connection. Particularly given that Hunter Water is a monopoly supplier and property owners in Hunter Water's area of operations generally do not have options for alternative suppliers. We have proposed to retain the allowance in the current operating licence for Hunter Water to impose any reasonable conditions for the safe, reliable and financially viable supply of its services. Hunter Water, PIAC and DPE support this proposal.

In the Issues Paper, we sought to understand if stakeholders agreed with our preliminary position to retain this clause. Hunter Water and PIAC both expressed their support. PIAC also expressed its support for retaining the requirement for these services to be made available *on request* from the property owner.

We seek your feedback on the proposed draft Licence condition to make services available to properties shown in Box 17 below.

Box 17 Proposed Licence requirement to make services available to properties

11 Obligation to make Services available

(1) Hunter Water must ensure that Services (other than drainage Services) are available on request for connection to any Property situated in the Area of Operations for which a connection to the Water Supply System or Sewerage System is available.

(2) *[Discussed under section 5.3.1 of this report]*

(3) Connection to Hunter Water's systems (other than Drainage Services) is subject to any lawful and reasonable conditions that Hunter Water may determine to ensure the safe, reliable and financially viable supply of Drinking Water to, and disposal of Wastewater from, Properties.

4.2.1 Payment assistance options

Draft recommendations for your comment:



30. Retain requirements to maintain, implement and communicate to customers and the general public about assistance options and actions for non-payment and any variations to this information.

Our preliminary position in the Issues Paper was to retain the requirements of the current operating licence (under clauses 5.3 and 5.7) to:

- Maintain a procedure for payment difficulties and actions for non-payment.
- Implement the procedure for payment difficulties and actions for non-payment.
- Make information about the procedure for payment difficulties and actions for non-payment available to its customers with their bills (at least annually).
- Publish the procedure on Hunter Water's website for downloading or upon request through Hunter Water's General Enquiry Process free of charge.

We consider that the payment difficulties and actions for non-payment procedure is necessary to protect vulnerable customers and consumers facing payment difficulties. The procedure helps customers and consumers facing difficulties to pay their bills and retain their water service. Without this condition, there is currently no other requirement on Hunter Water to maintain a policy for payment difficulties or implement procedures. Customers or consumers could be at risk of having minimal or no water service availability for basic hygiene and drinking water. Retaining this clause provides protection to all of Hunter Water's customers and consumers, regardless of their circumstances.

Hunter Water, PIAC and an anonymous submission support retaining these requirements. PIAC has suggested including further guidance about the principles that should shape these policies and procedures. However, we consider that this is not necessary at this stage. Hunter Water noted that it would continue to provide this service in the absence of a mandate. We acknowledge Hunter Water's efforts in this area and have not found issues with Hunter Water's compliance with this requirement to date. Retaining the current high-level requirement would support Hunter Water to continue its focus on assisting its vulnerable customers even if there is a change in organisational management and culture.

Our CBA concludes that there is a net benefit in retaining this Licence condition as an effective complaint-handling process as the firm is prevented from earning monopoly rents by providing a lower quality of service. Complaint-handling systems help to ensure that quality standards are enforced.

We have also proposed retaining requirements to make information about the payment assistance options and actions for non-payment available to customers and the general public. Stakeholders support this proposal to ensure that customers are aware of these provisions.

We seek your feedback on the proposed draft Licence conditions for payment assistance shown in Box 18 below.

Box 18 Proposed Licence requirements for payment assistance

28 Assistance Options for Payment Difficulties and Actions for Non-Payment

- (1) Hunter Water must maintain and fully implement:
- (a) a payment difficulty policy that assists residential Customers experiencing payment difficulty to better manage their current and future Bills;
 - (b) procedures relating to a payment plan for residential Customers who are responsible for paying their Bills and who are, in Hunter Water's reasonable opinion, experiencing payment difficulty;
 - (c) procedures for identifying the circumstances under which Hunter Water may disconnect or restrict a supply of water to a Customer's Property; and
 - (d) provisions for self-identification, identification by community welfare organisations and identification by Hunter Water of residential Customers experiencing payment difficulty,

(the Assistance Options for Payment Difficulties and Actions for Non-Payment).

- (2) Hunter Water must provide information about the Assistance Options for Payment Difficulties and Actions for Non-Payment free of charge:
- (a) on its website;
 - (b) to all residential Customers, at least annually with their Bills; and
 - (c) to any other person upon request made through the General Enquiry Process.
- (3) Hunter Water must update the information referred to in clause 28(2) to reflect any variations made to the Assistance Options for Payment Difficulties and Actions for Non-Payment or the information within 60 days of the variations taking effect.

The proposed requirement to update the information that Hunter Water provides about its assistance options for payment difficulties and actions for non-payment under draft clause 28(3) is not a new requirement. The current operating licence imposes the same requirement (clause 5.7.3). We propose to retain this requirement to support Hunter Water's requirement to maintain the assistance options by keeping its information current and ensuring that customers are aware of the assistance options and how to use them.

4.2.2 Family violence policy

Draft recommendations for your comment:



31. Include a new Licence requirement to develop, implement and communicate to customers and the general public about a family violence policy and any variations to this policy.

In the Issues Paper, we sought feedback from stakeholders on including a new condition in the Licence, requiring Hunter Water to develop and implement a family violence policy. We consider that having a family violence policy is best practice in customer protection as it helps provide security and privacy for vulnerable customers and consumers. It would help prevent deliberate or inadvertent disclosure of personal information to anyone associated with the perpetrator of abuse. Our CBA agrees that this Licence condition is likely to provide net social benefits.

Hunter Water, EWON, PIAC and an individual anonymous submission support including a new Licence requirement for a family violence policy. PIAC advised that the Licence should also require Hunter Water to communicate to its customers about the family violence policy. We have proposed Licence conditions that support this as we agree that it is important that customers are aware of the policy, so that they are able to use it. We have also proposed requirements to communicate any updates to the policy, consistent with the other customer protection requirements (e.g. assistance options for payment difficulties).

PIAC also suggested that the Licence could require Hunter Water to consult with stakeholders and experts that provide support and services to people experiencing family violence to verify their policy and processes. At this stage, we consider that it would be more appropriate for us to specify in the Licence some minimum provisions that the family violence policy must include to protect customers and to ensure auditability. Hunter Water can undertake appropriate stakeholder consultation as it sees fit without a Licence direction. We can consider whether further prescription is necessary in the next end-of-term review of the Licence if we discover issues with Hunter Water's family violence policy during the 2022-27 Licence period.

We seek your feedback on the proposed draft Licence conditions for developing and implementing a family violence policy, shown in Box 19 below. Under the proposed clause 28(3), we have proposed some minimum requirements for the family violence policy. We seek your feedback on the appropriateness of these minimum requirements and whether any additional requirements are necessary.

Box 19 Proposed Licence requirement for a family violence policy

29 Family violence policy

- (1) Hunter Water must develop and implement a family violence policy by 1 July 2025 (or another date approved by IPART in writing).
- (2) The family violence policy must, at a minimum, provide for:
 - (a) the protection of private and confidential information;
 - (b) access to payment difficulty programs;
 - (c) processes that minimise the reliance on individuals to disclose their family violence; and
 - (d) processes for referrals to specialist services.
- (3) Hunter Water must provide information about the family violence policy free of charge:
 - (a) on its website;
 - (b) to all residential Customers, at least annually with their Bills; and
 - (c) to any other person upon request made through the General Enquiry Process.
- (4) Hunter Water must update the information referred to in clause 29(3) to reflect any variations made to the family violence policy or the information within 60 days of the variations taking effect.

4.2.3 Internal complaints handling

Draft recommendations for your comment:



32. Retain requirements to develop, implement and communicate to customers and the general public about Hunter Water's internal complaints handling procedure and any variations to this procedure.

Our preliminary position in the Issues Paper was to retain the requirements of the Licence (under clauses 5.5 and 5.7) to:

- Maintain an internal complaints handling procedure for receiving, responding to and resolving complaints consistent with *Australian Standard AS/NZS 10002:2014 – Guidelines for complaint management in organisations*.
- Implement the internal complaints handling procedure.
- Make information about how to make a complaint under the internal complaints handling procedure available to its customers with their bills (at least annually).
- Publish the internal complaints handling procedure on Hunter Water's website for downloading or upon request through Hunter Water's General Enquiry Process free of charge.

We consider that the requirement for an internal complaints handling procedure protects customers' and consumers' rights and helps to ensure that customer service is provided at a quality that meets customers' expectations. In the circumstance where customers do not have the choice of changing providers, we consider that requirements for effective complaints handling is the next best option.

PIAC and an anonymous individual submission responded to the Issues Paper expressing their support for retaining the requirements for internal complaints handling.

Hunter Water also agrees that these requirements are beneficial for the customer but has noted that it would continue to provide this service in the absence of a mandate. We acknowledge Hunter Water's efforts in this area and have not found issues with Hunter Water's compliance with these requirements to date. Retaining this requirement would ensure that Hunter Water continues its focus on complaint handling even if there is a change in organisational management and culture. Without this Licence clause, there is currently no other requirement on Hunter Water for internal complaints handling.

The stakeholders agreed that retaining requirements to publish information about Hunter Water's internal complaints handling procedure is valuable to ensure that customers are aware of these provisions.

Our CBA acknowledges that this requirement comes at a cost for Hunter Water, but it has found that they provide a net benefit for customers. The net benefit of an effective complaint-handling process is that Hunter Water is prevented from earning monopoly rents by providing a lower quality of service. Complaint-handling systems help to ensure that the existing quality standards are enforced.

We seek your feedback on the proposed draft Licence conditions for internal complaints handling shown in Box 20 below.

Box 20 Proposed Licence requirements for internal complaints handling

31 Internal Complaints Handling

(1) Hunter Water must maintain a procedure for receiving, responding to and resolving Complaints. The procedure must be consistent with the *Australian/New Zealand Standard AS/NZS 10002:2014– Guidelines for complaint management in organizations* (the **Internal Complaints Handling Procedure**).

(2) Hunter Water must fully implement the Internal Complaints Handling Procedure and carry out all relevant activities in accordance with the Internal Complaints Handling Procedure.

(3) Hunter Water provide information about internal Complaints handling free of charge:

- (a) on its website;
- (b) to all residential Customers, at least annually with their Bills; and
- (c) to any other person upon request made through the General Enquiry Process.

The information must explain how to make a Complaint and how Hunter Water will receive, respond to and resolve Complaints.

(4) Hunter Water must update the information referred to in clause 31(3) to reflect any variations made to the Internal Complaints Handling Procedure or the information within 60 days of the variations taking effect.

In draft clause 31(1), we have proposed to retain the requirement to maintain the policy/procedure consistent with AS/NZS 10002:2014 as we consider this to be the most appropriate standard for complaints handling, at this stage. EWON also references using this standard for managing customer complaints.^{xxi} However, we note that Standards Australia is currently reviewing this standard. We will consider the recommendations of Standards Australia's review when recommending the standard for this Licence condition in the final Licence.

The proposed requirement to update the information that Hunter Water provides about its internal complaints handling procedure under draft clause 31(4) is not a new requirement. The current operating licence imposes the same requirement (clause 5.7.3). We propose to retain this requirement to support Hunter Water's requirement to maintain the procedure by keeping its information current and ensuring that customers are aware of the procedure and how to use it.

4.2.4 External dispute resolution

Draft recommendations for your comment:

- 33. Retain requirement for membership of an external dispute resolution scheme but allow Hunter Water the option of membership of the Energy and Water Ombudsman NSW or another external dispute resolution scheme approved by IPART
- 34. Retain requirements to communicate to customers and the general public about the external dispute resolution scheme and any variations to this information.

In the Issues Paper, we sought stakeholder feedback about the requirement to be a member of an external dispute resolution scheme, like the current operating licence requirements (under clauses 5.6 and 5.7). Hunter Water must:

- Be a member of the Energy and Water Ombudsman NSW (EWON) to facilitate the resolution of disputes between Hunter Water and its customers or consumers. The current operating licence does not give Hunter Water the option to be a member of another dispute resolution scheme.
- Hunter Water is required to inform customers and any other person about the external dispute resolution process, including customers' rights to have their complaints referred to EWON and how to contact EWON.
- Make information about the external dispute resolution service, how to access that service, and customers' rights to have a complaint or dispute referred to EWON available to its customers with their bills (at least annually).
- Publish information provided by EWON on Hunter Water's website for downloading or upon request through Hunter Water's General Enquiry Process free of charge.

We consider that requiring Hunter Water to be a member of an external dispute resolution scheme is a good customer protection measure that allows customers and consumers to escalate complaints to an independent body. If there is no external dispute resolution service available, customers would not have an avenue to escalate unresolved complaints. Publishing information about the external dispute resolution process empowers customers to access the process where they have been dissatisfied with using Hunter Water's internal complaint handling process.

Hunter Water, EWON, PIAC, Sydney Water and an anonymous submission supported retaining requirements for external dispute resolution. Stakeholders also support retaining requirements to make information about the external dispute resolution scheme available to customers and the general public. However, we understand from Hunter Water's submission that it seeks a Licence requirement that does not limit it to using EWON's services and allows it to use another dispute resolution scheme, if an appropriate one is available. EWON and Sydney Water supported Hunter Water's proposal for a less prescriptive approach to external dispute resolution.

