



Water NSW

Draft Operating Licence

2024-2029

[Water >>](#)

Acknowledgment of Country

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

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

Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly PSM, Chair
Jonathan Coppel

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Schedule A Conferred functions

Part 1 Licence context

1 Objective of this licence

- (1) The objectives of this licence are to:
 - (a) authorise and require Water NSW to:
 - (i) provide, construct, operate, manage and maintain efficient, coordinated and commercially viable systems and services for capture and store of water, release of water and supply of water,
 - (ii) protect catchment areas and works.
 - (b) require Water NSW to conduct these activities in a manner that:
 - (i) is efficient, resilient, reliable, sustainable and equitable,
 - (ii) supports the long-term interests of customers and the community,
 - (iii) considers the impacts of climate change, and
 - (iv) considers equity within and between generations.
 - (c) set efficient and effective terms and conditions, including performance standards, that Water NSW must meet when supplying or providing services in a way that:
 - (i) supports its principal objectives under the *State Owned Corporations Act 1989* (NSW) and the *Water NSW Act 2014*, and
 - (ii) does not prevent or hinder competition.
- (2) Water NSW must consider these objectives when it exercises its functions under this licence.

2 Term of this licence

The term of this licence is 5 years from 1 July 2024.

3 Area of operations

- (1) This licence applies to Water NSW in its whole area of operations, including the Fish River water supply scheme.

Note: The Act, section 15(1) states the area of operations of Water NSW is the whole of the State.]
- (2) This licence authorises Water NSW to carry out its functions outside of the State to the extent permitted by law.
- (3) This licence authorises Water NSW to exercise the functions referred to in the Act, section 15(2) but only with the agreement of the relevant body.

4 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 provided by Water NSW.

Part 2 Licence authorisation

5 Listed functions

- (1) This licence authorises Water NSW to undertake the following listed functions:
- (a) to capture and store water,
 - (b) 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,
 - (c) to supply water to Sydney Water,
 - (d) to supply water to water supply authorities and to local councils or county councils prescribed by the Regulation,
 - (e) to supply water to persons referred to in section 7(1)(d) of the Act,
 - (f) to 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,
 - (g) to construct, maintain and operate water management works (including providing or constructing systems or services for supplying water),
 - (h) to protect and enhance the quality and quantity of water in declared catchment areas,
 - (i) to 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,
 - (j) to undertake research on catchments generally, and in particular on the health of declared catchment areas,
 - (k) to undertake an educative role within the community, and
 - (l) to undertake flood mitigation and management in all areas of New South Wales, except for the Sydney catchment area as defined by the Act.

[Note: The Act, section 7(3)(b) states the listed functions are subject to any applicable requirements under the *Water Management Act 2000* and the *Water Act 1912*.]

- (2) This licence authorises Water NSW to:
- (a) provide facilities or services that are necessary, ancillary or incidental to its listed functions, and
 - (b) conduct any business or activity (whether or not related to its listed functions) that it considers will further its objectives.

6 Conferred functions

Water NSW is authorised to undertake the conferred functions specified in Schedule A.

7 Metering equipment functions

This licence authorises Water NSW to exercise the functions set out in the Act, section 31(1).

Part 3 Management systems

8 Water quality management system (WQMS)

- (1) Water NSW must maintain a management system for water quality that:
 - (a) complies with any health requirements specified by NSW Health in writing, and
 - (b) subject to (a), is consistent with:
 - (i) for declared catchment areas, the Australian Drinking Water Guidelines,
 - (ii) for the Fish River water supply scheme, the Australian Drinking Water Guidelines, and
 - (iii) for non-declared catchment areas (not including areas with services already regulated by the *Public Health Act 2010*, section 25):
 - (A) the Australian Drinking Water Guidelines, or
 - (B) the requirements for a quality assurance program under the *Public Health Act 2010*, section 25,

(the **water quality management system**).

[**Note:** Water NSW may maintain one consolidated system or separate systems.]

- (2) Water NSW must consult with NSW Health about any significant proposed changes to its water quality management system and must promptly notify NSW Health and IPART of any significant changes made.
- (3) Water NSW must:
 - (a) ensure all water released or supplied to customers is released or supplied in accordance with the water quality management system,
 - (b) carry out all other relevant activities in accordance with the water quality management system, and
 - (c) comply with the water quality management system.

9 Asset management system (AMS)

- (1) Water NSW must maintain a management system that is consistent with:
 - (a) from 1 July 2027, ISO 55001: 2024: *Asset management – management systems – requirements* or another standard nominated by Water NSW and approved by IPART,
 - (b) until 30 June 2027, AS/NZS ISO 55001:2014: *Asset management – Management systems – Requirements* or a standard referred to in (a),(the **asset management system**).
- (2) Subject to (1), for catchment infrastructure works in the declared catchment, the asset management system must also be consistent with the design criteria.

- (3) Water NSW must:
 - (a) construct, maintain and operate its works and other assets in accordance with the asset management system,
 - (b) carry out all other relevant activities in accordance with the asset management system, and
 - (c) comply with the asset management system.

10 Environmental management system (EMS)

- (1) Water NSW must maintain a management system that is consistent with AS/NZS ISO 14001:2016: *Environmental management systems – requirements with guidance for use* or another standard nominated by Water NSW and approved by IPART (the **environmental management system**).
- (2) Water NSW must:
 - (a) carry out all relevant activities in accordance with the environmental management system, and
 - (b) comply with the environmental management system.

11 Quality management system (QMS)

- (1) Water NSW must, from 1 July 2026, maintain a management system that is consistent with AS/NZS ISO 9001:2016: *Quality management systems – requirements* or another standard nominated by Water NSW and approved by IPART (the **quality management system**).
- (2) Water NSW must, from 1 July 2026:
 - (a) carry out all relevant activities in accordance with the quality management system, and
 - (b) comply with the quality management system.
- (3) Water NSW must, by 30 June 2025, have made reasonable progress towards developing the quality management system.

Part 4 Performance standards

12 Requirement to meet performance standards

- (1) Water NSW must ensure its systems and services meet the performance standards:
 - (a) for direct water supply services, in the first column of the table in clause 15.1,
 - (b) for water release services (excluding temporary trades and interstate temporary trades), in the second column of the table in clause 15.1,
 - (c) for drinking water supplied in connection with the Fish River water supply scheme, in the table in clause 15.2, and
 - (d) for water release services that relate to temporary trades and interstate temporary trades, in the table in clause 15.3.
- (2) If Water NSW provides other services related to provision of water, Water NSW must:
 - (a) identify in writing to the customer whether the service will be treated as a water release service or a direct water supply service for the purpose of performance standards, and
 - (b) ensure its systems and standards for that service meet the identified performance standards.

13 Calculation of performance standards

The performance standards in this Part are to be calculated applying the following:

- (a) standards that incorporate a percentage, are to be calculated as a percentage of the relevant event for that financial year, and
- (b) water quality standards (excluding D-WQ-1 and FR-WQ-1), delivery standards (excluding R-WD-1) and service interruption standards (excluding D-SI-2) are to be calculated to exclude issues caused by:
 - (i) extreme events that Water NSW could not reasonably prevent or mitigate,
 - (ii) compliance by Water NSW with a law (including a direction or order given under a law) if Water NSW could not reasonably have both complied with the law and taken steps to prevent or mitigate the issue.

14 Performance standards annual report

Water NSW must, by 1 October each year:

- (a) submit an annual report to IPART on its compliance with the performance standards during the preceding financial year that includes, at a minimum, the information set out in the reporting manual, and
- (b) make that report publicly available online at the same time it submits it to IPART.

15 Performance standards tables

15.1 Performance standards table 1: general standards

Direct water supply services	Water release services
Water quality performance standards	
<p>D-WQ-1 100% compliance with the water quality management system maintained under clause 8 for all bulk water supplied.</p>	<p>R-WQ-1 100% of bulk water released from works with multi-level offtake capacity is released from the appropriate offtake (considering temperature and algal readings) consistent with:</p> <ol style="list-style-type: none"> 1. the requirements for a quality assurance program under the <i>Public Health Act 2010</i>, section 25, or 2. the Australian Drinking Water Guidelines.
Water delivery performance standards	
<p>D-WD-1 100% of the volume of water scheduled to be supplied to customers is supplied on time.</p>	<p>R-WD-1 At least 95% of customers who place a non-complying water order are contacted to rectify that order within 1 business day.</p>
	<p>R-WD-2 Bulk water for at least 99% of water orders is released within one day of the original scheduled day of release.</p>
	<p>R-WD-3 Bulk water for at least 99% of rescheduled water orders is released within one day of the rescheduled day of release.</p>
Service interruption performance standards	
<p>D-SI-1 At least 95% of affected customers are notified no less than 7 days before a cease to pump order takes effect.</p>	<p>R-SI-1 Less than 1% of water orders are rescheduled at Water NSW's initiative.</p>
	<p>R-SI-2 100% of water orders that are rescheduled at Water NSW's initiative, are rescheduled in consultation with an affected customer within one day of Water NSW becoming aware of an expected water shortage or other relevant reason.</p>
	<p>R-SI-3 At least 95% of affected customers are notified no less than 7 days before Water NSW ceases to, or becomes unable to, release water.</p>

15.2 Performance standards table 2: standards for Fish River

Additional performance standard for Fish River water supply scheme (water quality standard for drinking water)
FR-WQ-1 100% compliance with the water quality management system maintained under clause 8 for all drinking water supplied.

