



Attachment 22

Compliance and regulatory drivers of expenditure

30 September 2024

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1 Regulatory drivers

1.1 Legislative drivers

Several state and Commonwealth Acts and subordinate legislation could have an impact on the pricing proposal. For state legislation, these include:

- **Water NSW Act 2014:**

This act defines the functions and objectives of WaterNSW. The principal objectives of WaterNSW under the Act are:

- to capture, store and release water in an efficient, effective, safe and financially responsible manner, and
- to supply water in compliance with appropriate standards of quality, and
- to ensure that declared catchment areas and water management works in such areas are managed and protected so as to promote water quality, the protection of public health and public safety, and the protection of the environment, and
- to provide for the planning, design, modelling and construction of water storages and other water management works, and
- to maintain and operate the works of WaterNSW efficiently and economically and in accordance with sound commercial principles.

The other objectives of WaterNSW are as follows:

- to be a successful business and, to that end:
 - (i) to operate at least as efficiently as any comparable business, and
 - (ii) to maximise the net worth of the State's investment in Water NSW,
- to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
- to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates,
- where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the Protection of the Environment Administration Act 1991.

The functions of WaterNSW under this act are to:

- capture and store water and to release water: (i) to persons entitled to take the water, including release to regional towns, and (ii) for any other lawful purpose, including the release of environmental water
- supply water to the Sydney Water Corporation
- supply water to water supply authorities and to local councils or county councils prescribed by the regulations
- supply water to licensed network operators or licensed retail suppliers within the meaning of the Water Industry Competition Act 2006
- supply water to other persons and bodies, but under terms and conditions that prevent the person or body concerned from supplying the water for consumption by others within the State unless the person or body is authorised to do so by or under an Act
- construct, maintain and operate water management works (including providing or constructing systems or services for supplying water)
- protect and enhance the quality and quantity of water in declared catchment areas
- manage and protect declared catchment areas and water management works vested in or under the control of Water NSW that are used within or for the purposes of such areas
- undertake flood mitigation and management
- undertake research on catchments generally, and in particular on the health of declared catchment areas

- to undertake an educative role within the community.

The Water NSW Act allows for the Operating Licence to authorise delivery of functions under the Act and requires systems and processes to meet requirements of the licence.

- **Water NSW Regulation 2020:**

This Regulation sits under the *WaterNSW Act 2014*. A key responsibility of WaterNSW is identifying and managing impacts on water quality in the declared catchment areas. In order to protect water quality, the Water NSW Regulation 2020 restricts access to lands immediately adjacent to the storages used for drinking water supplies. It also provides for regulatory powers to manage pollution activities that impact water quality and to legally enforce access restrictions.

In Special Areas, (those lands adjacent to water storages in the Greater Sydney drinking water catchment) access may be prohibited or certain activities restricted to protect water quality and ecological health.

The Water NSW Regulation 2020 (which operates under the Water NSW Act 2014) provides WaterNSW with the power to legally enforce access restrictions.

WaterNSW has enforcement powers under the Protection of the Environment Operations Act 1997 to penalise polluting activities in the catchment that may impact on water quality.

WaterNSW keeps a public register of all notices issued under the Protection of the Environment Operations Act 1997.

The *Water NSW Regulation 2020* is being reviewed by NSW DCCEEW in consultation with WaterNSW. The Regulation will be recommended for remake by 1 September 2025 (which is when the current Regulation expires). Future changes may create additional actions and/or costs for WaterNSW.

- **Water Management Act 2000 and Water Act 1912 and Water Management (General) Regulation 2018:**

The objectives of the Water Management Act 2000 are to provide for the sustainable and integrated management of the water sources of the state for the benefit of both present and future generations and, in particular:

- Ecologically sustainable development
- Protect, enhance and restore water resources
- Recognise and foster social and economic benefits
- Recognise the role of the community
- Provide efficient and equitable sharing of water
- Management of water sources with other aspects of the environment including native vegetation and native fauna
- Encourage the sharing of responsibility and efficient use of water
- Encourage best practice management and use of water.

We have numerous obligations under the WMA and its associated regulations, including ensuring that our activities consider the principles of the Act and implementing the Water Sharing Plans (WSPs), which WaterNSW is externally audited on by the Natural Resources Commission (NRC).