We agree with Hunter Water, EWON and Sydney Water that the Licence should allow Hunter Water more flexibility for dispute resolution and be outcome focused. However, we are not aware of many appropriate alternative options to EWON available for customers of water utilities in NSW. We therefore propose that the Licence should require Hunter Water to be a member of EWON or another external dispute resolution scheme approved by IPART (in writing). This will allow Hunter Water to propose suitable alternative schemes and it allows us to consider whether the scheme will offer customers appropriate protections. We will consult relevant stakeholders in considering any such proposals from Hunter Water.

Our CBA acknowledges that a requirement to be a member of a dispute resolution scheme comes at a cost for Hunter Water, but it provides a net benefit for customers. Like with internal complaints handling, the net benefit of being a member of an external dispute resolution scheme is that Hunter Water is prevented from earning monopoly rents by providing a lower quality of service. The ability to refer outstanding complaints and disputes to an external body helps to ensure that the current quality standards are enforced.

We seek your feedback on the proposed draft Licence conditions for external dispute resolution shown in Box 21 below.

Box 21 Proposed Licence requirements for an external dispute resolution scheme

32 External dispute resolution scheme

(1) Hunter Water must be a member of the Energy and Water Ombudsman NSW or an alternative scheme approved by IPART in writing, to facilitate the resolution of disputes between Hunter Water and its Customers or Consumers.

(2) Hunter Water must:

(a) prepare a communication that:

(i) lists the dispute resolution services provided by the external dispute resolution scheme, including any right to have a Complaint or dispute referred to the external dispute resolution scheme; and

(ii) explains how a Consumer can contact the external dispute resolution scheme; and

(b) provide a copy of that communication free of charge:

(i) on its website;

(ii) to Customers at least annually with their Bills; and

(iii) to any other person upon request made through the General Enquiry Process.

(3) Hunter Water must update the communication referred to in clause 32(2) to reflect any variations made to the information within 60 days of the variations taking effect.

The proposed requirements to update the communication about the external dispute resolution scheme within 60 days of any variations coming into effect under draft clause 32(3) is not a new requirement. The current operating licence imposes the same requirement (clause 5.7.3). We propose to retain this requirement to support Hunter Water in ensuring that the information it provides to its customers is current.

4.3 Consulting with customers

Draft recommendations for your comment:



35. Do not include the current prescriptive requirements for Hunter Water to maintain a Customer Advisory Group. Instead, allow flexibility in the Licence to undertake customer consultation in any manner that Hunter Water considers effective.

Section 13(2) of the Act requires the Licence to include terms or conditions to maintain procedures under which Hunter Water is to consult with its customers at regular intervals in relation to the systems and services it provides. We consider that it is important for the Licence to include such terms and conditions, not only because it is required by the Act, but because as a monopoly supplier, the best way for Hunter Water to determine its customers' preferences is through customer consultation. Hunter Water should consult with its customers to understand their views, priorities and needs, and this understanding should inform its decision-making.

The Licence currently requires Hunter Water to maintain and regularly consult with a broad cross-section of its customers through a Customer Advisory Group (CAG), under clause 5.4. We recognise that a CAG may not be the best model for Hunter Water to consult with its customers. We therefore sought feedback from stakeholders on whether the Licence should allow Hunter Water to use other customer engagement models that may be less prescriptive.

Hunter Water and Sydney Water support a less prescriptive requirement for customer consultation. Hunter Water stated that a minimalist approach would provide flexibility to use multiple techniques and methods to consult with customers. DPE also supports more flexibility but encourages Hunter Water to deepen engagement with local Aboriginal stakeholders as part of its customer engagement approach. While PIAC was not opposed to more flexibility, it did not support entirely moving away from the CAG requirements. PIAC suggested that the Licence should still require the CAG but also acknowledge that other customer consultation methods may be required to support it. PIAC considers that the CAG provides critical insights into community perspectives and allows Hunter Water to access useful skills and experience of the CAG members, which may not be achievable through other consultation methods.

After considering the stakeholder feedback, we have proposed to amend the current operating licence requirements that specifically require Hunter Water to undertake this consultation through a CAG, to allow Hunter Water greater flexibility in how it undertakes customer consultation. However, we appreciate the benefits that the CAG provides, and Hunter Water is still able to use the CAG if it considers beneficial.

Our proposed requirements are shown in in Box 22 below. To meet the requirements of section 13(2) of the Act, we have proposed that Hunter Water must develop and implement a procedure to support its customer consultation, with transitional provisions to allow Hunter Water time to do this. We have also proposed that Hunter Water must publish a summary of the Customer Consultation procedure so that customers and consumers are aware of their rights under the procedure, and how to use it. Further, Hunter Water must review its customer consultation procedure, to ensure it is kept current, and report to IPART on the completed review. The requirements to publish and review the procedure are not driven by the Act but are good practice and consistent with the other requirements for protecting customers' rights, as discussed above in this chapter of this report.

We seek your feedback on the proposed draft Licence conditions for customer consultation shown in Box 22 below.

Box 22 Proposed Licence requirements for consulting with customers

30 Customer consultation

(1) Hunter Water must undertake Customer and Consumer consultation that is relevant, representative, proportionate, objective, clearly communicated and accurate to:

- (a) understand its Customers' preferences and willingness to pay for service levels;
- (b) understand how its systems and processes can better support more effective, direct relationships with Consumers including residential tenants;
- (c) obtain advice on the Customer Contract; and
- (d) obtain advice on such other key issues related to Hunter Water's planning and operations under this Licence as Hunter Water may determine.

(2) By 1 July 2023 (or another date approved by IPART in writing), Hunter Water must:

- (a) develop and fully implement a procedure for consulting with its Customers and Consumers at regular intervals in relation to the provision of its Services that meets the objectives of clause 30(1) (the **Customer Consultation Procedure**); and

(b) carry out all Customer consultation activities in accordance with the Customer Consultation Procedure.

(3) Until the Customer Consultation Procedure has been implemented in accordance with clause 30(2), Hunter Water must maintain and regularly consult with its Customers through its customer advisory group in accordance with clause 5.4 of the 2017-2022 Licence.

(4) Hunter Water must by the date referred to in clause 30(2) make a clear summary of its Customer Consultation Procedure available to any person, free of charge:

(a) on its website; and

(b) upon request made through the General Enquiry Process.

(5) Hunter Water must undertake a review of the Customer Consultation Procedure to assess its effectiveness, including obtaining feedback from Customers and Consumers. Hunter Water must report to IPART on the completed review of the Customer Consultation Procedure and its outcomes by 30 June 2027 (or by another date approved by IPART in writing).

We have proposed draft clause 30(1)(b) in response to PIAC's submission to our Issues Paper. PIAC suggested that Hunter Water should be required to investigate (through appropriate consumer engagement) how its systems and processes can better support more effective, direct relationships with consumers such as residential tenants.

We consider that this may be a useful customer protection, but we seek your feedback on its costs and benefits, and whether the proposed Licence condition is appropriate.

4.4 Reporting requirements related to Hunter Water's obligations to customers

4.4.1 Exception reporting

Draft recommendations for your comment:



36. *[Reporting Manual]* Do not include current annual compliance and performance reporting requirements for customer and stakeholder relations and replace with exception reporting only.

The current Reporting Manual requires Hunter Water to prepare an annual compliance and performance report about its compliance with the Licence conditions for protecting customers' rights and requiring Hunter Water to undertake customer consultation (section 5.1). Specifically, Hunter Water must report on the activities and achievements of the CAG, any systemic problems arising from customers' complaints and actions taken to resolve them, and any changes made to the various documents required in the Licence to protect customers' rights, during the reporting year. This report is provided to IPART only.

We recommend amending these reporting requirements so that Hunter Water need only provide information on its compliance with the customer-related Licence conditions if it has been non-compliant in the reporting year.

We have provided further context and explanation for making this change in section 6.3.2. Hunter Water's reporting requirements can be viewed in full in the draft Reporting Manual.

4.4.2 Reporting on customer complaints

Draft recommendations for your comment:



37. *[Reporting Manual]* Retain requirements to report on customers' complaints and any actions taken to resolve them.

The current Reporting Manual requires Hunter Water to report on customers' complaints and any actions taken to resolve them. We propose to retain this reporting requirement as we consider that these requirements continue to provide value.

In the Issues Paper, we sought feedback about whether it would be appropriate for the Licence to include a new requirement related to customer billing. This was because most customer complaints recorded and referred to EWON were related to customer complaints.¹³ Hunter Water and Sydney Water did not support including a new customer billing requirement. Hunter Water reported that complaints related to customer billing reduced in the 2020-21 financial year and Hunter Water attributed this to improved billing accuracy because of new systems and processes for validating billing. Hunter Water planned further initiatives in 2021-22 for further customer billing improvements. Considering Hunter Water's improved systems, we consider that a prescriptive customer billing requirement is not necessary at this stage in the Licence.

We can investigate this matter further in the next review of the Licence if Hunter Water's performance in this area deteriorates and we consider that a Licence requirement may be beneficial. The reporting requirement for customer complaints will assist us in these considerations.

Hunter Water's reporting requirements can be viewed in full in the draft Reporting Manual.

¹³ Of the 64 complaints that were escalated to EWON in 2020-21, 42% were about customer billing.

4.4.3 Notifying changes to Licenced documents



38. *[Reporting Manual]* Do not include current requirements to notify IPART of changes made to Licensed documents such as the Customer Contract, assistance options and actions for non-payment, and the external dispute resolution scheme because these are contained within the draft Licence.

We consider that the current requirement of the Reporting Manual (in section 5.1.1 of the current Reporting Manual) to notify us of changes made to the documents in the Licence for protecting customers' rights is no longer necessary. The documents include the Customer Contract, the procedure for payment difficulties and actions for non-payment, the customer advisory group charter, the internal complaints handling procedure and the external dispute resolution scheme.

We have recommended in the draft Licence that Hunter Water should be required to update the same (or similar) documents of any changes within 60 days. Hunter Water must also notify its customers within 60 days of making changes. Further reporting on this matter would be duplicative and does not provide additional benefits.

Chapter 5 »

Commitment to quality processes and systems

Organisational systems management and engagement with government stakeholders and competitors facilitates better outcomes for customers

05

5.1 Organisational management systems

The Licence requires Hunter Water to maintain and implement 3 organisational management systems: An Asset Management System (AMS), Environmental Management System (EMS) and a Quality Management System (QMS). These organisational management systems provide benefits to Hunter Water and its customers.

In this section, we discuss the relative costs and benefits, and our recommendations for, retaining requirements in the Licence for these 3 organisational management systems.

The Act does not require any one management system. However, section 13(1) of the Act does specify that the Licence must require Hunter Water to:

- provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for supplying water, provide sewerage services and disposing of wastewater (s13(1)(a))
- ensure that systems and services meet the quality and performance standards in the licence. (s13(1)(c)).

We consider that requiring Hunter Water to maintain and implement these management systems, particularly the AMS, meets this requirement of the Act.

A common benefit that we observed with all 3 organisational management systems is that they help Hunter Water ensure a cohesive business working towards common objectives and minimising barriers between business units/operations.

We note that Hunter Water stated in its submission to the Issues Paper that it is likely to maintain its organisational management systems (i.e. AMS, EMS and QMS) even without a Licence mandate because of the benefits that these systems provide. This does raise the question whether a Licence requirement is still necessary.

We commend Hunter Water's commitment to asset, environmental and quality management, and acknowledge that we have not found major issues with Hunter Water's compliance with these clauses in the 2017-2022 Licence term. However, we consider that there is still benefit in retaining a requirement in the Licence for these systems. The Licence requirement will ensure that Hunter Water continues to maintain the systems even if Hunter Water's organisational culture and commitments change over time. Further, it reflects the criticality of the systems in supporting Hunter Water's functions.

Our CBA supports our recommendation. A large proportion of Hunter Water's costs would already have been already incurred capital expenditure given that Hunter Water has already developed these systems. It will face ongoing implementation costs, but Hunter Water will face this anyway as it has committed to retaining the AMS irrespective of a Licence requirement.

The current operating licence requires Hunter Water to maintain each of the 3 management systems to Australian Standards. That is, the AMS must be maintained to AS ISO 55001:2014, the EMS to AS/NZS 14001:2016 and the QMS to AS/NZS ISO 9001:2016. We consider that these standards remain appropriate in the Licence. Hunter Water agrees with retaining these standards but expressed its preference to refer to the international versions instead of the Australian Standards. Sydney Water has supported this position.

We have not proposed to require certification of the systems in the Licence as we consider that it is appropriate that this continues to be a business decision. We note that Hunter Water's systems are already certified.

In its submission to the Issues Paper, Sydney Water sought to change the current operating licence requirement to refer to the International Standard instead of the Australian Standard. At this stage, our preference is to retain the Australian Standard in case of future departures from the International Standard (they are currently identical). However, we have proposed to retain the allowance in the Licence to maintain the management systems to other standards approved by IPART in writing, to allow flexibility if required in future.