15.3 Performance standards table 3: standards for trades

Performance standards for trades (account processing standards)
T-AP-1 No less than 90% of complying trade applications for temporary trades within the State are approved or rejected within 5 business days of Water NSW's receipt of the application.
T-AP-2 No less than 90% of complying trade applications for interstate temporary trades (except to South Australia) are approved or rejected within 10 business days of Water NSW's receipt of the application.
T-AP-3 No less than 90% of complying trade applications for interstate temporary trades to South Australia are approved or rejected within 20 business days of Water NSW's receipt of the application.
T-AP-4 At least 95% of customers who place a non-complying trade application are contacted to rectify that order within 1 business day.

Part 5 Bulk water quality for drinking water suppliers

16 Policy on bulk water quality for drinking water suppliers

- (1) Water NSW must, from 1 July 2025, make publicly available online a policy about the quality of water it makes available to drinking water suppliers (other than Sydney Water and Hunter Water) that specifies:
 - (a) the roles and responsibilities of Water NSW and drinking water suppliers, including Water NSW's role in relation to:
 - (i) improving water quality monitoring,
 - (ii) improving the quality of the water it makes available to drinking water suppliers,
 - (iii) identifying and reducing hazards and risks to end-users related to drinking water treated and supplied by drinking water suppliers,
 - (iv) educating drinking water suppliers on how to access and understand:
 - (A) advance notifications provided by Water NSW under clause 18, and
 - (B) water quality data provided by Water NSW,
 - (b) Water NSW's processes for:
 - (i) determining water quantity and water quality parameters that apply above or in addition to the performance standards and that are meaningful and reasonable considering local conditions,
 - (ii) water quality monitoring,
 - (iii) engaging with drinking water suppliers (including maintaining current contact details for each drinking water supplier), and
 - (iv) providing drinking water suppliers with water quality data or direct access to it,
 - (c) the actions Water NSW commits to take to enhance the performance of its role under (a) and its processes under (b).
- (2) Water NSW must consult with NSW Health and drinking water suppliers (other than Sydney Water and Hunter Water) to develop the policy required under clause 16(1).
- (3) If Water NSW revises the policy, Water NSW must:
 - (a) consult with NSW Health and drinking water suppliers (other than Sydney Water and Hunter Water) on the revisions, and
 - (b) make the updated policy publicly available online.

17 Water quality parameters for drinking water suppliers

- (1) Water NSW must by 1 July 2026 determine the water quantity and water quality parameters for each region consistent with the processes set out in the policy referred to in clause 16(1)(b)(i).

- (2) Water NSW may update the water quantity and water quality parameters consistent with the processes set out in the policy.

18 Early warning system

- (1) Water NSW must, from 1 July 2026, maintain an effective management system for providing advance notification of the matters specified in clause 18(3) to all persons, including customers, who have registered for notifications (**early warning system**).
- (2) Water NSW must, from 1 July 2026:
 - (a) carry out all relevant activities in accordance with the early warning system, and
 - (b) notify persons who have registered for the notifications for the relevant area and notification type in accordance with the early warning system.
- (3) Water NSW must ensure the early warning system maintained under clause 18(1) includes the following types of advance notifications:
 - (a) significant changes to flow from its works, including:
 - (i) actual significant dam releases or overflow, including emergency situations such as flood related releases and overflow,
 - (ii) predicted significant dam releases or overflow for the next 24 hours based on forecast modelling, and
 - (iii) if an event referred to in (i)-(ii) occurs, also include predicted downstream water heights at nominated gauging stations.
 - (b) changes to water source (including catchment and dam or other storage), including transfers between dams or other storages,
 - (c) changes to offtake levels that significantly impact water characteristics, including temperature and algal levels, and
 - (d) exceedance, or forecast exceedance, of the water quantity and water quality parameters determined under clause 17.
- (4) If Water NSW cannot provide a person with an advance notification under clause 18(3)(d) because it did not have information in advance of the relevant event, it must provide the notification as soon as possible after it becomes aware of the relevant event.
- (5) Until Water NSW has developed and implemented the early warning system required by this clause 18 it must maintain and implement its existing advance notification system.

19 Summary of service commitments to drinking water suppliers

- (1) Water NSW must, from 1 July 2026, make publicly available online a summary of its service commitments to drinking water suppliers (other than Sydney Water and Hunter Water) that:
 - (a) sets out the water quantity and water quality parameters for each region that Water NSW has determined under clause 17, and

- (b) summarises the types of advance notifications covered by the early warning system maintained under clause 18.
- (2) If Water NSW revises the policy, the early warning system or the water quantity or water quality parameters, it must update the summary if necessary to ensure the summary reflects any relevant revisions and make the updated summary publicly available online.

20 Water quality monitoring enhancements program

- (1) Water NSW must, from 1 July 2026, maintain an ongoing water quality monitoring enhancement program that:
 - (a) enhances health-related monitoring of bulk water that Water NSW makes available to drinking water suppliers (excluding Sydney Water and Hunter Water), and
 - (b) identifies locations where monitoring equipment needs to be installed, replaced or relocated.
- (2) In developing the program, Water NSW must consider:
 - (a) the 'Roadmap to an improved regulatory framework for local water utilities' published by the NSW Government in October 2021, and
 - (b) the activities already undertaken by Water NSW in connection with implementing the Town Water Risk Reduction Program referred to in the Roadmap.
- (3) Water NSW must, by 30 November each year, submit an annual report to IPART detailing its program-related activities for the preceding financial year and the implementation timeline for outstanding activities in accordance with the reporting manual.

Part 6 Customer agreements and accounts

21 Customer supply agreements for direct water services

- (1) Water NSW must establish and maintain an agreement with each customer it provides direct water supply services, including customers of the Fish River water supply scheme, that specifies:
 - (a) the quality of the water supplied by Water NSW,
 - (b) service continuity processes, including for service interruptions, disconnections and reconnections,
 - (c) metering arrangements (if relevant),
 - (d) fees and charges payable by the customer for the direct water supply services,
 - (e) dispute resolution and complaint handling procedures, and
 - (f) terms and conditions preventing the customer from supplying water as drinking water unless authorised to do so by law.
- (2) Water NSW must comply with the customer supply agreements that it maintains under clause 21(1).

22 Water allocation accounts

Water NSW must maintain a water allocation account for each customer with a licence issued under the *Water Act 1912* or the *Water Management Act 2000*.

23 Measuring water supplied, released and extracted

Water NSW must, for each financial year, determine the volume of water:

- (a) supplied to customers receiving direct water supply services, and
- (b) released to, and extracted by, customers receiving water release services.

Part 7 Customer support and complaint management

24 Customer service charter

Water NSW must at all times make publicly available online a customer service charter that sets out the responsibilities of Water NSW and its customers and how Water NSW will engage with its customers.

25 Consultation with customers and the community

- (1) Water NSW must regularly engage with customers and the community to:
 - (a) understand customer preferences and willingness to pay for service levels,
 - (b) understand how its systems and processes can support more effective, direct relationships with its customers and the community,
 - (c) obtain insights on such other issues related to Water NSW's functions under this licence that impact on customers and the community,
 - (d) in conducting the review required by clause 25(6), hear feedback and perspectives from customers and the community, and
 - (e) in the lead up to the end of term review referred to in clause 60 hear feedback and perspectives from customers and the community.
- (2) Water NSW must use all reasonable efforts to ensure its engagement under this clause 25 includes engagement with small, medium and large water users; users of both regulated and unregulated rivers (within the meaning of the *Water Management Act 2000*); stock and domestic water users; industrial and commercial water users; groundwater users; environmental water users; Aboriginal community representatives and cultural water users; WIC Act licensees; public water utilities; NSW Government Departments and agencies.
- (3) Water NSW must provide persons with whom it engages under this clause 25 with adequate information (excluding confidential information) to enable them to engage meaningfully with the relevant issues.
- (4) Water NSW must, by 1 July 2025, make publicly available online a policy for undertaking the consultation required by this clause 25 (**consultation policy**).
- (5) Water NSW must from 1 July 2025:
 - (a) carry out all consultation in accordance with the consultation policy, and
 - (b) comply with the policy.
- (6) Water NSW must review the consultation policy to assess its effectiveness in the financial year commencing 1 July 2027 and submit a report containing its findings to IPART by 30 June 2028.
- (7) Until Water NSW has published the consultation policy, it must maintain and continue to engage with its existing customer advisory group.