In NSW, the policy maker for water resource management is the DCCEEW. The department develops natural resource management policy frameworks, strategies and plans related to water management. DCCEEW is responsible for developing water sharing plans (WSPs), which define the rules for sharing the water resources of regulated, unregulated rivers and groundwater between consumptive users and the environment. WSPs are made under the *Water Management Act 2000*. WaterNSW operates in accordance with these WSPs and delivers water to customers and the environment in the regulated rivers. Customers' water accounts are credited with their shares of available water and, as they use their water, their usage is debited from their accounts. Implementation of WSPs is audited by the Natural Resources Commission.

The majority of water access licences are issued under the Water Management Act 2000, but some still remain as they were issued under the Water Act 1912. These are gradually being converted to Water Management Act 2000 licences and approvals.

The Operating Licence for WaterNSW also confers on WaterNSW certain functions of the Minister administering the Water Management Act 2000 and the Water Act 1912. These functions are listed in Schedule A of the Operating Licence.

Our obligations under the WMA and its subordinate instruments include; dam operations, resource assessments, supplementary water access announcements, e-flow releases, active management/protection. These obligations require works approvals conditions for all our infrastructure, requiring Water Access Licences (WALs) - with conditions established by DCCEEW.

Where we extract water for Greater Sydney and the Fish River Water Supply Scheme, we operate as a water supply authority, and a major water utility in addition to discharging our respective WAMC functions.

Our WAMC functions under the WMA include managing the hydrometrics network, metering, licensing and trading functions in accordance with the Conferred Functions in our Operating Licence.

Our Water Supply Work Approvals made under the Act may include requirements (conditions) to manage cold water releases from our dams. The NSW Government has agreed on a strategy¹ (the 2012 NSW Cold Water Pollution Strategy) to investigate, and where possible ameliorate, the impact at high priority dams where it is technically and economically feasible to do so.

The Water Management (General) Regulation is also being reviewed and is expected to be remade by 1 September 2025 (which is when the current Regulation expires).

- **Dams Safety Act 2015 and Dams Safety Regulation 2019:**

Dams Safety NSW is the state regulator for dam safety. It is responsible for developing and implementing regulation for effective dam safety management by dam owners, like WaterNSW, to protect life, property and the environment from dam failures. WaterNSW is obligated to meet the requirements under the NSW Dams Safety Act 2015.

WaterNSW owns and operates 41 dams which are regulated by Dams Safety NSW.

Under the Dams Safety Act 2015, Dams Safety NSW has the power to direct WaterNSW to undertake activities to ensure the safety and proper maintenance and operation of our dams. We have also developed and implement a dam safety management system to enable us to meet the obligations in the Act.

The requirements that WaterNSW need to comply with during the life of each dam include:

1. Proper operation and maintenance of their dams using trained personnel;
2. Regular dam surveillance using trained personnel;
3. Appropriate dam safety emergency plans to be in place for those dams whose failure could cause loss of non-itinerant life;
4. Ongoing assessment of the dam's behaviour on the basis of surveillance information;
5. Periodic review of their dam's compliance with current Dams Safety NSW requirements;
6. Review of all dam information and assessments by experienced personnel; and
7. Actions, in response to dam assessments, to ensure that their dams are maintained in a safe condition.

The safe and responsible management of WaterNSW's prescribed dams is also vital to ensure:

- compliance requirements relevant to the activities undertaken by WaterNSW including the current relevant Commonwealth and State legislation, Operating Licence obligations;

¹ The NSW Cold Water Pollution Strategy, July 2012; (https://water.dpie.nsw.gov.au/__data/assets/pdf_file/0009/456912/NSW-Cold-water-pollution-strategy-stage-one.pdf)

- commitments to Government and associated regulatory bodies with respect to safety and asset management delivery and performance, specifically with respect to cost, risk and operational delivery, are achieved within agreed timeframes;
- management of public infrastructure to assure safe and reliable water delivery for future generations.

WaterNSW ensures dam safety and manages the risks of dam failure throughout the life of each dam by implementing an effective dam safety management system.

This is undertaken by professional and technical staff responsible for all aspects of dam safety including surveillance, investigations, risk analysis, planning and prioritisation, project initiation and oversight, and regulatory compliance and reporting.