Our compliance monitoring and enforcement costs could be reduced by relying on any certification audits of Hunter Water's organisational management systems. However, where a utility has chosen to certify its management system by a third party, as Hunter Water has done, we would generally accept certification reports from specialist auditors rather than including a comprehensive audit of the management system in our audit scope. That is, while the certification audit may not eliminate the need for IPART's audits, it may help to reduce the scope. This allows us to minimise duplication and the burden on Hunter Water.^{xxii}

We seek your feedback on our proposed Licence conditions for the AMS, EMS and QMS.

5.1.1 Asset management systems

Draft recommendations for your comment:

- 39. Retain requirements in the Licence to maintain an AMS consistent with *Australian Standard AS ISO 55001:2014 - Asset management - Management systems - Requirements*, or an alternative standard approved by IPART.
- 40. Retain requirements in the Licence to implement the AMS.

We propose to retain requirements in the new Licence to maintain and implement Hunter Water's AMS, like those in the current operating licence. We consider that ensuring Hunter Water has an AMS is essential for long-term safe operations, noting that Hunter Water operates critical assets that provide essential services to customers. Hunter Water and PIAC support retaining Licence requirements for the AMS.

The AMS helps Hunter Water to:

- monitor asset performance, which determines its overall system performance.
- meet objectives (such as the water quality and system performance standards for service interruptions) by effectively managing asset risks and asset performance.
- identify and pre-empt issues that may pose a significant risk to asset integrity and/or public health.
- identify the root cause of poorly performing assets and maximum asset value.

- keep records of maintenance activities, which is essential to track performance, optimise maintenance, and identify areas requiring frequent attention.

Poor asset management can lead to:

- water losses that exceed industry good practice
- less than 24/7 water supply service and frequent concerns over water quality
- incomplete, inaccurate, and unreliable asset records
- maintenance that mostly addresses breakdowns
- minimal asset planning that is not based on sound analysis and records
- costs, and ultimately prices, that are higher than they should be.

We rely on the AMS clause to monitor Hunter Water's performance against its system performance standards, and to monitor compliance. If there was a high-risk incident or a non-compliance, we would be able to readily audit Hunter Water's AMS to identify the cause of the issue, make recommendations to rectify the non-compliance or take enforcement action. Without a licence requirement for the AMS, IPART would not have oversight over that process.

We discuss the historical context for inclusion of the AMS clause in the public water utility operating licences in Box 23 below.

Box 23 Historical context for AMS requirements in the Licence

The condition was first introduced for Sydney Water and the then Sydney Catchment Authority in around 2004-2005, and then Hunter Water in 2007-2008.

At the time, the reason for including asset management requirements in the operating licences was "such requirements were deemed necessary to provide assurance that the agencies are exercising appropriate stewardship of the assets to ensure the maintenance of service delivery capacity over the long term."^{xxiii}

Further, Hunter Water had a poor history with meeting system performance standards. The asset management operating licence conditions was included as a means of managing Hunter Water's performance in meeting its system performance standards.

PIAC supported including asset management requirements in the operating licences as it would provide "continued vigilance on asset management to address any concerns on future community needs and asset performance.

Before asset management was included in the operating licences, there were "no clear principles for asset management. Asset management issues were generally raised in an unsystematic manner." This creates the risk of lack of consistency and predictability in the regulatory process for the agencies, and transparency and accountability of the agencies.

The NSW Treasury asset management policy TPP 19-07 outlines a consistent approach to asset management in line with ISO55001 for core asset management practices. State owned corporations, like Hunter Water, are encouraged to adopt elements of the policy.^{xxiv}

We seek your feedback on the proposed draft Licence conditions for asset management as shown in Box 24 below.

Box 24 Proposed Licence requirements for asset management

22 Asset management system

(1) Hunter Water must maintain a Management System in relation to Hunter Water's Assets that is consistent with the *Australian Standard AS ISO 55001:2014 Asset management - Management systems – Requirements*, or other standard approved by IPART in writing.

(the **Asset Management System**).

(2) Hunter Water must fully implement, and carry out all relevant activities in accordance with, the Asset Management System.

5.1.2 Environmental management systems

Draft recommendations for your comment:

- 41. Retain requirements in the Licence to maintain an EMS consistent with *Australian/New Zealand Standard AS/NZS 14001:2016 Environmental management systems – Requirements with guidance for use*, or an alternative standard approved by IPART.
- 42. Retain requirements in the Licence to implement the EMS.

Currently, the Licence is the only legal instrument requiring Hunter Water to maintain an EMS. In the Issues Paper, we queried the benefits of retaining the requirement in the Licence for the EMS given that Hunter Water's environmental performance is already extensively regulated by the Environment Protection Authority (EPA) and DPE.¹⁴ We queried whether there could be more efficient ways of minimising harm to the environment from Hunter Water's operations, if this was the main benefit of retaining the EMS requirement of the Licence.

Stakeholders, however, supported retaining EMS requirements in the Licence, suggesting that the benefits of maintaining an EMS should not be underestimated. Considering stakeholders' feedback, we propose to retain the EMS requirements in the Licence. The EMS provides a framework to address climate change and its impact and assists Hunter Water to meet its environmental obligations. Hunter Water relies on EMS controls to manage and minimise wastewater overflows. This drives Hunter Water's asset management decisions by managing assets to prevent breaches of environmental legislation and to meet the wastewater overflow system performance standard in the Licence. Further, the EMS is consistent with industry best practice for minimising the risk of harm to the environment and it is a useful tool to help Hunter Water to adapt to climate change.

¹⁴ Hunter Water holds 17 environment protection licences (EPLs) issued by the EPA.¹⁴ The licences set out conditions that relate to pollution prevention and monitoring. Hunter Water publishes pollution monitoring data to comply with its EPLs annually. Hunter Water also undertakes environmental impact assessment and approval processes to comply with the Environmental Planning and Assessment Act 1979 (managed by DPE) and is subject to Office of Environment and Heritage's (OEH's) NSW Climate Change Policy Framework.

We seek your feedback on the proposed draft Licence conditions for environmental management as shown in Box 25 below.

Box 25 Proposed Licence requirements for environmental management

23 Environmental management system

(1) Hunter Water must maintain a Management System for managing its environmental responsibilities and the environmental impacts of its services and activities that is consistent with the *Australian/New Zealand Standard AS/NZS ISO 14001:2016 Environmental management systems – Requirements with guidance for use*, or other standard approved by IPART on request by Hunter Water.

(the **Environmental Management System**).

(2) Hunter Water must fully implement, and carry out all relevant activities in accordance with, the Environmental Management System.

5.1.3 Quality management systems

Draft recommendations for your comment:

✓ 43. Retain requirements in the Licence to maintain a QMS consistent with *Australian/New Zealand Standard AS/NZS 9001:2016 Quality management systems – Requirements with guidance for use*, or an alternative standard approved by IPART

✓ 44. Retain requirements in the Licence to implement its QMS.

Currently, the Licence requirement is the only legal obligation for Hunter Water to maintain a QMS. In the Issues Paper, we queried the benefits of retaining the requirement in the Licence for the QMS as we considered that other parts of the Licence could achieve the same objective of driving quality products and services.

However, Hunter Water did not support removing the Licence requirement for the QMS. It stated that the QMS provides system elements that complement other management systems, licence clauses and legislative and regulatory instruments. That is, it helps integrate Hunter Water's functions and operations. For example, the QMS supports Hunter Water's WQMS for managing the quality of water it supplies to customers. At the 2021 IPART audit, we **observed** that Hunter Water's QMS had the ability to achieve requirements for products and services within the scope of the organisation's policy, objectives and legal compliance.

We seek your feedback on the proposed draft Licence conditions for quality management shown in Box 26 below.

Box 26 Proposed Licence requirements for quality management

24 Quality management system

(1) Hunter Water must at all times maintain a Management System for delivering quality services and outcomes to meet customers' expectations and regulatory requirements that is consistent with the *Australian/New Zealand Standard AS/NZS ISO 9001:2016 Quality management systems – Requirements*, or other standard as approved by IPART in writing.

(the **Quality Management System**).

(2) Hunter Water must fully implement, and carry out all relevant activities in accordance with, the Quality Management System.

5.1.4 Reporting requirements for Hunter Water's organisational management

Draft recommendations for your comment:



45. [Reporting Manual] Do not include current annual compliance and performance reporting requirements for organisational management systems (AMS, EMS and QMS) and replace with exception reporting only.

The current Reporting Manual requires Hunter Water to prepare an annual compliance and performance report addressing Hunter Water's compliance with its Licence requirements for the AMS, EMS and QMS (section 4.1 of the current Reporting Manual).

The report must include the management activities and programs completed by or proposed to be undertaken by Hunter Water in the reporting year, as well as any significant changes made to the organisational management systems and any major non-conformances and actions Hunter Water has taken to resolve them.

We propose to amend these reporting requirements so that Hunter Water need only provide information on its compliance with the Licence conditions for organisational management systems if it has been non-compliant in the reporting year. (We have provided further context and explanation for making this change in section 6.3.2.)

Section 4.2 of the current Reporting Manual requires Hunter Water to submit a copy of its Strategic Asset Management Plan (SAMP) once during the Licence term. We have proposed not to include a similar requirement in the new reporting manual to reduce administrative burden as it does not provide adequate benefit. Hunter Water supported removing this requirement.

PIAC on the other hand did not support removing the requirement to submit a SAMP. It stated that the AMS is a key foundation for confidence in Hunter Water's business systems and its ability to dependably deliver the services the community requires. We note PIAC's concerns but note that removing these reporting requirements does not remove Hunter Water's requirement to maintain the AMS itself which is what is critical for dependable delivery of services.

We seek your feedback on the proposed draft reporting requirements for Hunter Water's organisational systems, shown in Box 27 below.

Box 27 Proposed reporting requirements (in the Reporting Manual) for Hunter Water's organisational systems management (i.e. AMS, EMS and QMS)

5.1.1 Annual – Exception reporting

Hunter Water must prepare, for each financial year, a report about its compliance with the Licence conditions for management systems: Asset Management System (AMS), Environmental Management System (EMS) and Quality Management System (QMS).

Reporting is exception-based. This means that only non-compliances with the performance standards for service interruptions are required to be reported.

Hunter Water must submit the exception report to IPART by **1 September** following the end of the relevant financial year (or another date approved in writing by IPART). Hunter Water may choose to incorporate this report into the statement of compliance (required in section 8.1.1).

The exception report must include an explanation of how Hunter Water has failed to comply with a management system(s) which details:

- major factors that have influenced Hunter Water's non-compliance(s), including factors that are both within and beyond Hunter Water's control, and
- action(s) taken to resolve the non-compliance(s).

If there are no exceptions in the financial year, the report should state that to be the case.

[Note: Hunter Water must maintain and implement:

- *an AMS, i.e. a Management System that is consistent with the standard specified in the licence (Licence, clause 22),*

- an EMS, i.e. a Management System that is consistent with the standard specified in the licence (Licence, clause 23), and
- a QMS, i.e. a Management System that is consistent with the standard specified in the licence (Licence, clause 24).

This section 5.1.1 requires Hunter Water to report on any non-compliances with those Licence requirements.]

5.2 Stakeholder cooperation

The current operating licence recognises Hunter Water has close working relationships with NSW Health, DPE and Fire and Rescue NSW (FRNSW). Ensuring close and clear relationships between Hunter Water and these government organisations is important to support them to achieve mutual objectives or address issues of mutual concern. Hunter Water's support is critical for the government organisations to be able to undertake their roles effectively.

Memoranda of Understanding (MoUs) are a cost-effective and flexible way of ensuring cooperative relationships. For this reason, the Licence requires Hunter Water to maintain MoUs with NSW Health, DPE and FRNSW. Unlike for other public water utilities, the Act does not require these MoUs, but the Licence requires them for the benefits they provide. Further, these arrangements promote alignment of Hunter Water's operations with the expectations of customers, regulators and the government.


In this section, we discuss our recommendations for retaining the Licence conditions for the MoUs with NSW Health, DPE and FRNSW. Removing these Licence requirements may see Hunter Water's efforts to maintain the MoUs diminish and we consider that this would be detrimental. Our CBA concludes that retaining these Licence conditions is likely to generate economic benefits.


The current operating licence only requires Hunter Water to use its 'best endeavours' to develop and/or maintain these MoUs. This is because the current operating licence recognises that both parties must cooperate to effectively maintain the MoUs and it is not entirely within Hunter Water's control. We propose to retain this allowance in the new Licence particularly given that the MoUs are not statutory requirements under the Act (as they are with other public water utilities). However, we have proposed a Licence condition requiring Hunter Water to comply with the MoU. We have not proposed a 'best endeavours' allowance for the compliance requirement. We will consider the extent of Hunter Water's control when auditing compliance.

We seek your feedback on our proposed Licence conditions for the MoUs.