26 Code of practice on payment difficulties

- (1) Water NSW must maintain a code of practice on payment difficulties that:
 - (a) provides for payment plans for customers who, in Water NSW's reasonable opinion, are experiencing payment difficulty,
 - (b) details the circumstances when Water NSW may restrict, suspend or cease to provide, water release services and direct water supply services and the process for restriction, suspension or cessation, and
 - (c) includes processes for self-identification, identification by community welfare organisations and identification by Water NSW of customers experiencing payment difficulty.
- (2) Water NSW must:
 - (a) make the code of practice publicly available online,
 - (b) notify all customers (other than drinking water suppliers) the code is publicly available online at least once each financial year using the method chosen by the customer to receive their bill, and
 - (c) provide the code to each customer (other than a drinking water supplier) that Water NSW identifies is experiencing payment difficulty within one business day of the date Water NSW first identifies the customer is experiencing payment difficulty.
- (3) Water NSW must:
 - (a) carry out all relevant activities in accordance with the code of practice, and
 - (b) comply with the code.

27 Family violence policy

- (1) Water NSW must, from 1 July 2025, maintain a family violence policy.
- (2) The family violence policy must, at a minimum, provide for:
 - (a) the identification of customers experiencing family violence,
 - (b) the protection of private and confidential information,
 - (c) processes to minimise the reliance on individuals to disclose family violence,
 - (d) access to payment difficulty processes, and
 - (e) processes for referrals to specialist support services.
- (3) Water NSW must, from 1 July 2025:
 - (a) make the family violence policy publicly available online,
 - (b) notify all customers (other than drinking water suppliers) the policy is publicly available online at least once each financial year using the method chosen by the customer to receive their bill, and
 - (c) provide the policy to any person upon request.
- (4) Water NSW must, from 1 July 2025:

- (a) carry out all relevant activities in accordance with the family violence policy, and
- (b) comply with the policy.

28 Internal complaints handling

- (1) Water NSW must maintain an internal complaint handling procedure for receiving, responding to and resolving complaints that is consistent with:
 - (a) from 1 July 2025:
 - (i) Australian Standard AS/NZS 10002:2022 – Guidelines for complaint management in organizations, or
 - (ii) any other complaint management standard nominated by Water NSW and approved by IPART,
 - (b) until 30 June 2025, Australian Standard AS/NZS 10002:2014 – Guidelines for complaint management in organizations.
- (2) Water NSW must, from 1 July 2025:
 - (a) make publicly available online a summary of the internal complaint handling procedure that explains how to make a complaint and how Water NSW will receive, handle, and resolve complaints, and
 - (b) provide the summary to any person upon request.
- (3) Water NSW must, from 1 July 2025:
 - (a) carry out all relevant activities in accordance with the internal complaint handling procedure, and
 - (b) comply with the procedure.

29 Energy and Water Ombudsman NSW (EWON)

- (1) Water NSW must be a member of the Energy and Water Ombudsman NSW (**EWON**) to help Water NSW and its customers resolve disputes.
- (2) Water NSW must:
 - (a) make publicly available online a communication that lists the dispute resolution services provided by EWON, including any right to have a complaint or dispute referred to EWON, and explains how to contact EWON, and
 - (b) notify all customers (other than drinking water suppliers) the communication is publicly available online at least once each financial year using the method chosen by the customer to receive their bill.

30 Code of Conduct with WIC Act licensees

- (1) Water NSW must cooperate with any WIC Act licensee that seeks to establish a code of conduct with Water NSW.
- (2) Water NSW must comply with a code of conduct established with a WIC Act licensee.

Part 8 Catchment and river health

31 Catchment management for declared catchment areas

Water NSW must manage and protect declared catchment areas in a way that:

- (a) furthers its objectives under the Act and the objectives in clause 1(1)(b) of this licence,
- (b) supports it to effectively exercise its functions under the Act and this licence, and
- (c) is consistent with:
 - (i) its water quality management system maintained under clause 8,
 - (ii) its asset management system maintained under clause 9, and
 - (iii) its environmental management system maintained under clause 10.

32 Catchment and river health research

(1) Water NSW must maintain an ongoing research program that:

- (a) focuses on catchment health and downstream river health,
- (b) identifies opportunities for improvement and how Water NSW can implement the research findings to:
 - (i) further the objectives in clause 1(1)(b) of this licence, and
 - (ii) enhance the performance of its functions under section 7(1)(k) of the Act.
- (c) for catchments, identifies opportunities for improvement and how Water NSW can implement the research findings to:
 - (i) further its objectives under the Act, section 6(1)(a)-(b) and (2)(b) and (d),
 - (ii) for declared catchment areas also:
 - (A) further its objectives under the Act, section 6(1)(c), and
 - (B) enhance the performance of its functions under the Act, sections 7(1)(g)-(j)
- (d) for downstream rivers, identifies opportunities for improvement and how Water NSW can implement the research findings to:
 - (i) address the recommendations made by the Chief Scientist and Engineer in the report titled 'Independent review into the 2023 fish deaths in the Darling-Baaka River at Menindee' dated 29 September 2023, and
 - (ii) further its objectives under the Act, section 6(2)(b) and (d).

(2) The research program maintained by Water NSW under clause 32(1) is not required to include downstream river health or non-declared catchment areas before 1 July 2025.

(3) Water NSW must report on the research program maintained under clause 32(1) in accordance with the reporting manual.

33 Community education

- (1) Water NSW must, from 1 July 2025, maintain an ongoing community education program tailored to the regions in which it operates. The education program must aim to:
 - (a) improve community understanding about:
 - (i) Water NSW's role and functions in the relevant region,
 - (ii) the impacts of pollution on catchment and downstream river health,
 - (iii) the impacts of illegal activities on the catchments, and
 - (iv) importance of well-designed and maintained stormwater and on-site sewage management systems on lands near catchments and downstream rivers, and related tributaries,
 - (b) encourage landholders to improve practices in catchments and along downstream rivers that have a direct impact on water quality and sustainability, including:
 - (i) agricultural practices
 - (ii) on-site sewage management, and
 - (iii) stormwater management,
 - (c) educate the community about opportunities to engage with Water NSW on projects in their region, and
 - (d) contribute to state-wide water literacy.
- (2) Water NSW must report on the educational activities that it undertakes in implementing the education program in accordance with the reporting manual.
- (3) Until Water NSW has implemented the education program required by clause 33(1), it must maintain its existing education program for declared catchment areas which focuses on its activities and functions in the declared catchment areas.

Part 9 Water conservation and planning

34 System yield for declared catchment area

- (1) Water NSW must use a long-term hydrological model to determine the amount of water it can supply from water sources within declared catchment areas in successive 12 month periods for at least 30 years based on:
 - (a) inflows to the catchment infrastructure works in declared catchment areas,
 - (b) the operating rules approved by the Minister, and
 - (c) the design criteria,(the **system yield**).
- (2) In determining (or redetermining) the system yield, Water NSW must:
 - (a) consider the impacts of climate change,
 - (b) consult with Sydney Water, and
 - (c) consider written guidance provided by the Department.
- (3) Water NSW must redetermine the system yield if any of the following occur:
 - (a) a drought affecting the declared catchment area concludes,
 - (b) a modification or augmentation to a catchment infrastructure work or customer's infrastructure commences that will have a significant impact on Water NSW's supply of water in and from the declared catchment area,
 - (c) the Minister makes a material change is made to the operating rules referred to in (1)(b),
 - (d) Water NSW makes a material change to the design criteria,
 - (e) the Minister requests Water NSW to redetermine the system yield.
- (4) Water NSW must, as soon as possible, advise the Minister and Sydney Water in writing:
 - (a) of any change to the system yield and reasons for the change,
 - (b) if Water NSW considers demand for bulk water in the declared catchment area may exceed the system yield and when this exceedance might occur.
- (5) Water NSW must, upon request from any person, provide the person with information about the system yield and how it was calculated.
- (6) Water NSW must make the design criteria publicly available online.