IPART is currently investigating the imposition of a levy to recoup the efficient costs of Dams Safety NSW (DSNSW) from dam owners. IPART will recommend a methodology for recovering these costs from declared dam owners. Dam owners will be responsible for payment of these levies that do not currently exist. The levy rate that was proposed back in 2020 would have resulted in an annual cost of \$437,547 for WaterNSW for its 41 Declared Dams. It is expected that if IPART propose a levy, it will not be too dissimilar in cost to that proposed in 2020 and an appropriate way to recover the cost of this levy will need to be determined.

This cost has not been included in our Proposal because the levy review is not finalised.

- **State Owned Corporations Act 1989 (SOC Act):**

This act provides for the establishment and operation of New South Wales Government enterprises as State-owned Corporations. There are requirements for dividend payments, issuing of Statement of Corporate Intent and Annual Reporting. This Act also allows for the Minister to direct WaterNSW to take certain actions.

Under the Act, the principal objectives of a statutory SOC are:

- a. to be a successful business and, to this end—
 - i. to operate at least as efficiently as any comparable businesses, and
 - ii. to maximise the net worth of the State's investment in the SOC, and
- b. to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
- c. where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the Protection of the Environment Administration Act 1991, and
- d. to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.

Reporting requirements exist within the SOC Act relating to our Statement of Corporate Intent and Annual Reports.

The Minister is also able to direct WaterNSW to do certain things using a direction under s20N or s20P of the Act.

- **Fisheries Management Act 1994:**

Section 218 of the Act requires WaterNSW to build fish passage on our infrastructure when that infrastructure is modified or upgraded.

Any modifications to our dams or weirs (including for dam safety upgrades) may trigger a requirement to build fish passage infrastructure. The Minister administering the Act (currently the Minister for Agriculture)

may also require infrastructure to be developed to enable fish passage. Such infrastructure can be very costly with the decision made by another agency and Minister.

Our current Cost Reflective Base Case presented in this pricing submission presents over \$100 Million of investment in fish passage over the five-year determination period to implement this policy. See Attachment 7 for more information.

- **Environmental Planning & Assessment Act 1979:**

The *Environmental Planning and Assessment (EP&A) Act 1979* mandates that WaterNSW as a self-determining authority must consider to the fullest extent practicable all potential impacts to the environment and mitigate or control these risks in order to comply with the legislation. This complex process of Environmental Impact Assessment is resource intense and is implemented in all phases of the project life cycle.

- **Protection of the Environment Operations Act 1997:**

The *Protection of Environment Operations (POEO) Act 1997* requires our operational businesses to comprehensively manage risks to the environment and maintain a high level of training, awareness and response capacity with regard to pollution to the environment. Due to the complexity and geographical breadth of WaterNSW's operational assets this requires subject matter expertise across multiple fields to feed into risk assessments in areas such as water quality, dam and river operational regimes, multiple modelling parameters, contaminated land risk practices, contractor and construction/maintenance methodologies and review of potential issues across the full supply chain. Furthermore supervision and compliance obligations are placed upon all workers and senior management which is coordinated through the Environmental Management System roles and responsibilities.

- **Work Health & Safety Act 2011:**

At WaterNSW, safety is who we are, it's how we do things. Furthermore, we have a legal duty as a Persons Conducting Businesses or Undertaking (PCBU) under the *Work Health and Safety Act 2011 No 10* (NSW) to eliminate or minimise risks to health and safety, so far as is reasonably practicable.

Our primary vehicle for doing so is through our ISO45001:2018 accredited Work Health and Safety Management System (WHSMS).

Ensuring we have a safe working environment for our employees, contractors and visitors impacts our cost base through several areas:

- Training and development: We have a legal and moral duty to ensure our workers are informed about the hazards and risks in their workplace and have instruction on key aspects of their role including the use of plant and equipment.
- Operational costs: This includes insurance and expenses occurred during ISO accreditation of the WHSMS and its assurance processes including audit and inspection.
- Administrative costs: Such as the salaries of safety personnel who maintain and implement the WHSMS.
- Equipment: Including Personal Protective Equipment (PPE) and other safety equipment.
- Indirect costs: Such as the management effort in implementation of the WHSMS, loss of productivity due to injury, investigation and reporting.

The benefits of a well-implemented WHSMS outweigh the costs incurred by reducing workplace accidents, improving employee morale, and ensuring compliance with regulatory requirements.