5.2.1 Memorandum of Understanding with NSW Health

Draft recommendations for your comment:

 46. Retain requirements in the Licence to use best endeavours to maintain an MoU with NSW Health.

 47. Retain requirements in the Licence to comply with the MoU with NSW Health.

NSW Health is the lead agency on water-related public health incident response. The MoU between Hunter Water and NSW Health recognises the role of NSW Health in providing advice to the Government about drinking water quality standards and the supply of water which is safe to drink. The current operating licence requires Hunter Water to use its best endeavours to maintain, and requires Hunter Water to comply, with this MoU (clause 5.9). We propose to include similar requirements in the new Licence to recognise the criticality of the MoU and Hunter Water's and NSW Health's cooperative relationship. Both Hunter Water and NSW Health support this proposal.

The current operating licence requires that the MoU must include arrangements for Hunter Water to report to NSW Health on any events related to Hunter Water's systems or services that might pose a risk to public health (clause 5.9.3). The current operating licence also requires Hunter Water to provide information relating to water quality in a manner specified by NSW Health (clause 5.9.4). In the Issues Paper, we proposed not including these requirements in the new Licence as similar reporting requirements are set out in Hunter Water's reporting manual (under the Water Quality Management System reporting requirements). Hunter Water and NSW Health do not oppose removing the reporting requirements from the Licence if they will be retained in the Reporting Manual.

We propose to retain the reporting requirements as timely reporting to NSW Health is critical to protecting customers. We consider that reporting requirements are best supported through the Reporting Manual. The Reporting Manual is a flexible instrument that can be easily updated as required.

We seek your feedback on the proposed draft Licence conditions for the MoU with NSW Health, shown in Box 28 below.

Box 28 Proposed Licence requirements for the MoU with NSW Health

33 Memorandum of Understanding with NSW Health

(1) Hunter Water must:

(a) use its best endeavours to maintain; and

(b) comply with

a memorandum of understanding with NSW Health.

[Note: Clause 33 does not limit the persons with whom Hunter Water may enter into a memorandum of understanding.]

(2) The purpose of the memorandum of understanding with NSW Health is to form the basis for co-operative relationships between the parties. In particular, the purpose is to recognise the role of NSW Health in providing advice to the NSW Government in relation to Drinking Water quality standards and the supply of water that is safe to drink.

5.2.2 Memorandum of Understanding with Department of Planning and Environment

Draft recommendations for your comment:

- ☒ 48. Retain requirements in the Licence to use best endeavours to maintain an MoU with DPE.
- ☒ 49. Retain requirements in the Licence to comply with the MoU with DPE.
- ☒ 50. Include new requirement for the MoU to specify how Hunter Water and DPE should work together to complete long-term plans.
- ☒ 51. The proposed Licence conditions reflect the transition from the Lower Hunter Water Plan to the Lower Hunter Water Security Plan

The current operating licence requires Hunter Water to use its best endeavours to maintain, and requires Hunter Water to comply, with the MoU with DPE (clause 5.10). Both Hunter Water and DPE support retaining this requirement in the new Licence. We propose to include similar requirements to recognise the criticality of the MoU and Hunter Water's and DPE's cooperative relationship. The MoU may be essential in delivering the objectives of the Lower Hunter Water Plan/Lower Hunter Water Security Plan and in calculating the system yield (discussed further in sections 3.2 and 3.1.1).

We seek your feedback on the proposed draft Licence conditions for the MoU with DPE, shown in Box 29 below.

Box 29 Proposed Licence requirements for the MoU with DPE

34 Memorandum of Understanding with DPE

(1) Hunter Water must:

- (a) use its best endeavours to maintain; and
- (b) comply with,

a memorandum of understanding (which may be referred to as a roles and responsibilities protocol) with DPE in relation to:

- (c) the roles and responsibilities for DPE and Hunter Water in respect of the review and implementation of the Lower Hunter Water Plan, until such time as it is replaced by the Lower Hunter Water Security Plan; and
- (d) the calculation and reporting of System Yield.

[Note: Clause 34 does not limit the persons with whom Hunter Water may enter into a memorandum of understanding or a roles and responsibilities protocol.]

(2) The purpose of the memorandum of understanding with DPE is to form the basis for a co-operative relationship between the parties. In particular, the purpose is to recognise the role of DPE in assessing options to address water supply security in the lower Hunter region.

(3) By 1 December 2022 (or another date approved by the Minister in writing) Hunter Water must use its best endeavours to agree with DPE amendments to the memorandum of understanding to specify:

- (a) how Hunter Water should address integrated water cycle management in Hunter Water's long-term planning; and
- (b) any other matters agreed by the parties.

Draft clause 34(3) is a new Licence condition proposed to support integrated water cycle management. As we discussed in section 3.4, the MoU is the appropriate mechanism for detailing roles and responsibilities for applying integrated water cycle management. As such, we consider that the current MoU should be amended to achieve this.

5.2.3 Memorandum of Understanding with Fire and Rescue NSW

Draft recommendations for your comment:

- 52. Retain requirements in the Licence to use best endeavours to maintain an MoU with FRNSW.
- 53. Retain requirements in the Licence to comply with the MoU with FRNSW.
- 54. Retain requirements for a working group between Hunter Water and FRNSW. Expand the requirements for the working group membership to include other members such as the Rural Fire Service.

The current operating licence requires Hunter Water to use its best endeavours to maintain, and requires Hunter Water to comply, with the MoU with Fire and Rescue NSW (FRNSW) (clause 5.11). We propose to include similar requirements in the new Licence to recognise the criticality of the MoU and Hunter Water's and FRNSW's cooperative relationship. Both Hunter Water and FRNSW support this proposal.

The MoU between Hunter Water and FRNSW recognises Hunter Water's role in supplying water for firefighting purposes. Hunter Water can contribute to improving fire safety by collaborating with FRNSW for better understanding by both parties of water availability needs for firefighting and water supply network limitations.

FRNSW advised that the current MoU has been successful in managing a cooperative relationship with Hunter Water. During the current (2017-2022) operating licence term, Hunter Water provided FRNSW with network performance data and consulted on upgrade programs. This led to improvements in FRNSW's ability to perform its legislated functions under the *Fire and Rescue NSW Act 1989*. The MoU facilitated discussions on ways that FRNSW may help Hunter Water, such as reporting hydrant tests to aid in water leak modelling, noting network performance is not static. FRNSW considers that the MoU is an effective way of ensuring that FRNSW has an effective ongoing mechanism for consultation with HWC as new issues arise.

The current operating licence also requires the MoU to establish a working group to consider the matters specified in the Licence (e.g. providing a report to FRNSW about the network performance so FRNSW can understand availability of water for firefighting purposes) (clause 5.11). We propose to include similar requirements in the new Licence and further expand the Licence requirement so that Hunter Water considers including other relevant organisations such as the Rural Fire Service (RFS). Hunter Water and FRNSW support this proposal.

Hunter Water considers that including the RFS in the working group would be valuable to share information on identification of high-risk bushfire areas, protection of Hunter Water's assets and understanding of water network capacity and system design. FRNSW shared similar sentiments and noted that the MoU working group had been productive over the licence period.

FRNSW queried whether a separate MoU between Hunter Water and RFS could be beneficial. After discussions with Hunter Water, we consider that there may not be benefit from another MoU if the RFS were to be included in the working group, given the nature of Hunter Water's and RFS' relationship. However, we will consider the relevant costs and benefits further if RFS were to seek an MoU.

Hunter Water advised that its relationship with RFS has generally been focussed on:

- broader planning for bushfire protection, particularly near Hunter Water's assets or where Hunter Water and RFS have overlapping tenures on land.
- the protection of community assets under the Rural Fires Act.

Hunter Water is already a member of 3 regional bushfire management committees chaired by the RFS. Under the *Rural Fires Act 1997* (NSW), RFS has prepared bushfire management plans that cover Hunter Water's area of operations.

We seek your feedback on the proposed draft Licence conditions for the MoU with FRNSW shown in Box 30 below.

Box 30 Proposed Licence requirements for the MoU with FRNSW

35 Memorandum of Understanding with Fire and Rescue NSW

(1) Hunter Water must:

- (a) use its best endeavours to maintain; and
- (b) comply with,

a memorandum of understanding with FRNSW.

[Note: Clause 35 does not limit the persons with whom Hunter Water may enter into a memorandum of understanding.]

(2) The purpose of the memorandum of understanding with FRNSW is to form the basis for co-operative relationships between the parties. In particular, the purpose is to:

- (a) develop the roles and responsibilities of the parties as they relate to each other;
- (b) identify the needs and constraints of the parties as they relate to each other; and
- (c) identify and develop strategies for efficient and effective provision of firefighting water consistent with the goals of each party.

(3) The memorandum of understanding with FRNSW must require the maintenance of a working group and must provide that:

(a) the working group must include representatives from Hunter Water and FRNSW and may include representatives from other organisations such as the NSW Rural Fire Service; and

(b) the working group must consider the following matters (at a minimum):

(i) information sharing arrangements between Hunter Water and FRNSW;

(ii) agreed timelines and a format for Hunter Water to provide a report to FRNSW detailing the network performance with regard to availability of water for firefighting (taking into account the minimum available flow and pressure in localised areas of the network);

(iii) arrangements for Hunter Water to consult with FRNSW in the design of new assets and planning of system maintenance, where planning indicates that minimum available flow and pressure may unduly affect firefighting in the network section under consideration; and

(iv) other matters as agreed by both Hunter Water and FRNSW.

5.2.4 Reporting requirements for Hunter Water's stakeholder cooperation

The current Reporting Manual imposes no requirements for Hunter Water to report on its compliance with its memoranda of understanding with NSW Health, DPE or FRNSW. We consider that this remains appropriate and that the benefits of new reporting requirements would be outweighed by the additional burden on Hunter Water. We have therefore not proposed any new reporting requirements. We will continue to review Hunter Water's compliance through the annual operational audits.

5.3 Engaging with competitors

The current operating licence includes requirements that seek to protect Hunter Water's competitors, including private water utilities licensed under *Water Industry Competition Act 2006* (WIC Act) and potential new water utility competitors, when dealing with Hunter Water. This includes:

- requiring Hunter Water to provide a connection to its services, at the water utility's request and where the service is available, and
- requiring Hunter Water to cooperate with the water utility.

The WIC Act and *Water Industry Competition (General) Regulation 2008* were introduced to encourage private sector participation and competition in the supply of water and provision of sewerage services in NSW. This regulatory framework enabled a new type of water customer to emerge - WIC Act licensees. WIC Act licensees are private water utilities that can provide drinking water, recycled water and/or wastewater services to end-use (or 'retail') customers within their defined areas of operations.

In this section, we discuss terms and conditions for the Licence and Reporting Manual for engaging with competitors. Even when acting as competitors, the private water utilities are Hunter Water's customers when they seek connection to Hunter Water's services. It is therefore necessary to include terms and conditions in the Licence that adequately protects them in their dealings with Hunter Water. Given that Hunter Water is a monopoly supplier, these private water utilities cannot seek access to another water or wastewater service.

We consider that these terms and conditions seek to establish a level playing field between Hunter Water, as the incumbent public water utility with higher market power, and WIC Act licensees and emerging private water utilities, thereby reducing barriers to competition. If Hunter Water were to refuse to deal with competitors (current or potential), there is a risk that they could be discouraged from entering the market to supply water or sewerage services. This in turn can reduce the ability of the competitors to effectively compete with Hunter Water.

We seek your feedback on our proposed Licence conditions and reporting requirements for engaging with competitors. The requirements together should provide a favourable environment for competition for servicing new growth areas in Hunter Water's area of operation.

5.3.1 Obligation to make services available to competitors

Draft recommendations for your comment:



55. Retain requirements in the Licence to make services available to competitors (currently only WIC Act licensees), on request, subject to any reasonable conditions from Hunter Water

The current operating licence requires Hunter Water to make services available on request to WIC Act licensees (currently the only viable competitor to Hunter Water in its area of operations) (clause 1.5.2). Hunter Water is only able to refuse to connect requested services if it can demonstrate that a connection is not available. Hunter Water retains the power to impose any lawful conditions it sees fit on making services available to ensure the safe, reliable and financially viable supply of the services. We propose to include similar conditions in the new Licence to protect the WIC Act licensees.

The current operating licence specifies that Hunter Water must provide access to its services where the WIC Act water utility intends to use the obtained services for ultimate end-use within Hunter Water's area of operations.

We propose not to include this restriction in the new Licence. Instead, Hunter Water must provide services on request where there is a connection available to the WIC Act licensees. However, we do propose to licence for allowance available in the current operating licence for Hunter Water to impose any reasonable conditions for the safe, reliable and financially viable supply of its services. Hunter Water, PIAC and DPE support this proposal.

We seek your feedback on the proposed draft Licence conditions for making services available to WIC Act licensees, shown in Box 31 below. We have not proposed to include 'potential competitors' in this Licence clause because competitors would only require a connection after they have become licensed to provide a service.

Box 31 Proposed Licence requirements for making services available to competitors

11 Obligation to make services available

(1) *Previously discussed under section 4.2 of this report*

(2) Hunter Water must provide Services (other than Drainage Services) on request to any licensee under the WIC Act, where that licensee is connected to (or where a connection is available in respect of that licensee to) Hunter water's Water Supply System or Sewerage System.

(3) Connection to Hunter Water's systems (other than Drainage Services) is subject to any lawful and reasonable conditions that Hunter Water may determine to ensure the safe, reliable and financially viable supply of Drinking Water to, and disposal of Wastewater from, Properties.