35 Water conservation plan

- (1) Water NSW must, from 1 July 2025, maintain a 5-year water conservation plan that:
 - (a) covers Water NSW's assets in both declared and non-declared catchment areas,

- (b) covers a range of measures for water conservation including storage, transmission, leakage and system operations,
 - (c) considers the 'NSW Water Efficiency Framework' published by the NSW Government in August 2022, to the extent it applies to Water NSW's operations,
 - (d) considers the strategic context provided by:
 - (i) the 'NSW Water Strategy' published by the Department in August 2021, and
 - (ii) the 'Greater Sydney Water Strategy' published by the Department in August 2022,
 - (e) includes details of water conservation programs and projects over the life of the plan, including timeframes, costs and volumes of water lost or saved,
 - (f) furthers the objectives set out in clause 1(1)(b) of this licence, and
 - (g) considers any written guidance that the Minister provides to Water NSW.
- (2) Water NSW must, by 30 November each year from 2026 to 2028 (or another date nominated by Water NSW and approved by IPART):
- (a) review and update the water conservation plan to:
 - (i) identify the activities carried out under the plan over the preceding financial year,
 - (ii) assess its progress towards meeting the overall objectives of the plan, and
 - (iii) ensure the plan is still meeting its objectives and the requirements of clause 35(1), and
 - (b) submit to the Department and IPART and make publicly available online:
 - (i) a copy of the updated water conservation plan, and
 - (ii) the outcomes of the annual review of the plan, including reasons for changing the plan.
- (3) Water NSW must:
- (a) carry out all relevant activities in accordance with the current water conservation plan, and
 - (b) comply with the current plan.
- (4) Until Water NSW has developed the water conservation plan required by this clause 35, it must maintain its existing water conservation strategy and water conservation program.

36 Climate-related planning and risk management

- (1) Water NSW must engage in an ongoing climate risk assessment and management process that:
- (a) is consistent with the NSW Government's 'Climate Risk Ready Guide' (published March 2021) and addresses climate-related risks specifically, including priority risks, mitigation actions and adaptation actions,

- (b) furthers the objectives set out in clause 1(1)(b) of this licence, and
 - (c) considers, where appropriate:
 - (i) principles of NSW Government's 'Climate Change Adaptation Strategy' (published June 2022), and
 - (ii) updated or replacement guidance material on climate risk assessment and management as it is released by the NSW Government and other bodies that Water NSW identifies as relevant.
- (2) Water NSW must:
- (a) by 30 November 2024, consistent with the Climate Risk Ready Guide, designate:
 - (i) a climate change risk officer with oversight of climate change risk management and maturity, and responsibility for leading a climate risk assessment team, and
 - (ii) an executive level sponsor for climate risk management and maturity (not required if the climate change risk officer is an executive level appointment).
 - (b) by 30 June 2025, consistent with the Climate Risk Ready Guide assess Water NSW's current level of climate risk management maturity on the enterprise scale,
 - (c) by 30 November 2026, meet on the enterprise scale a systematic level of climate risk management maturity, as defined in the NSW Government's Climate Risk Ready Guide,
 - (d) by 30 November 2029, meet on the enterprise scale an embedded level of climate risk management maturity, as defined in the NSW Government's Climate Risk Ready Guide.

37 Greater Sydney drought response plan

- (1) Water NSW must:
- (a) cooperate with Sydney Water to jointly review the Greater Sydney Drought Response Plan each calendar year,
 - (b) submit to the Minister an updated plan, along with a report explaining the outcome of the review and any changes, by:
 - (i) 30 November each year, or
 - (ii) another date nominated by Water NSW and approved by IPART, and
 - (c) make the updated plan publicly available online within 10 business days of submitting it to the Minister.
- (2) Water NSW must:
- (a) use its best endeavours to agree on an updated plan with Sydney Water and to jointly submit the updated plan to the Minister under clause 37(1)(b), and
 - (b) if Water NSW and Sydney Water do not agree on an updated plan, identify any points of disagreement in its report to the Minister under clause 37(1)(b).

Note: If Water NSW and Sydney Water do not agree on an updated plan, Water NSW is to submit a separate updated plan to the Minister.]

- (3) Water NSW must:
 - (a) submit a draft updated plan to the Department for comment at least 30 business days before submitting it to the Minister under clause 37(1)(b), and
 - (b) consider any comments the Department provides within 20 business days of the date the draft updated plan was submitted to the Department under clause 37(3)(a), before finalising the plan and submitting it to the Minister under clause 37(1)(b).
- (4) Water NSW must:
 - (a) implement all actions in the plan that are assigned to it by the date specified in the plan, and
 - (b) cooperate with Sydney Water to implement all actions in the plan that are jointly assigned to it and Sydney Water, and use its best endeavours to do so by the time specified in the plan.

38 Water supply augmentation planning

- (1) Water NSW must use its best endeavours to:
 - (a) maintain a memorandum of understanding with Sydney Water about water supply augmentation planning for Greater Sydney, and
 - (b) comply with that memorandum of understanding.
- (2) The memorandum of understanding referred to in clause 38(1)(a) must include processes for:
 - (a) Water NSW to assist Sydney Water with water supply augmentation planning by providing Sydney Water with:
 - (i) data, information and knowledge, and
 - (ii) resourcing support, including access to Water NSW subject-matter experts.
 - (b) Water NSW to consult with Sydney Water on system yield calculations,
 - (c) Sydney Water to consult with Water NSW on:
 - (i) projects that may impact system yield, and
 - (ii) water supply augmentation options that may have implications for Water NSW.
 - (d) Water NSW and Sydney Water to obtain board approval for water supply augmentation options that may have implications for Water NSW.

39 Long-term capital and operational plan

- (1) Water NSW must maintain a long-term capital and operational plan that considers:
 - (a) the strategic context provided by:
 - (i) the 'NSW Water Strategy' published by the Department in August 2021, and
 - (ii) the 'Greater Sydney Water Strategy' published by the Department in August 2022,

- (b) a range of long-term investment options that deliver the best value for customers; and
 - (c) any written guidance the Minister provides to Water NSW.
- (2) Water NSW must review and update its long-term capital and operational plan and submit a copy of the updated plan, along with a report explaining the outcome of the review and any changes, to the Minister:
- (a) at least once between 1 July 2024 and 30 June 2029, and
 - (b) on request by the Minister with any additional review to be completed within 12 months of the Minister's request.
- (3) Water NSW must:
- (a) consult with Sydney Water in its review of its plan,
 - (b) submit a draft updated plan to the Department for comment at least 30 business days before submitting it to the Minister under clause 39(2),
 - (c) consider Sydney Water's input and any comments the Department provides within 20 business days of the date the draft updated plan was submitted to the Department under clause 39(3)(b) before finalising the plan and submitting it to the Minister under clause 39(2), and
 - (d) obtain board approval of the final plan before finalising the plan and submitting it to the Minister under clause 39(2).

40 Water strategies

Water NSW must cooperate with the Department on any review of the NSW Water Strategy, the Greater Sydney Water Strategy and other regional water strategies.

Part 10 Data management and access

41 Data management system (DMS)

- (1) Water NSW must, from 1 July 2025, maintain a management system for data that includes:
 - (a) a data governance and management policy that is consistent with the 'NSW Data and Custodianship Policy' published by NSW Government in June 2013 and the *State Records Act 1998*,
 - (b) a data quality policy that:
 - (i) is consistent with 'Standard for Data Quality Reporting' published by the NSW Government in October 2015,
 - (ii) ensures:
 - (A) data is fit for purpose, including use for enforcement action,
 - (B) metadata is collected and stored for all data,
 - (C) poor quality data is identified, classified and remediated, and
 - (D) data quality statements are applied at the data element level to all data,
 - (c) a data sharing policy that:
 - (i) is consistent with 'Open Data Policy' published by the NSW Government in 2016,
 - (ii) details:
 - (A) the types of open-source data Water NSW publishes online and how third parties can access that data,
 - (B) types of data and information Water NSW shares with third parties on request, how to request such data and data request response times, and
 - (C) responsibility for data security and data use,
- (data management system).**
- (2) Water NSW must from 1 July 2025:
 - (a) make the following publicly available online:
 - (i) the policies referred to in (1)(a)-(c), and
 - (ii) user guides about how to access data and information,
 - (b) train all relevant Water NSW personnel on the policies referred to in (1)(b)-(c), and
 - (c) maintain an annual sampling program to confirm relevant Water NSW personnel are complying with the policies referred to in (1)(b)-(c).
 - (3) Water NSW must:
 - (a) carry out all relevant activities in accordance with the data management system, and
 - (b) comply with the data management system.

42 Water sector information hub

- (1) Water NSW must lead the co-design and development of a new data system to provide for central storage, management and access to water data relevant to departments and agencies across the NSW Government (**water sector information hub**).
- (2) Water NSW must cooperate with the Department and the Natural Resources Access Regulator in the co-design and development of the water sector information hub.
- (3) Water NSW must:
 - (a) by 30 June 2026, develop an implementation plan for the design and development of the water sector information hub that includes timeframes for deliverables,
 - (b) by 30 June 2027 and 30 June 2028, have made reasonable progress towards delivering the water sector information hub, including meeting the timeframes set out in the implementation plan,
 - (c) by 30 June 2029, deliver the water sector information hub with access provided to the Department and the Natural Resources Access Regulator and any other relevant NSW Government departments and agencies.
- (4) Until Water NSW has delivered the water sector information hub required by this clause 42, Water NSW must maintain a system that allows NSW Government agencies to access data and information held by Water NSW that is relevant to their functions.