- **Privacy and Personal Information Protection Act 1998:**

Meeting our requirements under the *PPIP Act* adds to our ongoing administrative, digital and regulatory costs. Examples include:

- An increased number of customer calls to manage their details so they can be verified.
- Designing and delivering new systems to handle two factor authentication; and

- Managing data in a sensitive way where there are multiple holders of a Water Access Licence.

There are also additional training costs to ensure our staff are aware of privacy obligations and mandatory data breach reporting requirements, and are equipped to manage sensitive data and customer situations. We also need to assess situations and provide legal advice across the business and do ongoing assessments of the privacy impacts of new projects. Legislative changes also need to be monitored and internal policies reviewed to ensure alignment with legislative requirements.

- **Public Interest Disclosures Act 2022:**

Ongoing administrative costs also arise in meeting the requirements of the *Public Interest Disclosures Act 2022*, in particular due to the significant ongoing mandatory training requirements imposed under the Act.

- **Biosecurity Act 2015**

WaterNSW is a significant landholder in NSW. As a landholder, WaterNSW has legal responsibilities under the Biosecurity Act 2015, to manage pest plants and animals to prevent their spread in line with regional pest plans (i.e. meet the General Biosecurity Duty). Management of biosecurity is coordinated with regulators, Local Councils and Local Land Services. Separate Strategic Regional Plans are developed for pests and weeds that identify priorities and control strategies for regionally significant species. Activities are often seasonal, responding to the growth cycles of each species with different strategies required dependent on the species under management. In the 2026–30 regulatory period, WaterNSW proposes to extend its compliance with the Biosecurity Act across its rural land holdings. See land management operating expenditure step change in Attachment 8.

- **Contaminated Lands Management Act 1997**

WaterNSW has legislative obligations to manage and maintain its property portfolio to prevent the spread of contamination to other lands, to ensure it is compliant with legislative obligations to report any offsite migration of contaminants and manage contamination risks on its land to prevent potential contamination of water sources.

- **Residential Tenancies Act 2010**

WaterNSW owns a number of cottage properties at dams and other operational sites. Many of these were built at the time of dam construction and are still used as housing for WaterNSW staff (such as storage custodians) at our operational sites, many of which are remote. Given the age of these properties, and to meet WaterNSW's requirements under the *Residential Tenancies Act 2010*, which is to ensure residential properties are clean, safe, and habitable, we have identified the need to increase the level of maintenance undertaken. This will drive additional costs in the 2025–2030 period.

- **For Commonwealth legislation, these include:**

Commonwealth Water Act 2008

This Act covers the Australian Government's water market reforms and Murray–Darling Basin Plan, as well as the Commonwealth metering assurance framework (which is largely consistent with the NSW Non–Urban Water Metering Policy).

Commonwealth driven reform and initiatives are generally accompanied by Commonwealth funding i.e. Federal Funding Agreements (FFA). We anticipate that this will be the case for water market reform and the implementation of the Murray–Darling Basin Plan. At this stage the cost impact is uncertain because there may be a shortfall in the FFA funding relative to the actual costs of these new obligations.

Security of Critical Infrastructure Act 2018 (SOCI Act)

The *SOCI Act* also imposes new obligations on WaterNSW as an owner and operator of critical water infrastructure assets. The legislation obliges WaterNSW to have processes and systems to manage risk for cyber and information, personnel, supply chains and physical security hazards. Specific requirements exist for how risks are assessed and managed. Activities required under the SOCI Act include:

- o Preparation of Annual Report and Board Attestation
- o Maintenance of a critical assets register and threat register and manage activities in line with Threat Assessment Procedures
- o Review of the Critical Infrastructure Risk Management Plan, including implementation and monitoring of controls
- o Procurement planning and contract management to ensure tender processes address SOCI Act requirements in relation to supply chain and third-party vendors
- o Assessment of critical workers, including background checks
- o Staff training and awareness programs, including Threat and Vulnerability workshops
- o Implementation of activities to monitor and protect physical and digital assets.

Security Legislation Amendment (Critical Infrastructure Protection) Act 2022

As described in Attachment 11, the SLACIP Act which amended the SOCI Act, has necessitated an increase to our cybersecurity posture including implementing a strategy to deliver and embed security tools, processes and information to allow WaterNSW to achieve its targeted security maturity, in addition to complying with external cybersecurity compliance models. This includes the introduction of 24/7 monitoring as a core activity and more timely and frequent application of security patches to corporate applications. A required minimum Essential 8 maturity level has been achieved in line with our SOCI obligations. A maturity uplift noted in the EY Cybersecurity Program Assessment Framework from 1.4 to 3.3 has demanded extensive operationalisation of cybersecurity activities. New proposed cyber legislation in addition to further amendments to the SOCI Act are also expected to require further investment for WaterNSW to remain compliant.