5.3.2 Negotiating in good faith

Draft recommendations for your comment:



56. Include a new requirement in the Licence to negotiate in 'good faith with competitors (including current WIC Act licensees and potential new competitors).

We propose to include a new requirement in the Licence for Hunter Water to act in 'good faith' when negotiating with competitors (including WIC Act licensees and potential new competitors).

There is no equivalent clause in the current operating licence, and we acknowledge that we have not observed any issues with Hunter Water's dealings with potential competitors. The proposal is not in response to an existing problem but seeks to minimise the risk of any future problems from occurring. There is minimal cost burden on Hunter Water as it is a behavioural requirement. Our CBA concludes that there is likely to be a net economic benefit from including this condition in the Licence.

Box 32 What does 'acting in good faith' mean?

By 'acting in good faith', we mean Hunter Water:

- acting honestly (including not providing false information or concealing material facts)
- acting fairly and reasonably, having regard to the interests of the other party (but not to the extent of subordinating its own interest), including (but not limited to):
 - attending, and participating in, meetings at reasonable times
 - disclosing relevant information (other than confidential or commercially sensitive information) in a timely manner;
 - protecting confidential or commercially sensitive information provided by the other party to maintain competitive neutrality;
 - responding to proposals made by the other party in a timely manner;
 - giving genuine consideration to the proposals of the other party
- acting consistently with the objectives of the Licence, including the objective of providing services in a way that does not prevent or hinder competition.

The above aspects of the obligation to negotiate in good faith are interrelated and should not be applied independently of each other. They should be considered holistically having regard to Hunter Water's overall conduct.

Hunter Water queried the need to add an 'in good faith' clause to the Licence as they consider it one-sided given there is no equivalent obligation on utilities licenced under the WIC Act. On the other hand, DPE and PIAC considered that it would be beneficial.

Hunter Water also raised a practical concern with the way an auditor would check compliance with a good faith clause and questioned the technical knowledge or experience required by an auditor to assess compliance.

We note Hunter Water's concerns and we can consider whether a similar clause would be appropriate in the WIC Act licences. However, we consider that in these commercial dealings, Hunter Water's competitors are more vulnerable. Hunter Water, as the incumbent utility, is at an advantage. The proposed clause seeks to level the playing field. However, to be clear, acting in good faith should not be interpreted as requiring Hunter Water to make concessions during negotiations or to reach agreement on the terms that are to be included in an agreement with a competitor. Hunter Water may act in good faith but still fail to reach agreement.

We propose to prepare guidance for auditors to test compliance with this Licence requirement. We will consult with stakeholders as per our usual process when reviewing the audit guideline. At this stage, we propose that the guidance may consider evidence:

- that Hunter Water has mechanisms in place for potential competitors to request provision of services (via the website or directly through email or similar).
- of processes in place to receive requests and to negotiate provision of services.
- that Hunter Water has processes in place to review applications for its services from potential competitors.
- of any communications between Hunter Water and the WIC Act licensee or potential competitor.
- of complaints or allegations made to IPART by potential competitors (including WIC Act licensees). Where this has occurred, the auditor (or IPART) could seek additional information about the events surrounding those allegations.

However, we would consider Hunter Water's conduct as a whole and the circumstances of the negotiation. Any one of the above listed evidence on its own would not necessarily be taken as conclusive that Hunter Water has acted in bad faith.

We seek your feedback on the proposed draft Licence conditions for negotiating with WIC Act licensees and potential competitors shown in Box 33 below.

Box 33 Proposed Licence requirements for negotiating with potential competitors (including WIC Act licensees)

36 Negotiations with WIC Act licensees and Potential Competitors

Hunter Water must negotiate the provision of Services to WIC Act licensees and Potential Competitors in Good Faith.

5.3.3 Establishing a code of conduct

Draft recommendations for your comment:



57. Retain requirements in the Licence to use best endeavours to cooperate with WIC Act licensees seeking to establish a code of conduct, on written request from the WIC Act licensee.

The current operating licence requires Hunter Water to use its best endeavours to cooperate with WIC Act licensees seeking to establish a code of conduct required under the relevant WIC Act licence (clause 5.8.1). The code of conduct could set out the respective responsibilities of Hunter Water and the WIC Act licensee for various matters, such as repair and maintenance, water quality, and liability in the event of unavailability of water or in the event of infrastructure failure.^{xxv}

We propose to retain a similar requirement in the new Licence as it provides WIC Act licensees and Hunter Water with certainty where their operations overlap. It ensures that the safety of customers and the environment are protected by setting out each party's responsibilities for ongoing safe operations and in the event of an incident.

In the absence of a water industry code of conduct that applies on an industry-wide basis, WIC Act licensees who have infrastructure that interconnects to Hunter Water's infrastructure are required, under the conditions of their licences, to establish a code of conduct with Hunter Water. This Licence condition supports the requirements on the WIC Act licensees. Our CBA notes that both the costs and benefits of the proposed Licence condition are expected to be modest. However, it concludes that the Licence condition provides benefit because it will help to promote a more competitive industry structure in the future.

Hunter Water, DPE, PIAC and EWON support including the proposed Licence condition. Hunter Water notes that there is an equivalent requirement in WIC Act licences.

We also propose that any requests from WIC Act licensees to establish such a code must be in writing. Again, the stakeholders support this proposal. EWON stated that having written requests would help ensure that a consistent approach is applied to all WIC Act licensees seeking a code of conduct, and it provides an accurate record of information between the parties.

We seek your feedback on the proposed draft Licence conditions for establishing a code of conduct with WIC Act licensees shown in Box 34 below.

Box 34 Proposed Licence requirements for establishing a code of conduct with WIC Act licensees

38 Code of Conduct

(1) Hunter Water must use its best endeavours to cooperate with each WIC Act licensee to establish a code of conduct required by a WIC Act licence where Hunter Water has received a written request from the WIC Act licensee to establish such a code.

(2) Where the Minister administering the WIC Act has established a code of conduct under clause 46 of the WIC Regulation, Hunter Water will be taken to have satisfied its obligation under clause 38(1) by applying the code of conduct to the relevant licensee under the WIC Act.

5.3.4 Publishing servicing information to competitors

Draft recommendations for your comment:



58. Include new requirements to publish servicing information on Hunter Water's website for competitors.

We propose to include new requirements in the new Licence to publish servicing information on its website for its competitors. The type of servicing information proposed is described in draft Licence clause 37(1) in Box 35 below.

While these new requirements would result in a cost to Hunter Water, we consider that there is benefit in including these requirements. It would address an asymmetry in information which would support competition in the market by enabling WIC Act licensees and potential new competitors to make decisions about investments before committing to the investment. This in turn could reduce the need for Hunter Water to invest in expensive large network assets. Our CBA concludes that the net economic benefits to the proposed new requirements is likely to be positive.

Hunter Water is not opposed to publishing servicing information but notes that there could be alternative ways to address this problem. However, it did not suggest alternative options. DPE, PIAC and EWON support the proposed Licence conditions. EWON suggested that the Licence should reflect the same requirements in the Sydney Water operating licence to ensure we take a consistent approach to all major water suppliers in NSW.

DPE noted in its submission that the 2018 *Independent review of economic regulatory barriers to cost-effective water recycling* identified a lack of information available to market participants on public water utilities' long-term growth servicing plans, system constraints and the costs (or savings) of alleviating (or deferring) constraints in water and wastewater systems. As a result, the 2018 report recommended that the operating licences for WaterNSW, Sydney Water and Hunter Water require the utilities to develop and publish an annual 'system limitation report' that makes key information publicly available on long-term growth servicing plans and system constraints in a consistent, timely and accessible way. The recommendation was supported by the Government and the reporting requirement included in Sydney Water's Operating Licence at its last review.

Hunter Water raised concern that the servicing information require could lead to duplication of other requirements. For example, publishing of servicing plans will be required when developer charges are re-instated and also as a part of the published annual Hunter Water's Growth Plan. Sydney Water did not appear to support requirements for providing servicing information based on its own experiences. It agrees with Hunter Water that the servicing information could lead to duplication when developer charges are re-instated.

We note Hunter Water's and Sydney Water's concern but at this stage, we consider that it will be beneficial to include the proposed Licence conditions, as DPE has suggested. We will consider any information that Hunter Water already publishes (such as Growth Plans and Development Servicing Plans) when monitoring Hunter Water's compliance with these Licence requirements. Any duplication with other legal requirements can be reviewed when those requirements come into effect.

We seek your feedback on the proposed draft Licence conditions for publishing servicing information shown in Box 35 below.

The proposed conditions provide transitional arrangements to allow Hunter Water to initially publish the servicing information that it has available, and then, over time, provide more information as it becomes available. We have also proposed requirements to review the servicing information and keep it current. The information will not be valuable to potential competitors if outdated.

Box 35 Proposed Licence requirements for publishing servicing information

37 Publications of Servicing Information

(1) Hunter Water must, by the dates specified in this clause 37 publish on its website at least 10 years of servicing information for each major Water System and Sewerage System. The servicing information for each major Water System and Sewerage System must, at a minimum, include information on:

- (a) current and projected demand;

- (b) current and projected capacity constraints;
- (c) indicative costs of alleviating or deferring capacity constraints;
- (d) locations where further investigation is needed; and
- (e) key sources of information used to develop the servicing information where those sources are publicly available,

(the **Servicing Information**).

(2) Hunter Water must, by 30 September 2024 (or another date approved by IPART in writing), publish on its website the Servicing Information for each major Water System and Sewerage System that it has available by that date that is in a form suitable for publication.

(3) Hunter Water must continue to publish Servicing Information for each major Water System and Sewerage System as it becomes available. Hunter Water must publish all Servicing Information by 30 June 2025 (or another date approved by IPART in writing).

(4) Hunter Water must publish updated Servicing Information for each major Water System and Sewerage System as soon as practicable after any such updated Servicing Information becomes available in a form suitable for publication.

(5) Hunter Water must review and update the Servicing Information for each major Water System and Sewerage System at least once between:

- (a) The date that is 12 months after the initial publication of the Servicing Information for that major Water System or Sewerage System under clause 37(2); and
- (b) 30 June 2027 (or another date approved by IPART in writing).

(6) Hunter Water is not required to comply with clauses 37(1) to 37(5) in relation to a particular major water system or wastewater system to the extent approved by IPART in writing. Hunter Water may apply to IPART for approval under this clause only where there are critical infrastructure security concerns in relation to a particular major Water System or Sewerage System.

5.3.5 Reporting requirements for engaging with competitors

Draft recommendations for your comment:



59. *[Reporting Manual]* Include new requirements to report on Hunter Water's performance with providing information and services to competitors.

We propose new reporting requirements for Hunter Water to support the proposed Licence conditions for engaging with competitors. While the reporting requirements come at a cost, they will support the Licence conditions in protecting WIC Act licensees and potential water utilities trying to break into the market and when dealing with Hunter Water. The reporting requirements will assist us in our compliance monitoring and enforcement function.

Hunter Water and DPE did not appear opposed to this proposal though DPE did note that Hunter Water already publishes Growth Plans and Development Servicing Plans which may fulfill some of these requirements for publication of information. We commend Hunter Water for making this information available without a mandate. However, the availability of some of this information does not mean that the reporting requirement does not provide benefit. Including the requirement will ensure that the information, and other supplementary information as required, continue to be made available even if there is a change in organisational management and priorities at Hunter Water. We will consider the information that Hunter Water publishes when reviewing Hunter Water's compliance with this Licence clause.

We seek your feedback on the proposed draft reporting requirements for providing information and services to Hunter Water's potential customers, shown in Box 27 below.

Box 36 Proposed reporting requirements (in the Reporting Manual) for providing information and services to Hunter Water's potential customers

7.1 Periodic reporting

7.1.1 Annual – Compliance and Performance reporting

Hunter Water must prepare, for each financial year, a report about its compliance with the Licence conditions for providing information and Services to WIC Act licensees and Potential Competitors.

Hunter Water must submit the report to IPART by **1 September** following the end of the relevant financial year (or another date approved in writing by IPART).

The report must include the following:

- the number of agreements for the provision of Services established with WIC Act licensees and Potential Competitors,
- the number of negotiations for the provision of Services commenced with WIC Act licensees and Potential Competitors that did not eventuate in an agreement and, where known to Hunter Water, the reasons for this outcome,
- a timeline of each negotiation Hunter Water undertook with WIC Act licensees and Potential Competitors (both successful and those that did not eventuate in an agreement) and reasons for any significant delays to those negotiations

- the type of information WIC Act licensees and Potential Competitors requested in addition to information that is publicly available, and
- the time taken for Hunter Water to respond to requests for provision of information or services.

If there are no negotiations with, or requests for information from, or agreements reached with, WIC Act licensees or Potential Competitors in the financial year, the report should state that to be the case.

[Note: under part 9 of the Licence, Hunter Water is required to negotiate with Potential Competitors (including WIC Act licensees), publish servicing information and establish a code of conduct with WIC Act licensee required under a WIC Act licence.]

7.2 As required reporting

7.2.1 Provision of Servicing information

Hunter Water must, by the dates specified in the Licence clause 35, publish on its website at least 10 years of servicing information for each major water system and wastewater system.