43 Metering equipment downloads

- (1) Water NSW must, at intervals of no more than 12 months, download all data from metering equipment used in connection with the works described in the *Water Management Regulation*, Schedule 8, clause 6(2).
- (2) Water NSW must manage the data downloaded under clause 43(1) in accordance with the data management system referred to in clause 41(1).

Part 11 Government relationships

44 Memorandum of understanding with NSW Health

- (1) The memorandum of understanding between Water NSW and the Secretary of the Ministry of Health referred to in section 21 of the Act must:
 - (a) recognise the role of NSW Health in providing advice to NSW Government in relation to water quality standards and public health,
 - (b) set out reporting arrangements for Water NSW to notify NSW Health of events that might impact public health, and
 - (c) set out procedures to facilitate a cooperative relationship between the parties.
- (2) Water NSW must:
 - (a) maintain a memorandum of understanding with the Secretary of the Ministry of Health of the nature described in clause 44(1) for the term of this licence, and
 - (b) comply with that memorandum of understanding.

45 Memorandum of understanding with the EPA

- (1) The memorandum of understanding between Water NSW and the Environment Protection Authority (**EPA**) referred to in section 21 of the Act must:
 - (a) recognise the role of the EPA as the environmental regulator, and
 - (b) set out procedures to facilitate a cooperative relationship between the parties.
- (2) Water NSW must:
 - (a) maintain a memorandum of understanding with the EPA of the nature described in clause 45(1) for the term of this licence, and
 - (b) comply with that memorandum of understanding.

46 Roles and responsibilities agreement with the Department, NRAR and WAMC

- (1) Water NSW must maintain an agreement with the Department, the Natural Resources Access Regulator (**NRAR**) and the Ministerial Corporation (**WAMC**) about data that:
 - (a) defines the roles and responsibilities of each party to the agreement, and
 - (b) identifies the datasets covered by the agreement and the custodian and owner of each dataset.
- (2) Water NSW must use its best endeavours to update the existing agreement by 30 June 2025.
- (3) Water NSW must make the updated agreement publicly available online.
- (4) Water NSW must comply with the agreement maintained under this clause 46.

47 Cooperation protocol with NRAR

- (1) Water NSW must maintain a cooperation protocol with the Natural Resources Access Regulator that:
 - (a) recognises the shared and complementary responsibilities of the parties in relation to water supply compliance and enforcement,
 - (b) identifies the needs and constraints of each party as they relate to each other, and
 - (c) sets out procedures to facilitate a cooperative relationship between the parties.
- (2) Water NSW must comply with the cooperation protocol maintained under clause 47(1).

48 Cooperation protocol with NSW Fisheries

- (1) Water NSW must use its best endeavours to enter a cooperation protocol with NSW Fisheries by 30 June 2025 that:
 - (a) recognises the shared and complementary responsibilities of the parties in relation to ecologically sustainable development and the protection of the environment, including conservation of fish reserves and habitat,
 - (b) identifies how the parties can cooperatively meet shared responsibilities and support each other in relation to complementary responsibilities, and
 - (c) sets out procedures to facilitate a cooperative relationship between the parties.
- (2) Water NSW must:
 - (a) maintain a cooperation protocol with NSW Fisheries of the nature described in clause 48(1) for the term of this licence, and
 - (b) comply with that cooperation protocol.

Part 12 Environment, climate and water quality reporting

49 Environmental performance indicators

Water NSW must:

- (a) monitor and compile indicators of the direct impact on the environment of Water NSW's activities, including, at a minimum, indicators consistent with the reporting manual including indicators on the impact of energy used and waste generated (the **environmental performance indicators**), and

[Note: The reporting manual identifies these with an indicator number starting with 'E'.]

- (b) report on the environmental performance indicators consistent with the reporting manual and in a way that allows a year-to-year comparison of the indicators.

50 Climate-related disclosures

- (1) Water NSW must make climate-related disclosures publicly available online by 30 November each year (or another date nominated by Water NSW and approved by IPART) that:
 - (a) are consistent with IFRS S2 climate-related disclosures standard or another standard nominated by Water NSW and approved by IPART, and
 - (b) cover the preceding financial year.
- (2) Water NSW must, by 30 November each year, make publicly available online its progress towards net zero that separately identifies its total emissions and its scope 1, 2 and 3 emissions for the preceding financial year. This is not required for financial years where Water NSW has made this information publicly available online as part of making climate-related disclosures under clause 50(1).
- (3) Water NSW must keep the climate-related disclosures made under clause 50(1) and (2) publicly available online for the balance of the licence term.
- (4) Water NSW is not required to make disclosures:
 - (a) for the purposes of clause 50(1), for:
 - (i) the financial year commencing on 1 July 2024,
 - (ii) a financial year for which Water NSW has made climate-related disclosures consistent with IFRS S2 or an Australian equivalent, required by another law,
 - (b) for the purposes of clause 50(2):
 - (i) for a financial year for which Water NSW has made net zero progress disclosures covering the matters in clause 50(2) required by another law and has made those disclosures publicly available online,

- (ii) about scope 3 emissions for the financial years commencing on 1 July 2024 and 1 July 2025.

51 Annual water quality report

Water NSW must, by 30 November each year:

- (a) submit an annual report to IPART and NSW Health on water quality in declared catchment areas during the preceding financial year that includes, at a minimum, the information set out in the reporting manual (**annual water quality report**), and
- (b) make the annual water quality report publicly available online at the same time it submits it to IPART and NSW Health.

52 Annual catchment health report

Water NSW must, by 30 November each year:

- (a) submit an annual report to IPART on catchment health during the preceding financial year that includes, at a minimum, the information set out in the reporting manual (**annual catchment health report**), and
- (b) make the annual catchment health report publicly available online at the same time it submits it to IPART.

Part 13 Performance monitoring and reporting

53 Operational audits

- (1) Water NSW must cooperate with an audit undertaken by IPART, or an auditor engaged by IPART, of Water NSW's compliance this licence, including the reporting manual (the **operational audit**).
- (2) For the purpose of any operational audit or verifying a report on an operational audit, Water NSW must:
 - (a) provide IPART or the auditor with any information in Water NSW's possession, custody or control that is:
 - (i) necessary to conduct the operational audit, and
 - (ii) reasonably requested by IPART or an auditor, within a reasonable time of any request.
 - (b) subject to clause 53(3), permit IPART or the auditor to:
 - (i) access any works, premises or offices occupied by Water NSW,
 - (ii) carry out inspections, measurements and tests on, or in relation to, any such works, premises or offices,
 - (iii) take on to any such premises or offices any person or equipment necessary for the purpose of performing the operational audit or verifying any report on the operational audit,
 - (iv) inspect and make copies of, and take extracts from, any books and records of Water NSW that are maintained in relation to the performance of Water NSW's obligations under this licence (including the reporting manual), and
 - (v) discuss matters relevant to the operational audit or any report on the operational audit with Water NSW, including Water NSW's personnel.
- (3) The activities in clause 53(2)(b) may be carried out remotely:
 - (a) with IPART's written approval, or
 - (b) where state or federal government restrictions:
 - (i) prohibit access to any works, premises or offices occupied by Water NSW, or
 - (ii) limit the movement of IPART, the auditor or Water NSW's personnel.

54 Reporting and recording keeping

- (1) Water NSW must comply with its reporting and auditing obligations set out in the reporting manual.
- (2) Water NSW must maintain sufficient records and systems to enable it to report accurately under this licence, including the reporting manual.

- (3) In the case of any disagreement between IPART and Water NSW regarding the interpretation or application of any requirements of the reporting manual, IPART's interpretation or assessment will prevail.

55 Provision of information for performance monitoring

- (1) Water NSW must provide IPART or an auditor any information reasonably requested by IPART or an auditor, within a reasonable time of any request to enable IPART to review or investigate Water NSW's compliance with its obligations under this licence.
- (2) If Water NSW engages any person (including a subsidiary) to undertake any activities on its behalf, it must take all reasonable steps to ensure that such persons:
 - (a) provide information if required by IPART or an auditor, and
 - (b) do the things specified in clauses 53(2), 55(1) and 55(2)(a) and 56(1) as if that person were Water NSW.
- (3) If IPART or an auditor requests information from Water NSW that is confidential, Water NSW must provide that information, subject to entering into reasonable arrangements with IPART or an auditor directed at protecting confidential information.
- (4) Water NSW must provide NSW Health with information relating to water quality in the manner and form specified by NSW Health.