There are other Acts and regulations that also drive our costs, so the above summary is not intended to be an exhaustive list, but rather focuses on the major legislation that drive our costs. Other Acts and regulations may be mentioned elsewhere in our submission, and further discussion of these can be provided if necessary.

Under the two primary water laws, WaterNSW has the following obligations in addition to the above legislative drivers. These include:

- **Water Sharing Plan Implementation and associated NRC audits and reviews:**

WaterNSW operates in accordance with Water Sharing Plans (WSP) and delivers water to customers and the environment. Based on the WSP rules, the available water resources are shared throughout the year, allowing water for the environment and for consumptive use.

Customers' water accounts are credited with their shares of available water and, as they use their water, their usage is debited from their accounts. Water Access Licences authorise WaterNSW to take water. Water Supply work and water use approvals set out how the water management works are to be operated, including the amount of water that WaterNSW must make available for environmental flows.

Amendments to WSPs generate operational and in some cases capex requirements for WaterNSW. Recommendations are made by the NRC from undertaking these audits, with WaterNSW required to respond to these.

Some plans include requirements around active management of environmental flows and this obligation is likely to increase into the future. There are historical obligations in the Barwon/Darling, Lower Gwydir and Lower Macquarie/Bogan; and new obligations in the Greater Metropolitan region, all of which have cost implications. This cost is largely driven by the need to adequately resource teams to implement these regulator changes, and which is encompassed in our workforce plan assumptions forming the basis of our pricing submission.

The Natural Resources Commission conducts audits on implementation of the plans. This results in Recommendations, and we are required to evaluate those and develop Action Plans to address them.

- **Declared catchment audit:**

The *Water NSW Act 2014* requires that there would be an independent audit of the health of the declared Sydney catchment area at least every three years. The audit report is provided to Minister responsible for administering the *WaterNSW Act 2014*. There are a range of catchment health indicators that need to be included in the audit report including land use and human settlements, biodiversity and habitats, water availability and quality.

WaterNSW must engage an independent auditor on behalf of the Minister to conduct the audit and report to the Minister. The process occurs on a triennial basis and each audit takes about 12 months. The audits also require engagement with other agencies. It results in Recommendations, and we are required to evaluate those and develop Action Plans to address them. Progress against these recommendations is reported annually in the catchment management report.

1.2 Commonwealth and State policies

There are also various Commonwealth and State policy instruments that impact WaterNSW. These include:

- **NSW Water Strategy:**

This sets the overarching vision for 12 regional and two metropolitan water strategies, tailored to the individual needs of each region in NSW. Together, the strategies will improve the resilience of NSW's water services and resources. The NSW Water Strategy 2022-2024 has actions around drought planning, and improvements to licensing frameworks, cold water pollution management and fish passage. Whilst much of this work is in progress, it necessitates resourcing, which is generally captured in the Strategy and Performance Portfolio workforce plan.

- **Active Management in Unregulated Rivers Policy:**

The NSW Government is implementing 'active management' to protect environmental water from extraction in unregulated rivers. This approach is currently implemented for priority water sources in the NSW northern Murray-Darling Basin. Under the policy, WaterNSW calculates volumes of environmental water to be protected and cease-to-pump thresholds, and makes access announcements, in accordance with Active Management Procedures Manuals. The policy states that the approach may be implemented more widely in the future.

- **Extreme Events Policy:**

This policy sets up a framework to manage extreme events in a structured and proactive way. It provides a clear and transparent framework for making decisions during extreme events including what decisions need to be made, when they are made and who makes them.

- **National Water initiative (NWI):**

The NWI is being replaced in 2024 with a new National Water Agreement, which is being negotiated between the Commonwealth and States, with action plans to be developed over the next two years that may have an impact on NSW. Key areas of focus in the new agreement are expected to include a greater focus on climate change in the context of water security planning, and incorporation of First Nations' people in water management.

The Impact (if any) on WaterNSW is unlikely to be known until the development of action plans, which will take place over the next two years.