The servicing information for each major Water System and Sewerage System must, at a minimum, include information on:

- current and projected demand,
- current and projected capacity constraints,
- indicative costs of alleviating or deferring capacity constraints,
- locations where further investigation is needed, and
- key sources of information used to develop the servicing information where those sources are publicly available,

(Servicing Information).

Hunter Water must, by **30 September 2025** (or another date approved in writing by IPART), publish on its website the Servicing Information for each major Water System and Sewerage System that it has available by that date in a form suitable for publication.

Hunter Water must continue to publish Servicing Information for each major Water System and Sewerage System as it becomes available. Hunter Water must publish all Servicing Information by **30 June 2026**.

Hunter Water must update the Servicing Information:

- for each major Water System and Sewerage System as it becomes available in a form suitable for publication; and

- for all major Water Systems and Sewerage Systems between the date that is 12 months after the Servicing Information was first published and **30 June 2027**.

[Note: This requirement is imposed under clause 37 of the Licence.]

7.3 Publicly available documents

7.3.1 Report on Provision of Information and Services

Hunter Water must make the compliance and performance report on the provision of information and Services to Potential Competitors (referred to in section 20.1 of this Reporting Manual) available to any person, free of charge:

- on its website, and
- upon request made through the General Enquiry Process.

PIAC raised concern in response to the Issues Paper that Hunter Water should not be required to enter into any agreements with WIC Act licensees. We consider that PIAC has misunderstood our proposal. Hunter Water must act in good faith but as discussed above, this does not require Hunter Water to enter into agreements. The proposed reporting requirement simply requires Hunter Water to report on the number of agreements that it has entered into.

Chapter 6 »

Administration

The administrative aspects of the Licence are necessary but likely to be of least relevance to customers

06

6.1 Licence objectives

Draft recommendations for your comment:



Include objectives in the Licence that are:

- Linked to Hunter Water's principal functions under the Act.
- Clear about Hunter Water's objective to supply or provide services in a way that does not prevent or hinder competition.
- Reflect the social, economic and environmental objectives outlined in Section 8 of the *State Owned Corporations Act 1989*.
- Promote the sustainable supply of services with the long-term interests of the community in mind.

Any licence (or other regulatory instrument) should clearly set out its objectives. Ideally, the objectives should describe the outcomes the licence is intended to achieve. This would help people understand why specific conditions have been included in the Licence.

We seek your feedback on the proposed objectives for the Licence shown in Box 37 below.

The objectives we have proposed seek to link more closely to Hunter Water's principal functions, described in the Act than the current objective in clause 1.1.1 of the Licence. This was our preliminary proposal in the Issues Paper and is consistent with the approach taken in the Sydney Water operating licence.

We have reflected feedback received from Hunter Water, DPE and PIAC. In general, these stakeholders supported our preliminary proposal. In addition, Hunter Water requested an objective that specifically focuses on competition. That is, there should be an objective for Hunter Water to supply or provide services in a way that does not prevent or hinder competition. DPE encouraged reflecting the social, economic and environmental objectives outlined in Section 8 of the *State Owned Corporations Act 1989* in the objectives, where possible, to be more closely aligned with the core objectives of the NSW Water Strategy. Finally, PIAC recommended inclusions in the objectives to promote sustainable supply of services with the long-term interests of the community in mind.

Box 37 Proposed Licence objective

1 Objective of this Licence

(1) The objectives of this Licence are to:

- (a) authorise and require Hunter Water, within its Area of Operations, to provide, construct, operate, manage and maintain systems and services for:

- (i) supplying in a manner that is resilient, reliable, efficient, equitable and sustainable, water that is healthy and high quality;
 - (ii) providing sewerage and drainage services that support community health and a sustainable environment; and
 - (iii) disposing of Wastewater and supporting the sustainable treatment and utilisation of Wastewater; and
 - (iv) planning, investing and operating its system in the long-term interests of its Customers, Consumers and community.
- (b) set efficient and effective terms and conditions, including quality and performance standards, that Hunter Water must meet when supplying or providing services in a way that:
- (i) supports its principal objectives under the *State Owned Corporations Act 1989* (NSW) to:
 - (A) be a successful business;
 - (B) have regard to the interests of the community in which it operates;
 - (C) comply with principles of ecologically sustainable development; and
 - (D) in its operations, exhibit a sense of responsibility towards regional development and decentralisation; and
 - (ii) does not prevent or hinder competition.

6.2 Pricing

Draft recommendations for your comment:



60. Retain the Pricing condition from the current operating licence with no significant change.

Section 13(1)(c) of the Act requires the Licence to include terms and conditions about pricing.^{xxvi} The current operating licence includes one clause (clause 1.8) which sets out Hunter Water's obligation to set prices subject to the terms of the Licence, the Act and IPART's price determinations. The clause aims to protect customers by ensuring that prices are not excessive.

We propose no change to the current operating licence clause 1.8 because we consider that it is clear and well-aligned to the Act and IPART's price determinations. Hunter Water and PIAC have expressed their support for our proposal.

Our CBA concludes that as long as IPART's price determinations maximise the overall economic welfare of Hunter Water's customers, then net benefits are maximised by enforcing the price determination.

We seek your feedback on the proposed Licence condition for pricing, shown in Box 38 below.

Box 38 Proposed Pricing condition in the Licence

7 Pricing

(1) Hunter Water must set the level of fees, charges and other amounts payable for its Services in accordance with:

- (a) the terms of this Licence;
- (b) the Act; and
- (c) any applicable maximum prices or methodologies for fixing maximum prices determined under the IPART Act.

6.3 Performance monitoring and reporting

6.3.1 Operational audits

Draft recommendations for your comment:



61. Retain requirements in the Licence for operational audits that accommodate remote auditing.

We undertake operational audits of the 3 public water utilities that we regulate (i.e. Hunter Water, Sydney Water and WaterNSW) as part of our function in monitoring the utilities' compliance with their operating licences. Together with reviewing any information that the utilities report and any non-compliances utilities notify us to, operational audits are an important part of our compliance monitoring function.

Section 18C of the Act states that IPART must ensure that Hunter Water's operational audits are prepared in accordance with the operating licence. This means that the Licence must include terms and conditions for the operational audits. Reflecting this, the current operating licence includes such conditions (clause 6.1). We propose to retain these Licence conditions not only because they are required by the Act, but because monitoring utilities' compliance helps protect customers, public health and the environment.

We seek your feedback on the proposed Licence conditions for operational audits, shown in Box 38 below. We have proposed minimal changes to the current operating licence. Some of these changes seek to reflect that since the COVID-19 pandemic commenced, we have been undertaking the operational audits remotely, including the field verification visits in some instances.

Box 39 Proposed Licence conditions for performance monitoring (operational audits)

39 Operational Audits

(1) Hunter Water must cooperate with any audit undertaken by IPART or an Auditor of Hunter Water's compliance with any of the following:

- (a) this Licence (including the Customer Contract);
- (b) the Reporting Manual; and
- (c) any matters required by the Minister in writing.

(Operational Audit).

(2) For the purpose of any Operational Audit or verifying a report on an Operational Audit, Hunter Water must, within a reasonable period of receiving a request from IPART or an auditor, provide IPART or the Auditor with all the information in Hunter Water's possession, custody or control that is necessary to conduct the Operational Audit, including any information that is reasonably requested by IPART or the Auditor.

(3) Subject to clause 39(4), for the purposes of any Operational Audit or verifying a report on an Operational Audit, Hunter Water must permit IPART or the Auditor to:

- (a) access any works, premises or offices occupied by Hunter Water;
- (b) carry out inspections, measurements and tests on, or in relation to, any such works, premises or offices;
- (c) take onto any such premises or offices, any person or equipment necessary for the purposes of performing the Operational Audit or verifying any report on the Operational Audit;
- (d) inspect and make copies of, and take extracts from, any documents and records of Hunter Water that are maintained in relation to the performance of Hunter Water's obligations under this Licence (including obligations under the Reporting Manual); and
- (e) discuss matters relevant to the Operational Audit or any report on the Operational Audit with Hunter Water, including Hunter Water's Personnel.

(4) The activities in clause 39(3) may be carried out remotely:

- (a) with IPART's approval; or

(b) where state or federal government restrictions prohibit access to any works, premises or offices occupied by Hunter Water or limit the movement of IPART, the Auditor or Hunter Water's Personnel.

6.3.2 Reporting and providing information

Licence conditions for reporting

Draft recommendations for your comment:



62. Retain requirements in the Licence to report in accordance with the Reporting Manual and provide information to IPART, NSW Health and auditors acting on IPART's behalf.

The current operating licence requires Hunter Water to report in accordance with the Reporting Manual. The Reporting Manual includes Hunter Water's reporting requirements which support IPART's function in monitoring Hunter Water's compliance with its Licence, as do the operational audits. However, the requirements in the Reporting Manual are not legally enforceable. For this reason, we propose to retain the current operating licence condition to comply with the Reporting Manual to ensure that Hunter Water does meet its reporting requirements.

The current operating licence also requires Hunter Water to provide information to IPART, NSW Health, or auditors acting on IPART's behalf. This could be reporting information, compliance and performance information to support the operational audit process, water quality information to NSW Health, or other information that IPART may request to support IPART's reviews under the Licence. We propose to retain these Licence requirements, with minimal changes, to support the audit and review processes.

We seek your feedback on the proposed Licence conditions for reporting, shown in Box 40 below.

Box 40 Proposed Licence conditions for performance monitoring (reporting)

40 Reporting

(1) IPART has the function of determining Hunter Water's reporting and auditing obligations and publishing these obligations in a reporting manual (the **Reporting Manual**).

(2) Hunter Water must comply with all of its reporting obligations set out in the Reporting Manual, including in relation to:

- (a) water conservation and planning;
- (b) performance standards for water quality;
- (c) performance standards for service interruptions;
- (d) organisational systems management;
- (e) customer and stakeholder relations;
- (f) information and services for competitors; and
- (g) performance monitoring and reporting, including:
 - (i) IPART performance indicators; and
 - (ii) the National Water Initiative Performance Indicators.

(3) Hunter Water must maintain sufficient record systems to enable Hunter Water to report accurately in accordance with clause 40(2).

(4) In the case of any disagreement between IPART and Hunter Water regarding the interpretation or application of any requirements of the Reporting Manual, IPART's interpretation or assessment of the application of the requirements will prevail.

41 Provision of information for performance monitoring

(1) Hunter Water must provide IPART or an Auditor with information relating to the performance of any of Hunter Water's obligations under clause 40 (including providing IPART with physical or electronic access to the records required to be kept under clause 40) within a reasonable period of time from Hunter Water receiving a request from IPART or an Auditor for that information.

(2) Hunter Water must provide IPART such information as is reasonably required to enable IPART to conduct any review or investigation of Hunter Water's obligations under this Licence within a reasonable time of Hunter Water receiving a request from IPART for that information.

(3) If Hunter Water engages any person (including a subsidiary) to undertake any activities on its behalf, it must take all reasonable steps to ensure that, if required by IPART or an Auditor, any such persons provide information and do the things specified in clause 39 and clause 40 as if that person were Hunter Water.

(4) If IPART or an Auditor requests information from Hunter Water that is confidential, the information must be provided to IPART, subject to IPART or the Auditor entering into reasonable arrangements with Hunter Water to ensure that the information remains confidential.

(5) Hunter Water must provide NSW Health with information relating to water quality in the manner and form specified by NSW Health within a reasonable time of receiving NSW Health's request.

[Note: Under section 19 of the Public Health Act 2010 (NSW), the Secretary of NSW Health may require Hunter Water to produce certain information.]

Reporting Manual – annual report on audit recommendations

Draft recommendations for your comment:



63. *[Reporting Manual]* Retain requirements in the Reporting Manual to provide a report on Hunter Water's progress with completing recommendations from the previous year's operational audit (but with a submission date of 30 June instead of 31 March).

Under the current Reporting Manual, Hunter Water must report on its progress with completing recommendations from the annual IPART operational audits (section 6.1.2 of the current Reporting Manual).

We propose to retain this requirement in the Reporting Manual as it is important compliance monitoring information to IPART, and it informs the follow year's operational audits. However, we propose that the deadline for providing the report should be 30 June, or another date approved by IPART, instead of 31 March as in the current Reporting Manual. This change is in response to a request from Hunter Water reflecting that in the last few years, we have been undertaking Hunter Water's audits in around November of each year. Hunter Water therefore needs more time to consider and implement the audit recommendations.

We seek your feedback on the proposed reporting requirements for progress with operational audit recommendations, shown in Box 41 below

Box 41 Proposed reporting requirements for reporting progress with operational audit recommendations.

8.1 Periodic reporting

8.1.2 Annual – Audit recommendations

Hunter Water must report to IPART annually on the status of any recommendations identified in a report prepared by IPART and provided to the Minister in relation to:

- the most recent Operational Audit, and
- any previous Operational Audit where the recommendations identified in IPART's audit report to the Minister had not been fully implemented at the time of the last audit recommendations status report.

Hunter Water must submit the audit recommendations status report to IPART by **30 June** of each year (or another date approved in writing by IPART).