56 Catchment audit

- (1) Water NSW must cooperate with a person appointed by the Minister under the Act, section 42 (**catchment auditor**) and must provide that person with all information reasonably required to assess the state of the declared catchment area having regard to any Gazetted catchment health indicators.
- (2) Water NSW must maintain sufficient records and systems to enable it to provide the information required by clause 56(1) to the catchment auditor.

Part 14 Miscellaneous

57 Availability of licence

Water NSW must make a copy of this licence publicly available online.

58 Reporting

Water NSW must maintain sufficient record systems to enable it to report accurately in accordance with this licence.

59 Timeframe for Water NSW to take action

- (1) If a clause of this licence requires Water NSW to take action but does not specify a period of time in which Water NSW must act, Water NSW must take the relevant action within a reasonable period.
- (2) If a clause of this licence requires Water NSW to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Water NSW must have developed the relevant system or document by the close of the preceding day.

60 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 that have arisen during the term of this licence that may impact its effectiveness,(the **end of term review**).
- (2) To assist IPART with the end of term review, Water NSW must provide IPART with information reasonably requested by IPART within a reasonable time of any request.

61 Approvals and notices

Any approval, notice or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) where an address for a recipient is specified in the reporting manual (electronic and/or postal), delivered or sent to that address.

62 IPART functions

- (1) IPART has the following functions:
 - (a) to prepare operational audits of Water NSW including at the times directed by the Minister,

- (b) to appoint auditors to conduct operational audits of Water NSW,
 - (c) to determine Water NSW's reporting and auditing obligations in relation to requirements imposed on Water NSW under this licence and to publish those requirements in a reporting manual,
 - (d) to determine audit scope for each annual operational audit, including the clauses of this licence to be audited, subject to any direction given by the Minister, and
 - (e) to do any of the following (or appoint an auditor or other person to do any of the following) in connection with an operational audit:
 - (i) access any works, premises or offices occupied by Water NSW,
 - (ii) carry out inspections, measurements and tests on, or in relation to, any such works, premises or offices,
 - (iii) inspect and make copies of, and take extracts from, any books, electronic systems and other records of Water NSW,
 - (iv) direct Water NSW (or Water NSW's personnel) to:
 - (A) provide records or information to IPART,
 - (B) answer question in orally or in writing, and
 - (C) make relevant personnel available to answer questions.
- (2) This clause 62 does not limit any of IPART's functions under the Act or any other law.

Part 15 Definitions and Interpretation

63 Interpretation

- (1) Subject to clause 63(2) and unless the contrary intention appears:
 - (a) the *Interpretation Act 1987*, part 2 and part 5 (except section 36(2)) apply to the interpretation of this licence,
 - (b) words defined in the *Interpretation Act 1987*, schedule 4 have the meaning set out in that schedule.
- (2) In this licence, unless the contrary intention appears:
 - (a) words defined in the Act, section 3 have the meaning set out in that section, with the exception of the following words: assets; catchment health, Department; specified.
 - (b) headings and notes do not form part of this licence but may be used to assist with interpretation if there is an ambiguity,
 - (c) a reference to legislation (including the Act) includes regulations, statutory rules and instruments made under the law or legislation,
 - (d) a reference to a legislative provision that is varied or renumbered extends to the corresponding re-numbered provision,
 - (e) a reference to a financial year means a period of 12 months commencing on 1 July,
 - (f) the word 'include' is not used as a word of limitation.
- (3) A reference in this licence to any person or administrative unit will, in the event of that person or administrative unit ceasing to exist or being reconstituted, renamed or replaced or if its relevant functions are transferred to another person or unit, refer instead to that person or administrative unit.

64 Definitions

In this licence, unless the contrary intention appears:

Act means the *Water NSW Act 2014* (NSW).

assets mean the land, structures, plant, equipment, corporate and business systems of Water NSW that enable Water NSW to undertake its functions, deliver its services and further its objectives.

auditor means a person appointed by IPART to undertake an operational audit.

Australian Drinking Water Guidelines means the 'Australian Drinking Water Guidelines 2011' published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council and updated in September 2022.

bulk water means water that either has not been treated or has not been treated to drinking water standards.

business day means a day that is not a Saturday, Sunday or public holiday in New South Wales.

catchment health means the condition of ecosystems and systems of management (such as sewerage and stormwater systems) in that catchment that protect water quality.

cease to pump order means a legal order or direction (by whatever name) that prohibits:

- (a) Water NSW from making bulk water available to a customer, or
- (b) a customer from taking, accessing or using bulk water.

complaint means an expression of dissatisfaction made to or about Water NSW related to its actions, products, services, staff or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected or legally required.

complying trade application means a customer request that:

- (a) relates to a lawful temporary trade or interstate temporary trade,
- (b) contains sufficient information for Water NSW to process the request, and
- (c) is accompanied by the relevant fee.

customer mean a person that receives a water release service or a direct water supply service from Water NSW.

Department means the Department of the Public Service responsible to the Minister.

design criteria means levels of service for security, robustness and reliability of water made available for supply to customers in and from declared catchment areas.

direct water supply service means the service of supplying bulk water directly to a customer through a pipe, canal or other means.

downstream river means a river or stream downstream of a work, including a river or stream that ultimately flows into another work.

drinking water means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering.

drinking water supplier means a public water utility or a WIC licensee to whom Water NSW supplies water in the relevant area and who treats that water and supplies it to end-users as drinking water.

Energy & Water Ombudsman NSW means the NSW industry complaints scheme for the water industry of that name and any successor to that scheme.

EPA means the Environment Protection Authority established under section 5 of the *Protection of the Environment Administration Act 1991* (NSW).

extreme event means a fire, flood, storm, earthquake or an illegal act by a third party, that is of unusual severity or duration, and includes any similar event or combination of events.

family violence has the same meaning as it has in the *Family Law Act 1975* (Cth).

Hunter Water means Hunter Water Corporation.

interstate temporary trade means the transfer of allocated water from a water access licence account held in one state or territory of Australia to a water access licence account held in another state or territory.

licence means this operating licence granted under section 11 of the Act to Water NSW or any renewal of it, as in force for the time being.

management system means a structured system to manage and document Water NSW's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

Minister means the Minister administering the Act, Part 2, Division 4.

Non-complying trade application means a request that would be a complying trade application except that:

- (a) the proposed temporary trade or interstate temporary trade is not consistent with the relevant licences or legislative frameworks, or is otherwise unlawful,
- (b) it contains insufficient information for Water NSW to process the request, or
- (c) it is not accompanied by the relevant fee.

non-complying water order means a request that would be a water order except that it:

- (a) contains insufficient information for Water NSW to release the requested water, or
- (b) is not consistent with or does not comply with the terms and conditions of a relevant licence or entitlement.

non-declared catchment area means any part of Water NSW's area of operations that is not the declared catchment area.

NSW Health means the Ministry of Health.

NSW Fisheries means the relevant administrative unit of the Department responsible to the Minister administering the *Fisheries Management Act 1994*.

personnel includes Water NSW's board members, employees and contractors.

publicly available online means available, free of charge, on Water NSW's website in a location and format that is accessible and conspicuous to members of the public.

public water utility means Sydney Water, Hunter Water, and councils or county councils.

reporting manual means the document by that name recording IPART's determination under clause 62(1)(c) and published on IPART's website.

Sydney Water means Sydney Water Corporation.

temporary trade means the transfer of allocated bulk water from one water access licence granted under the Act to another and includes transfers under the *Water Management Act 2000* and *Water Act 1912*.

water order means a customer request for bulk water that:

- (a) contains sufficient information for Water NSW to release the requested water, and

(b) is consistent with, and made in accordance with the terms and conditions of:

- (i) a water access licence to take water under the *Water Management Act 2000*, or
- (ii) an entitlement to take water under the *Water Act 1912*, section 20AF.

water release service means the service of making bulk water available by passively or actively releasing water from a work into a river or stream for:

- (a) the customer to extract,
- (b) the purposes of cultural flows, or
- (c) the purposes of environmental flows.

WIC licensee means a person who holds a licence under the *Water Industry Competition Act 2006*.

Schedule A Conferred functions

The following functions are conferred on Water NSW pursuant to section 12(4) of the Act.