- **Australian Drinking Water Guidelines:**

The Australian Drinking Water Guidelines (ADWG) provide a basis for determining the quality of water to be supplied to consumers in all parts of Australia. They are intended to provide a framework for the good management of drinking water supplies that if implemented will assure safety at the point of use.

WaterNSW' Operating Licence requires that we maintain a Water Quality Management System that is consistent with the ADWG, for specified catchments.

At the time of the submission, the National Health and Medical Research Council (NHMRC), who develop the ADWG's – is undertaking a review of PFAS guideline values for drinking water.

Relevantly, the Heads of EPAs of Australia and New Zealand (HEPA) have also released the draft per- and poly-fluoroalkyl substances National Environmental Management Plan (PFAS NEMP) version 3.0, which has now closed for public consultation. The PFAS NEMP 3.0 is expected to be finalised soon.

The cost impacts of any revised PFAS guidelines values in the ADWG or PFAS NEMP 3.0 are therefore undetermined.

1.3 Interagency agreements

Interagency agreements are often given effect through the various statutory and regulatory instruments, including the WaterNSW Act and our Operating licence issued by IPART. These include:

- Data sharing agreements with state agencies including Department of Climate Change, Energy, the Environment and Water (DCCEEW) and Natural Resources Access Regulator (NRAR).
- Data sharing agreements (DSA) with Commonwealth agencies and Greater Sydney Water Strategy Data Sharing Agreement.
- Memoranda of Understanding (MoU) with NSW Health and the Environment Protection Authority (EPA). These MoUs are a requirement of the *Water NSW Act 2014*. The memoranda:
 - establish cooperative relationships with regulatory agencies
 - develop consultative processes to consider operational, strategic, and public health and environmental issues
 - allow for exchange data and information.

The MoU with NSW Health recognises the role of that agency in relation to water quality standards and public health.

The MoU with the Environment Protection Authority recognises the role of that agency in protecting the environment of NSW.

WaterNSW also has a range of non-statutory MoUs with other stakeholders. The 2024–2028 Operating Licence also requires WaterNSW to enter in to or maintain separate Cooperation Protocols with NSW Fisheries and NRAR.

- Roles and responsibilities regarding the conduct of Conferred Functions with DCCEEW and NRAR. A Roles and Responsibilities Agreement between these parties came into effect on 30 June 2021. The new Operating Licence requires WaterNSW to use best endeavours to update the agreement by 30 June 2025. It also now includes WAMC as a signatory to the agreement.
- The current agreement replaces the former 2016 Deed of Business Transfer. The current Agreement is required for WaterNSW to meet its Operating Licence, and sets out how the three agencies collaborate and work together to deliver key water management functions. The agreement details each agency's role

and provides a framework for resolving any interagency issues, along with the identification of improvement opportunities. A process to update the current agreement will now commence as required by the new Operating Licence.

Some of these agreements place obligations on WaterNSW on how it will operate or provide data and/or information to other agencies. The new Operating Licence requirement to develop Cooperation Protocols will incur both development and maintenance costs. The costs provided for both developing and maintaining an MoU/DSA could guide the anticipated costs associated with this.

2 Operating Licence

WaterNSW operates in accordance with its Operating Licence granted under section 11 of the *Water NSW Act 2014*. During the current determination period, WaterNSW has operated under its 2022–2024 Operating Licence published in May 2022. This Operating Licence expired on 30 June 2024. A new Operating Licence for WaterNSW came into effect on 1 July 2024, informed by IPART's end-of-term review of the 2022–2024 Operating Licence.

WaterNSW also operates under obligations from several NSW and Commonwealth Acts and Regulations.

2.1 Summary of WaterNSW's Operating Licence conditions over the current pricing regulatory period (2020 to 2024)

There were 2 Operating Licences that applied for this period: WaterNSW's 2017 to 2022 and 2022 to 2024 Operating Licences, which specified certain requirements relating to:

- **Water Source protection and conservation.** To protect the Water Source, WaterNSW was required to maintain and implement Water Quality Management Systems (WQMS) for Declared Catchment Areas and the Fish River Water Supply Scheme in accordance with relevant guidelines and requirements specified by NSW Health or IPART. The 2024–2028 Operating Licence also has increased the scope of water quality management system to include local water utilities in non-declared catchments. WaterNSW is also required to notify IPART and NSW Health of any significant changes to our Water Quality Management System.