[Note: Under Licence clause 37, IPART may undertake an Operational Audit. This section requires Hunter Water to report on the status of implementing recommendations identified in an Operational Audit.]

Reporting Manual – annual report on performance indicators

Draft recommendations for your comment:



64. *[Reporting Manual]* Retain requirements in the Reporting Manual to report annually on Hunter Water's performance against performance indicators.

Under the current Reporting Manual, Hunter Water must report on its performance against the IPART and National Water Initiative (NWI) performance indicators (section 6.1.1 of the current Reporting Manual).

We propose to retain these requirements as these reports provide us with important performance information. This is particularly important because we have reduced the annual performance reporting generally (discussed further in the next section of this report). The information of performance against the performance indicators will allow us to continue to monitor Hunter Water's performance request additional information or explanation if we observe concerning trends in performance. This allows us to seek information on a need- basis and reduce some of the burden on Hunter Water.

We seek your feedback on the proposed reporting requirements for reporting against performance indicators, shown in Box 42 below

Box 42 Proposed reporting requirements for reporting against performance indicators

8.1 Periodic reporting

8.1.3 Annual – reporting against performance indicators

Hunter Water must submit 2 performance reports to IPART each year:

- A report by **1 September** following the end of the relevant financial year (or another date approved in writing by IPART) on the following:
 - Hunter Water's performance against the IPART performance indicators set out in Appendix C of this Reporting Manual for the relevant financial year,
 - Hunter Water's performance against the Licence data set out in Appendix D of this Reporting Manual for the relevant financial year, and
 - Hunter Water's performance against the National Water Initiative (NWI) Performance Indicators (NWI Indicators) (other than those that relate to environment indicators) as outlined in the National urban water utility performance reporting framework: Indicators and definitions handbook, published in January 2018 by the Bureau of Meteorology and updated from time to time.¹⁵
- A report by **1 October** following the end of the relevant financial year (or another date approved in writing by IPART) on Hunter Water's performance against the NWI Indicators that relate to the environment as outlined in the National urban water utility performance reporting framework: Indicators and definitions handbook.

Hunter Water may choose to include with each report an explanation of Hunter Water's performance, which details:

- major factors (both positive and negative) that have influenced Hunter Water's performance, both within and beyond Hunter Water's control, and
- reasons for any variation (both positive and negative) between Hunter Water's performance in the financial year and with performance in prior years.

¹⁵ Bureau of Meteorology, National urban water utility performance reporting framework: Indicators and definitions handbook, January 2018

[Note: Under clause 40 of the Licence, Hunter Water must comply with its reporting obligations in this Reporting Manual. This section requires Hunter Water to report on its performance against performance indicators set out in this Reporting Manual. From time to time, IPART may review and change IPART performance indicators. When that occurs, we will update this Reporting Manual accordingly and notify stakeholders of the changes.]

Reporting Manual – annual statement of compliance and exception reporting

Draft recommendations for your comment:



65. *[Reporting Manual]* Retain requirements in the Reporting Manual to provide an annual statement of compliance (of Hunter Water's compliance during the previous financial year).

Hunter Water, like the other public water utilities that we regulate, is required to provide an annual statement of compliance under section 8.1.1 of the current Reporting Manual. The statement of compliance is an exception-based report of the non-compliances Hunter Water has incurred in the reporting year. We propose to retain this requirement in the Reporting Manual. Hunter Water is able to incorporate its exception reports for any non-compliances with the Licence conditions for water quality management, system performance standards for service interruptions, organisational management systems and customer relations in this statement of compliance.

The exception reports for the above noted non-compliances, replace the current annual compliance and performance reporting requirements. Under the draft Reporting Manual, Hunter Water would include the prescribed information in its exception reporting so that we are able to clearly understand the non-compliances and actions taken to resolve them.

The current annual compliance and performance reporting requirements impose a cost burden on Hunter Water to develop the reports without providing adequate benefit. These reports are only submitted to us (and in some cases DPE and NSW Health). They are not required to be made public. We do not use this information for many purposes at IPART. At this stage, we have not proposed new requirements for Hunter Water to publish the reports though we acknowledge that public reporting is a useful tool in driving performance. We consider that public reporting requirements would not justify the associated cost as Hunter Water is already performing above the standards set in the Licence.

If Hunter Water's performance reduces significantly in future, we can consider including public compliance and performance reporting requirements to drive performance improvement.

We seek your feedback on the proposed reporting requirements for providing an annual statement of compliance, shown in Box 43 below.

Box 43 Proposed reporting requirements for providing an annual statement of compliance

8.1 Periodic reporting

8.1.1 Annual – Statement of Compliance

Hunter Water must prepare, for each financial year, a statement of compliance in the form of Appendix E to this Reporting Manual.

Hunter Water must submit the statement of compliance to IPART by **1 September** following the end of the relevant financial year (or another date approved in writing by IPART).

The statement of compliance is an exception-based report. This means that only licence non-compliances are required to be reported. Schedule A of the template in Appendix E provides guidance on descriptions for the reported non-compliance(s). Hunter Water may choose to incorporate the non-compliance(s) required to be reported to IPART under sections 3.1.4, 4.1.1, 5.1.1 and 6.1.1 into the statement of compliance.

If there are no exceptions in the financial year, the statement of compliance should state that to be the case.

[Note: This section relates to Licence clause 39, under which IPART may undertake an Operational Audit on Hunter Water's compliance with the Licence. As part of the preparation for IPART's audit process, this section requires Hunter Water to provide a statement of compliance which identifies any non-compliance with the Licence of which Hunter Water is aware.]

Reporting Manual – significant changes report

Draft recommendations for your comment:



66. *[Reporting Manual]* Do not include requirements to report on significant changes to water quality management and organisational management systems.

Under the current Reporting Manual, Hunter Water must report on any significant changes to its water quality management systems and organisational management systems (section 6.1.3 of the current Reporting Manual).

We propose to remove this current requirement. We consider that these reports are not providing information that justifies the burden of producing them. Hunter Water supports removing these reporting requirements. Instead, we have proposed that Hunter Water should provide exception-based reports on its compliance with the Licence conditions requiring the water quality management systems and organisational management systems, as previously discussed in sections 2.1.3 and 2.2.5.

6.4 Other parts of the Licence

Draft recommendations for your comment:



67. Retain requirements in the Licence for Licence authorisation, term of the Licence, non-exclusivity, making copies of the Licence available, the end-of-term review of the Licence, notification about the Licence and Hunter Water's area of operations, similar to those in the current operating licence with no significant changes.

As was our preliminary proposal in the Issues Paper, we have not proposed significant changes to the following parts of the Licence as we consider they are working effectively. We did not receive any submissions from stakeholders seeking changes to these parts of the Licence:

- Licence authorisation (clause 10 of the draft Licence) – this condition specifies what the Licence authorises, and in some cases requires, Hunter Water to do. Including the Licence authorisation clause in the Licence meets the requirements of section 13(1) of the Act.
- Term of this Licence (clause 3 of the draft Licence) – this condition specifies the term of the Licence. We propose that the new Licence would be issued for a term of 5 years from 1 July 2022.
- Licence amendment (clause 4 of the draft Licence) – this condition specifies how the Licence may be amended by the Governor. Section 14 of the Act allows the Licence to include terms and conditions about how the Licence may be amended.
- Non-exclusive Licence (clause 5 of the draft Licence) – this condition states that the Licence does not prohibit another person from providing services in Hunter Water's area of operations that are the same as, or similar to, Hunter Water's services, if the person is lawfully entitled to do so.
- Making copies of this Licence available (clause 6 of the draft Licence) – this condition requires Hunter Water to make a copy of the Licence available to any person free of charge, on its website and upon request. Section 38(5) of the Act allows the Licence to specify how, following variation of a customer contract, Hunter Water is to make copies of the contract and associated explanatory material publicly available.
- End of term review (clause 8 of the draft Licence) – this condition states when the next review of the Licence is expected to occur. We have proposed a minor change to specify that IPART will undertake the end-of-term review, as is our role and standard process.

- Notices (clause 9 of the draft Licence) – this clause provides the contact details for IPART, Hunter Water and the Minister's office, for sending any notices or communication under the Licence. We note that including the Minister's details is a minor change from the current operating licence but is consistent with other public water utility operating licences.
- Area of operations (clause 2 of the draft Licence) – We propose to retain approach of the current operating licence which describes Hunter Water's area of operations in Schedule A of the Licence. We also propose to retain the current operating licence requirement to publish a map of the area of operations on its website¹⁶ but include an additional requirement to update the map within 30 days of any changes to the area of operations. While we acknowledge this new requirement will impose some cost, we consider that this is a minor change, consistent with the requirements on other public water utilities. It will help people easily identify what localities are included in Hunter Water's area of operations.

Specifying the area of operations in the Licence is necessary to understand the part of Hunter Water's area of operations that the Licence applies to. (Section 16 of the Act states that the Licence applies to the area of operations specified in the Licence.)

We seek your feedback on the above proposed Licence conditions shown in Box 44 below.

Box 44 Other proposed Licence conditions

2 Area of Operations

- (1) This Licence applies to the Area of Operations specified in Schedule A.
- (2) Hunter Water must publish on its website a map of its Area of Operations. Hunter Water must update the map within 30 days of any change to its Area of Operations.

3 Term of this Licence

The term of this Licence is 5 years from the Commencement Date.

[Note: On and from the Commencement Date, this Licence replaces any previous version of the operating licence granted to Hunter Water under section 12 of the Act.]

4 Licence amendment

- (1) Subject to the Act and clause 4(2) the Governor may amend or substitute this Licence by notice in the New South Wales Government Gazette. The amendment takes effect on the date the notice is published in the New South Wales Government Gazette, or on such other date specified in the notice.

¹⁶ Clause 5.7.2 of the current operating licence requires Hunter Water to make a map of its area of operations available to any person, free of charge on its website for downloading and upon request through the General Enquiry Process.

(2) Before notice of a proposed amendment to this Licence is published in the New South Wales Government Gazette, the Minister must provide Hunter Water reasonable notice of the proposed amendment to enable it to comply with the amended Licence (if relevant) upon its commencement.

[Note: The Customer Contract may be varied in accordance with section 3 of the Act and clause 2.6 of the Customer Contract. Such a variation is not an amendment to this Licence for the purpose of section 14 of the Act.]

5 Non-exclusive Licence

This Licence does not prohibit another person from providing services in the Area of Operations that are the same as, or similar to, the Services, if the person is lawfully entitled to do so.

6 Availability of Licence

(1) Hunter Water must make a copy of this Licence available to any person, free of charge:

- (a) on its website; and
- (b) upon request made through the General Enquiry Process.

8 End of Term Review

(1) IPART intends to review this Licence in its final year to investigate:

- (a) whether this Licence is fulfilling its objectives; and
- (b) any issues which have arisen during the term of this Licence, that may affect its effectiveness,

(End of Term Review).

(2) To assist IPART with the End of Term Review, Hunter Water must provide IPART with such information as IPART reasonably requires. Hunter Water must provide IPART with such information as IPART requests within a reasonable time.

9 Notices

(1) Any notice or other communication given under this Licence must be:

- (a) in writing addressed to the intended recipient; and
- (b) delivered or sent to one of the addresses (electronic and/or postal) specified below (or the last address notified by the recipient), unless otherwise specified in the Reporting Manual.

	Hunter Water	Minister	IPART
Electronic	enquiries@hunterwater.com.au	office@anderson.minister.nsw.gov.au	compliance@ipart.nsw.gov.au
Postal	The Managing Director Hunter Water Corporation	The Hon. Kevin John Anderson MP	The Chief Executive Officer

36 Honeysuckle Drive
Newcastle West NSW
2302

GPO Box 5341
SYDNEY NSW 2001

Independent Pricing and
Regulatory Tribunal
Level 15, 2-24 Rawson Place
Sydney NSW 2000

(2) Any requests for approval under the following clauses must be made by Hunter Water's Managing Director: 13(5), 13(7), 14(1), 14(3), 15(1), 22(1), 23(1), 24(1), 29(1), 30(5), 32(1), 37(2), 37(3), 37(5) or 37(6).

10 Licence authorisation

(1) This Licence authorises and requires Hunter Water to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for providing the following Services within its Area of Operations:

- (a) supplying water;
- (b) providing sewerage services; and
- (c) disposing of Wastewater.

(2) This Licence authorises Hunter Water to do all things necessary or convenient to achieve, and to promote the capability to achieve, the transfer of water between its Area of Operations and the local government area of the Central Coast Council in accordance with the Hunter/Central Coast Pipeline Agreement.

(3) This Licence authorises and requires Hunter Water to provide, operate, manage and maintain a drainage service as described in section 13(1)(b) of the Act.

(4) This Licence authorises (but does not require) Hunter Water to provide, construct, operate, manage and maintain a drainage service within the Area of Operations in excess of the drainage service it is required to provide, operate, manage and maintain under clause O. For the avoidance of any doubt, this clause authorises (but does not require) Hunter Water to enhance, expand and add capacity to the drainage service described in section 13(1)(b) of the Act.