A.1 Licensing functions

The functions in the tables below under the *Water Management Act 2000* (NSW), the *Water Act 1912* (NSW), the *Water Management (General) Regulation 2018* (NSW), the *Access Licence Dealing Principles Order 2004* (NSW) and within Management Plans which relate to licensing are conferred on Water NSW, subject to the exceptions specified below:

Exceptions

1. Where a function is highlighted with an asterisk (*), the conferral of that function to Water NSW is limited to not include the following:

Entities

All licences or licence applications held or submitted by:

- a Major Utility;
- a Water Supply Authority;
- a Council or County Council;
- an Irrigation Corporation;
- the Commonwealth;
- Another Australian Jurisdiction;
- a New South Wales Government Agency;
- a Public School or Public Hospital;
- an authority that supplies water in Another Australian Jurisdiction;
- corporations owned by Another Australian Jurisdiction; or
- a New South Wales State Owned Corporation

or

Licences or licence applications

A licence or licence application:

- for an Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategory of access licence;
- which relates to activities being carried out, or proposed to be carried out, by a person acting in their capacity as a licensed network operator under the *Water Industry Competition Act 2006* (NSW);

- which relates to activities being carried out, or proposed to be carried out, by a person acting in their capacity as the holder of, or person required to obtain, any authority, lease or licence under the *Mining Act 1992* (NSW), the *Offshore Minerals Act 1999* (NSW) or the *Petroleum (Onshore) Act 1991* (NSW) or any permit or licence under the *Petroleum (Offshore) Act 1982* (NSW);
 - which relates to activities for a development which has been:
 - declared to be State Significant Development under section 89C of the EP&A Act or is declared to be State Significant Development under a State Environmental Planning Policy,
 - declared to be State Significant Infrastructure under section 115U of the EP&A Act or is declared to be State Significant Infrastructure under a State Environmental Planning Policy; or
 - approved under the now repealed Part 3A of the EP&A Act.

[Note: While Water NSW is not conferred these functions with respect to specifically excluded licences and licence applications, Water NSW may nonetheless provide licensing functions to the licence holder or applicant for other non-excluded licences that the entity or person may hold or apply for.]

2. Where a function is highlighted with a hash (#), the conferral of that function to Water NSW is limited as described in the table.
3. Where a function is highlighted with a caret (^), the conferral of that function is limited to exercising that function only on the ground that fees, charges, interest or rates imposed in respect of the licence have not been paid.

Table A.1 *Water Management Act 2000* (NSW)

For the purposes of this Table A.1, a reference to 'the Act' is a reference to the *Water Management Act 2000* (NSW).

Section	Function
61(1)*	Receive applications for an access licence.
61(3)*	Cause an application for an access licence to be advertised in accordance with the <i>Water Management (General) Regulation 2018</i> .
61(5)(a)*	Require additional information in relation to an application.
61(5)(b)*	Decide to delay considering an application, or refuse to consider an application until information is provided.
61(6)*	Refuse to accept an incomplete application.
61(7)*	Accept applications to amend or withdraw applications for access licences before the application is determined.
62(2)*	Notify the applicant of the grounds of any objection and allow time for a response.
62(3)(a)*	Require additional information in relation to an objection or response.
62(3)(b)*	Decide to delay considering an objection or response, or refuse to consider an objection or response until information is provided.
62(4)*	Notify the objector or application of a deficiency in an objection or response and allow time to rectify.
62(5)*	Before making a decision on an application for an access licence where an objection has been made, endeavour to resolve the issues raised by the objection with the applicant and objector, with a view to reaching agreement on the matters raised by the objection.
62(6)*	For the purpose of reaching an agreement on the matters raised by an objection, propose that matters raised by the objection be dealt with by way of mediation or neutral evaluation or involving an independent mediator or evaluator selected by agreement.
62(7)*	Dismiss an application or objection for failure to participate in mediation or neutral evaluation proceedings.
63(1)*	Determine an application for an access licence by granting or refusing to grant the licence.
63(2)*	Be satisfied of certain matters before granting an access licence.
63(7)*	Determine the form of an access licence.
64*	Notify the applicant and any objectors of the grant or refusal of a licence application under Division 2 of Chapter 3 of the Act within 7 days of determination.
66(1)*	Impose mandatory and discretionary condition(s) on an access licence.
66(2A)*	Impose condition(s) on specific purpose access licences to ensure the licence is used for the purpose for which it was granted.

Section	Function
67(1)*	Give written notice to an access licence holder of a proposal to impose discretionary conditions on an access licence after it has been granted, allow reasonable opportunity to make submissions and consider those submissions.
67(3)*	Impose, amend, revoke or suspend mandatory conditions of an access licence whenever it is necessary to do so in order to enable compliance with or give effect to the Act, the regulations or a relevant management plan.
67(4)*	Cause written notice of any conditions imposed, amended, revoked or suspended on an access licence after the time it is granted to be served on the holder of the access licence.
68*	Revoke discretionary conditions on an access licence whether or not on the application of the holder of the access licence.
68A(1)*	Amend the share or extraction component (or both) of an access licence in accordance with the Act or a relevant management plan.
68A(1A)*	Amend the share or extraction component (or both) of an access licence so as to alter the water management area or water source to which the share component of the licence relates, or the locations from which water may be taken in accordance with the extraction component of the licence.
68A(1E)*	Amend an access licence by withdrawing the nomination of a specified water supply work by means of or from which water may be taken under the licence, if the work is the subject of an approval that has expired or has been cancelled or surrendered.
68A(2)*	Cause written notice of an amendment of an access licence under section 68A to be served on the holder of the licence and any security holder in relation to the licence.
71(1)	Keep a Water Access Licence Register, but only in relation to the matters specified in section 71A(2) (the Assignment Division).
71(3) and Schedule 1A (cl 1(2) and 1(4))	Determine the form and manner for keeping information in the Access Register.
71A(2)	Record certain matters in the Assignment Division of the Access Register.
71D(1)(a), 71E, 71L(4)(a), 71X(1)(f) and Schedule 10 (cl 19)	Determine the form of applications under sections 71D(1)(a), 71E, 71L(4)(a) and 71X(1)(f), and clause 19 of Schedule 10.
71H(1), 71L(1)(a), 72(1), 73(1), 87B(3) and Schedule 1A (cl 2(1), 3(1), 3(5), 5(2))	Determine the form of applications under sections 71H(1), 71L(1)(a), 72(1), 73(1) and 87B(3), and clauses 2(1), 3(1), 3(5) and 5(2) of Schedule 1A.

Section	Function
71G(1)	Require the access licence certificate to be produced before recording a matter in the Access Licence Register.
71I	Correct an error, omission or defect or amend for any other reason any recording in the Access Register.
71L(4)(b)	If consent is granted, enter details of an assignment in the water allocation account for the access licence.
71M(4)	Give or refuse consent to the transfer of a category or subcategory of access licence prescribed by the regulations, or the transfer of an access licence in circumstances prescribed by the regulations.
71N(4)	Give or refuse consent to the term transfer of an access licence of a category or subcategory prescribed by the regulations, or the term transfer of an access licence in circumstances prescribed by the regulations.
71N(7)	Give or refuse consent to a reduction of the period of a term transfer without the consent of the transferee if satisfied that the transferee has failed to comply with any obligations imposed on the transferee.
71O(1)	Give or refuse consent to the cancellation of an access licence and the grant of a new licence of a different category or subcategory.
71P(1)(a)	Give or refuse consent to the subdivision of an access licence by cancelling the licence and granting two or more licences in its place.
71P(1)(b)	Give or refuse consent to, the consolidation of two or more access licences that relate to the same water management area or water sources and are of the same category or subcategory by cancelling the licences and granting a single licence in their place.
71Q(1)	Give or refuse consent to the assignment of rights between two or more access licences of the same category with respect to the same water management area or water source by reduction of the share or extraction component, or both, of one or some of the licences, and a corresponding increase in the share or extraction component, or both, of the others, on the application of the holder or holders of the licences.
71QA(4) & (5)	Consent to the assignment of rights between access licences with respect to individual daily extraction components, including specifying a reduction or increase to have effect for a specified period, or in specified circumstances, or both.
71R(1)	Give or refuse consent to the cancellation of an access licence and the grant of a new access licence with a share component specifying a different water source or water management area, on the application of the holder of the licence.
71S(1)	Give or refuse consent to the amendment of the extraction component of an access licence, so as to vary the times, rates or circumstances specified in the licence with respect to the taking of water under the licence, or to vary the areas or locations specified in the licence as the areas or location from which water may be taken under the licence.
71T(2)	Give or refuse consent to the assignment of water allocations between the water allocation accounts for two or more access licences, on the application of the holders of the licences.