To conserve water resources, WaterNSW was required to maintain a Water Conservation Strategy and Water Conservation Work program. WaterNSW was also required to maintain and implement water planning initiatives relevant to the following areas: long-term capital and operational plan, Greater Sydney Drought Response Plan, Greater Sydney Water Strategy and Data Sharing.

- **Bulk Water storage and transmission.** WaterNSW was to ensure that any water supplied to different types of customers is supplied in accordance with any relevant Customer Supply Agreement and any relevant arrangements with Sydney Water established under section 25 of the *Water NSW Act 2014*.
- **Performance Standards.** WaterNSW was required to ensure that its systems, processes and services meet the Performance Standards specified in the operating licence.
- **Organisational management systems.** In addition to the WQMS, WaterNSW must at all times maintain an Asset Management System and Environment Management System in accordance with the relevant standards and requirements specified in the operating licence. WaterNSW was to fully implement the Asset Management System and Environment Management System and carry out all relevant activities in accordance with these.
- **Customer and stakeholder relations.** WaterNSW was required to establish and maintain agreements with each of its customers. These agreements included a range of terms and conditions as required in the operating licence. The operating licence also specified several considerations to ensure that






customer and stakeholder relations are managed properly including an internal complaints handling procedure, code of practice on payment difficulties, customer advisory groups and data transparency. WaterNSW was also required to be a member of an external dispute resolution scheme such as EWON to enable customers to raise concerns.

- **Performance monitoring and reporting.** WaterNSW was required to comply with its reporting obligations set out in the operating licence. WaterNSW was also required to honour its obligations in relation to operational audits as specified in the operating licence, including provision of information to IPART and the Auditor.

2.2 Performance and reporting against our Operating Licences over the 2020 to 2023 period (based on the performance standards)

In 2023, IPART conducted an audit of WaterNSW's performance against its operating licence covering the period between 1 September 2022 and 30 June 2023 under its Audit Guideline, Public Water Utilities.² Previous audit grades from 2020 - 2022 are also included for reference.

Table 1 - WaterNSW Operating Licence Compliance Performance

Operating Licence compliance grades	2020 (36 clauses audited)	2021 (43 clauses audited)	2022 (24 clauses audited)	2023 (49 clauses audited)
 Compliant	64%	51%	79%	82%
 Compliant (minor shortcomings)	8%	12%	13%	6%
 Non compliant (non-material)	11%	23%	0%	10%
 Non compliant (material)	11%	9%	0%	0%
 No requirement	6%	5%	8%	2%

2.3 New Operating Licence conditions

IPART has recently conducted an end-of-term review of WaterNSW's Operating Licence 2022-2024, which expired on 30 June 2024. IPART recommended to the Minister a new Operating Licence for WaterNSW, which came into effect on 1 July 2024.

WaterNSW's Operating Licence authorises WaterNSW to perform functions under the *Water NSW Act 2014* and specifies certain requirements relating to:

- Conferred functions from *Water Management Act 2000*.
- Water Source protection and conservation.
- Bulk Water storage and transmission.

² June 2018, IPART, "Audit Guideline, Public Water Utilities".

- Performance standards.
- Organisational management systems.
- Customer and stakeholder relations.
- Performance standards and reporting.

The new Operating Licence has several new obligations compared to the previous licence that have a substantive effect on costs, including:

- Increased scope of water quality management system to include local water utilities in non-declared catchments;
- Water quality monitoring enhancements program requirements which includes monitoring of raw water for drinking water suppliers and the environment with a need to also consider the 'Roadmap to an improved regulatory framework for local water utilities;'
- Early warning system to provide advanced notification of significant changes to flow, water source offtake levels that impact water characteristics and exceedances of water quantity or water quality parameters;
- Requirements to establish a data management framework and provide NSW government agencies access to data and information – ensuring it is fit for purpose where this is reasonable and within WaterNSW's control, and establishes a process for resolving data quality issues;
- Expansion of both research and education requirements beyond the declared catchment area to cover the whole state;
- Establish a new Cooperation Protocol with Fisheries.

We have included a high-level summary of the changes to operating and capital costs for these new obligations in Tables 2 and 4 of the main proposal, and a more detailed breakdown of the costs in Section 6.1.1 of Attachment 8.

IPART also audits WaterNSW's compliance with our Operating Licence every year and this is a resource intensive process.