Chapter 7 >>

Full list of draft recommendations

For your comment

07

7.1 Full list of draft recommendations for your comment

We have included the full list of draft recommendations, made in this draft Report, for your comment below:

1.	Retain requirements in the Licence for water quality management systems consistent with the Australian Drinking Water Guidelines (ADWG) and the Australian Guidelines for Water Recycling (AGWR).	10
2.	Retain requirements in the Licence to implement the water quality management systems.	10
3.	Expand the definition of the AGWR in the proposed Licence to include all volumes of the guidelines.	10
4.	Clarify NSW health's role in specifying reasonable health-based requirements made in writing. These are intended to be additional to the requirements set by the ADWG/AGWR (and are not intended to depart from the guidelines).	10
5.	<i>[Reporting Manual]</i> Retain most of the current water quality reporting requirements but replace annual compliance and performance reporting on the water quality management systems with exception reporting only.	15
6.	Do not include a new Licence requirement for fluoridation. We can assess fluoridation performance under the water quality management system requirements in the Licence for drinking water.	16
7.	Retain 4 of the current 5 system performance standards for water continuity, water pressure and dry weather wastewater overflows in the Licence.	17
8.	Do not include one of the current water continuity standards for multiple short unplanned service interruptions.	17
9.	Retain the service levels specified by the system performance standards in the current operating licence (i.e. do not increase or lower service levels).	17
10.	Express the standards as a proportion of properties supplied to account for customer growth.	18
11.	Retain the current approach to set minimum standards in the Licence and do not optimise the standards.	18
12.	<i>[Reporting Manual]</i> Do not include current annual compliance and performance reporting requirements for system performance standards and replace with exception reporting only.	28
13.	Retain requirements in the Licence to calculate system yield in a manner agreed with DPE.	31
14.	Retain requirements in the Licence to maintain and implement a water conservation work program in relation to Water Storage and Transmission. This water	

conservation work program must be in accordance with Hunter Water's Water Conservation Strategy.	31
15. Include transition arrangements in the Licence so that the water conservation work program in relation to Water Storage and Transmission will be superseded by requirements to develop a 5-year Water Efficiency Plan. The Water Efficiency Plan will consider the total water cycle from catchment to tap.	32
16. Retain requirements in the Licence for Hunter Water to use an economic approach to water conservation (for water supplied from treatment plants to consumers).	33
17. Allow flexibility in the Licence for Hunter Water to use any economic approach once it has been approved by the Minister, and not be limited to the Economic Level of Water Conservation methodology only.	33
18. Include transition arrangements in the Licence so that the water conservation work program based on the economic approach (for water supplied from treatment plants to consumers) will be superseded by requirements to develop a 5-year Water Efficiency Plan. The Water Efficiency Plan will consider the total water cycle from catchment to tap.	33
19. Include a new requirement in the Licence to prepare a drought response plan.	37
20. <i>[Reporting Manual]</i> Retain reporting requirements to support the proposed water conservation and water planning Licence conditions.	38
21. Retain requirements for publishing the Customer Contract, making timely variations and communicating those variations.	42
22. Support Hunter Water's proposed changes to the Customer Contract, except in some cases as explained in the Summary of changes to the Customer Contract published in Information Paper 3 on our website.	43
23. Make explicit in the Customer Contract which clauses apply to those customers that have a non-standard connection to Hunter Water's services and are not party to a separate agreement (i.e. are deemed to be included in the Customer Contract).	43
24. Include requirements in the Licence to communicate information to customers and the general public about customers' rights under the Customer Contract, available account relief and rebate claims available.	45
25. Include requirements in the Licence to update communications following any changes to the information in the Customer Contract, available account relief and rebate claims available.	45
26. Allow flexibility in the Licence for Hunter Water to use any method of communication with its customers and remove the current restriction of communicating through 'pamphlets'.	45
27. Do not include the current requirement to provide IPART with a copy of any notice of changes to the Customer Contract, before publishing that notice (current operating licence clause 5.1.2).	47
28. Retain Licence conditions extending customer protections under the Customer Contract to 'consumers' that are not usually party to the Customer Contract.	48
29. Retain requirements to make services available to properties in its area of operations, on request	49

30.	Retain requirements to maintain, implement and communicate to customers and the general public about assistance options and actions for non-payment and any variations to this information.	51
31.	Include a new Licence requirement to develop, implement and communicate to customers and the general public about a family violence policy and any variations to this policy.	53
32.	Retain requirements to develop, implement and communicate to customers and the general public about Hunter Water's internal complaints handling procedure and any variations to this procedure.	54
33.	Retain requirement for membership of an external dispute resolution scheme but allow Hunter Water the option of membership of the Energy and Water Ombudsman NSW or another external dispute resolution scheme approved by IPART	57
34.	Retain requirements to communicate to customers and the general public about the external dispute resolution scheme and any variations to this information.	57
35.	Do not include the current prescriptive requirements for Hunter Water to maintain a Customer Advisory Group. Instead, allow flexibility in the Licence to undertake customer consultation in any manner that Hunter Water considers effective.	59
36.	<i>[Reporting Manual]</i> Do not include current annual compliance and performance reporting requirements for customer and stakeholder relations and replace with exception reporting only.	61
37.	<i>[Reporting Manual]</i> Retain requirements to report on customers' complaints and any actions taken to resolve them.	62
38.	<i>[Reporting Manual]</i> Do not include current requirements to notify IPART of changes made to Licensed documents such as the Customer Contract, assistance options and actions for non-payment, and the external dispute resolution scheme because these are contained within the draft Licence.	63
39.	Retain requirements in the Licence to maintain an AMS consistent with <i>Australian Standard AS ISO 55001:2014 - Asset management - Management systems - Requirements</i> , or an alternative standard approved by IPART.	66
40.	Retain requirements in the Licence to implement the AMS.	66
41.	Retain requirements in the Licence to maintain an EMS consistent with <i>Australian/New Zealand Standard AS/NZS 14001:2016 Environmental management systems - Requirements with guidance for use</i> , or an alternative standard approved by IPART.	69
42.	Retain requirements in the Licence to implement the EMS.	69
43.	Retain requirements in the Licence to maintain a QMS consistent with <i>Australian/New Zealand Standard AS/NZS 9001:2016 Quality management systems - Requirements with guidance for use</i> , or an alternative standard approved by IPART	70
44.	Retain requirements in the Licence to implement its QMS.	70
45.	<i>[Reporting Manual]</i> Do not include current annual compliance and performance reporting requirements for organisational management systems (AMS, EMS and QMS) and replace with exception reporting only.	71

46.	Retain requirements in the Licence to use best endeavours to maintain an MoU with NSW Health.	74
47.	Retain requirements in the Licence to comply with the MoU with NSW Health.	74
48.	Retain requirements in the Licence to use best endeavours to maintain an MoU with DPE.	75
49.	Retain requirements in the Licence to comply with the MoU with DPE.	75
50.	Include new requirement for the MoU to specify how Hunter Water and DPE should work together to complete long-term plans.	75
51.	The proposed Licence conditions reflect the transition from the Lower Hunter Water Plan to the Lower Hunter Water Security Plan	75
52.	Retain requirements in the Licence to use best endeavours to maintain an MoU with FRNSW.	77
53.	Retain requirements in the Licence to comply with the MoU with FRNSW.	77
54.	Retain requirements for a working group between Hunter Water and FRNSW. Expand the requirements for the working group membership to include other members such as the Rural Fire Service.	77
55.	Retain requirements in the Licence to make services available to competitors (currently only WIC Act licensees), on request, subject to any reasonable conditions from Hunter Water	80
56.	Include a new requirement in the Licence to negotiate in 'good faith with competitors (including current WIC Act licensees and potential new competitors).	81
57.	Retain requirements in the Licence to use best endeavours to cooperate with WIC Act licensees seeking to establish a code of conduct, on written request from the WIC Act licensee.	84
58.	Include new requirements to publish servicing information on Hunter Water's website for competitors.	85
59.	<i>[Reporting Manual]</i> Include new requirements to report on Hunter Water's performance with providing information and services to competitors.	87
60.	Retain the Pricing condition from the current operating licence with no significant change.	93
61.	Retain requirements in the Licence for operational audits that accommodate remote auditing.	94
62.	Retain requirements in the Licence to report in accordance with the Reporting Manual and provide information to IPART, NSW Health and auditors acting on IPART's behalf.	96
63.	<i>[Reporting Manual]</i> Retain requirements in the Reporting Manual to provide a report on Hunter Water's progress with completing recommendations from the previous year's operational audit (but with a submission date of 30 June instead of 31 March).	98
64.	<i>[Reporting Manual]</i> Retain requirements in the Reporting Manual to report annually on Hunter Water's performance against performance indicators.	99

65.	<i>[Reporting Manual]</i> Retain requirements in the Reporting Manual to provide an annual statement of compliance (of Hunter Water's compliance during the previous financial year).	101
66.	<i>[Reporting Manual]</i> Do not include requirements to report on significant changes to water quality management and organisational management systems.	102
67.	Retain requirements in the Licence for Licence authorisation, term of the Licence, non-exclusivity, making copies of the Licence available, the end-of-term review of the Licence, notification about the Licence and Hunter Water's area of operations, similar to those in the current operating licence with no significant changes.	103

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- i IPART, *A best practice approach to designing and reviewing licensing schemes*, prepared by PricewaterhouseCoopers, March 2013.
- ii WHO, *Health-Based Targets*, Geneva, Switzerland (2010). Available at: [Health-Based Targets](https://www.who.int/Health-Based-Targets) <https://www.who.int/Health-Based-Targets>
- iii WHO *Global Status Report on Water Safety Plans: A Review of Proactive Risk Assessment and Risk Management Practices to Ensure the Safety of Drinking-Water* World Health Organization, Geneva, Switzerland (2017). <https://apps.who.int/iris/handle/10665/255649>
- iv *Public Health Act 2010*, s 5(1), definition of 'supplier of drinking water'.
- v *Public Health Act 2010*, ss 25(1) and (1A); *Public Health Regulation 2012*, clause 34A.
- vi <https://www.hunterwater.com.au/our-water/sustainability/recycling-and-reuse/recycled-water-services>
- vii Lower Hunter Water Security Plan – draft at Planning our Future website <https://yourvoice.hunterwater.com.au/water-future>
- viii The AGWR series were produced in two phases, see <https://www.waterquality.gov.au/guidelines/recycled-water>.
- ix The current operating licence definition of AGWR only refers to phase 1 of the AGWR.
- x *Fluoridation of Public Water Supplies Regulation 2017*, cl. 7.
- xi The Sydney Water Operating Licence already included the condition to comply with the Fluoridation Code. We made a recommendation not to remove this condition. In contrast, the Hunter Water does not include this licence condition. In the Issues Paper we considered whether we should recommend that it should be included.
- xii *Hunter Water Act 1991*, section 13(1)(c)
- xiii Hunter Water's CBA submission, received on 1 November 2021, is available on our website at: https://www.ipart.nsw.gov.au/documents/document/issues-paper-hunter-water-operating-licence-review?timeline_id=13929.
- xiv Hunter Water, Hunter Water Operating Licence Review 2021-22, Response to IPART's Issues Paper, October 2021, page 73.
Sydney Water, Hunter Water Operating Licence Review 2021-22, Response to Issues Paper, 15 November 2021, page 2.
- xv Section 1.2 Water conservation and water efficiency assessment of the NSW Government submission to the Issues Paper.
- xvi Hunter Water's your voice website has details of the consultation and development of the draft Lower Hunter Water Security Plan consultation, available here: <https://yourvoice.hunterwater.com.au/water-future>

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- ^{xvii} Productivity Commission, *Integrated Urban Water Management – Why a good idea seems hard to implement*, Commission Research Paper, March 2020, Canberra, available at [Integrated Urban Water Management - Productivity Commission](#).
- ^{xviii} IPART, *Submission to National Water Reform Inquiry*, April 2017, available at: [IPART Submission Water Reform on https://www.pc.gov.au/](https://www.pc.gov.au/)
- ^{xix} Hunter Water, Our Business, available at <https://www.hunterwater.com.au/about-us/our-business>.
- ^{xx} Schedule 2 of the *Competition and Consumer Act 2010* (Cth) provides protections for consumers which apply across most sectors of the economy, including to the services supplied by Hunter Water.
- ^{xxi} Energy and Water Ombudsman NSW, Commitment resources – Information and accessibility, available at: [Commitments resources - NSW Ombudsman](#).
- ^{xxii} IPART, Audit Guideline – Public Water Utilities, July 2019.
- ^{xxiii} IPART, *Report to the Minister - Hunter Water Corporation Operating Licence 2007 - May 2007*, available on the [IPART website](#).
- ^{xxiv} NSW Treasury, *TPP19-07 Asset Management Policy for the NSW Public Sector*, October 2019, Sydney.
- ^{xxv} cl 25 of the *Water Industry Competition (General) Regulation 2008*, where the portfolio Minister may, by order published in the Gazette, establish a code of conduct in relation to the respective responsibilities of licensed network operators, licensed retail supplier and public water utilities. To date the Minister has not established a water industry code of conduct.
- ^{xxvi} *Hunter Water Act 1991*, sections 13(1)(c) and 39.