Section	Function
71T(4)	Receive notice given by parties who have completed an assignment of water allocations.
71U(2)	Give or refuse consent to the grant or cancellation of an access licence to give effect to the interstate transfer of access licences and their corresponding interstate equivalents, on an application made pursuant to an agreement under section 71U(1).
71V(2)	Give or refuse consent to the crediting of water allocations to an access licence, or the debiting of water allocations from an access licence, to give effect to an interstate assignment of water allocations, on an application made pursuant to an agreement under section 71V(1).
71W(1)	Give or refuse consent to the amendment of an access licence so as: (a) to nominate a specified water supply work, or group of water supply works, as a work or group of works by means of which water allocations under the licence may be taken, or (b) to withdraw any such nomination, on the application of the holder of the licence.
71Y(6)	Deal with 2 or more related dealings at the same time and in the same application as if they comprised one dealing.
72	Record a person as the holder or co-holder of an access licence or a holding in an access licence, if satisfied that the applicant is entitled to be recorded in the Access Register as he holder or co-holder, and if nothing recorded in the Access Register prevents the registration, and require evidence of applicant's entitlement to be recorded in Access Register as a holder or co-holder.
74	Give or refuse consent to the extinguishment of the holdings of one or more co-holders of an access licence and the granting of a new access licence in accordance with Schedule 1B.
76	Give or refuse consent to an application for used water allocations to be recredited to the water allocation account for an access licence and deal with an application in accordance with the water return flow rules, subject to the condition that Water NSW provide water account information to DPE Water.
77(1)*	Receive a surrendered access licence.
77(2B)*	Refuse to accept the surrender of an access licence.
77(4)*	Cancel a surrendered access licence or record in the Access Register that the Minister (not Water NSW) is the holder of the surrendered licence, in consultation with DPE Water.
77A(1)*	Cancel a supplementary access licence when the relevant management plan ceases to make provision for the extraction of water under the access licence.
77A(2)*	Cancel a specific purpose access licence, if of the opinion that the purpose for which the licence was granted no longer exists.
77A(4)*	Cancel an access licence of a category prescribed by the regulations other than a specified purpose access licence.
77A(5)*	Cancel an access licence if the period for which the licence is to have effect was specified in an order under section 65 and the period has expired.
78(1)(c)*^	Suspend or cancel an access licence for failure to pay any fees or charges imposed in respect of that licence.

Section	Function
78(1)(c)#	Suspend an access licence for failure to pay any fees, charges, interest or rates imposed by Water NSW in respect of that licence. This function is limited to the entities and licences identified in paragraph A.1 clause 1 under the heading 'Exceptions'.
78A(1)	Given written notice to the holder of an access licence, and if there are security holders in relation to the access licence to those security holders, of proposed action under section 77A or 78, give any such person a reasonable opportunity to make submissions with respect to the proposed action and take any such submissions into consideration.
78A(1A)	Cancel or suspend an access licence without giving notice if Water NSW has taken all reasonable steps to give notice under section 78A(1) to the licence holder within the period of 28 days before taking action.
85(1)	Keep a water allocation account for each access licence.
85(2)	Credit water allocations to the water allocation account for an access licence in accordance with any relevant available water determination, subject to the condition that Water NSW provide water account information to DPE Water.
85(3)	As a result of the early release of water by Snowy Hydro Limited: <ul style="list-style-type: none"> - credit an amount of water to the water allocation account for an access licence; and - subsequently debit the same amount of water as is so credited in accordance with directions of the Minister, - subject to the condition that Water NSW provide water account information to DPE Water.
85(5)	Withdraw water allocations from a water allocation account as referred to in section 21(c), subject to the condition that Water NSW provide water account information to DPE Water.
85AA(2)	Cause an account to be kept, in respect of access licences, of any individual daily extraction component that is acquired under section 71QA and any individual daily extraction component that is assigned under section 71QA.
87B*	Issue a certificate in the approved form in respect of an access licence (an "access licence certificate") and all other action under section 87B.
Clause 1(2) of Schedule 1A*	Record the details of any Ministerial action (other than the grant of an access licence under section 63, 63A or 63B), in the Access Register and determine the form in which such actions may be recorded.
Clause 1(4) of Schedule 1A*	Include in the Access Register such other information about the holder of an access licence and the conditions of and other matters relating to the licence as is considered appropriate.

Table A.2 *Water Act 1912* (NSW)

Note: The following 'licensing functions' under the *Water Act 1912* (NSW) include functions relating to the issuing of permits and authorities as well as licences.

Section	Function
10*	Accept applications and prescribe a form for the application of licences.
11(1)-(2C)* and 18G*	Cause publication of applications, amended applications and notices all related to actions under sections 11(1)-(2C) (application for licence) and 18G (application for permit)
11*	Decide whether to grant or refuse an application, determine period, terms, limitations and conditions, give applicant notice of decision, apply to Civil and Administrative Tribunal for an inquiry.
11A*	Refer an application to the Planning Assessment Commission and all other action of the Ministerial Corporation under 11A.
12*	Issue a licence in the prescribed form, impose terms, limitations and conditions, reject an application for failure to pay prescribed fee, retain deposit or any part of deposit and all other action under section 12.
13AA*	Issue an amended licence to reduce area authorised to be irrigation, the capacity of the work or the quantity of water which may be taken.
13C*	Refuse to grant any application for a licence, renew a licence, grant an extension of time for completion of alternations, repairs or additions and all other action under section 13C.
13D*	Grant permission in writing for the holder of a licence or authority for a joint water supply scheme granted for the purpose of irrigation or water supply to take water from a river or lake by means of any work covered by the licence or authority before the whole of the works covered by the licence or authority have been constructed or provided.
13F*	Give notice of proposed cancellation to licence holder.
14*	Renew, or refuse to renew, a licence from time to time, deal with an application lodged after the licence expires, determine period, terms, limitations and conditions, notify applicant, notify any owners and occupiers of intervening lands and all other functions of the Ministerial Corporation under section 14.
14A*	Prescribe fees for issuing and renewal of licences, including issuing or renewing licences to public authority at a nominal fee.
15*	Require a separate application to be made in respect of each work, determine what works may be included as a combined work in an application for a licence or group licence and all other action under section 15.
17C*	Where a licence is deemed to be cancelled pursuant to section 13F, notify the cancellation in the Gazette
18F*	Approve the prescribed form to apply for a permit to construct and use a work under section 18F.
18G*	Grant or refuse an application for a permit.
18H*	Grant a permit instead of imposing a licence, impose limitations and conditions and all other action under section 18H.
18I*	Issue a permit on payment of fee, require alternations be made to or in connection with a work or to plans and specifications of the work and all other action under section 18I.

Section	Function
18J*	Renew a permit, impose limitations and conditions and all other actions under section 18J.
18M*	Prescribe fees for issuing and renewal of permits, including issuing or renewing permits to public authority at a nominal fee.
18N*	Require a separate application to be made in respect of each work, determine what works may be included as a combined work in an application for a licence or group licence and all other action under section 18N.
18O*	Issue notices to suspend, modify or withdraw permits, or to reduce the quantity of water authorised by the permit under section 18O.
20*	Receive applications for an authority to construct and use the joint water supply scheme and to take and use the water which may be conserved or obtained via the scheme, prescribe the form of the scheme, receive the prescribed deposit.
20A(1)* and (1D)*	Publish application for authorities in Gazette and newspaper, form the opinion changes warrant advertising an amended application and advertise amended applications.
20B*	Grant an authority for a joint water supply scheme, determine the period, terms and conditions, reject an application, retain any deposit, any part of such deposit and all other action under 20B.
20BA*	Refuse to grant any application for an authority, renew an authority, determine conditions, grant an extension of time for completion of alterations, repairs or additional works and all other actions under section 20BA.
20BB*	Permit holders of an authority to take water in accordance with section 20BB, issue a written permission to that effect and all other action under section 20BB.
20BC*	Give written notice to holders of an authority of cancellation after specified period, annul or withdraw notice given before expiration or specified period and all other action under section 20BC.
20C*	Renew an authority, determine all terms and conditions and all other actions under section 20C.
20CB*	Renew an authority, determine period, terms, limitations and conditions and all other actions under section 20CB.
20E*	Issue an amended authority, determine terms and conditions, cause publication of notice giving particulars of application, advertise any amended application, direct the Director-General or a Magistrate to hold a public inquiry, decide whether or not to grant an application, determine terms and conditions and all other actions under section 20E.
20AF*	Temporarily vary or waive a condition of an entitlement relating to the ordering of supplies under the water allocation of the entitlement, debit the quantity of water taken and all other action under section 20AF.
20AH*	Approve the transfer of the whole or part of a water allocation, including a transfer between different schemes whether for a limited period or without limitation as to duration and all other action under section 20AH.

Section	Function
20AI*	Accept and consider an application for transfer of a water allocation, approve a farm water management plan, be satisfied water allocation will be used in accordance with such a plan, and all other action under section 20AI.
20AJ*	Determine an acceptable form for the particulars of a transfer, prescribe payment of the fee due and all other action under section 20AJ.
20AK*	Cancel an existing entitlement.
20AQ*	Cancellation of an entitlement where a new entitlement is granted that includes a water allocation purchased under Division 4D.
22B*	Once DPE Water has formed the view that there is a water shortage, issue, amend, alter, modify or cancel notices under section 22B to restrict or suspend the rights held under licences, group licences, authorities or permits.
107*	Refer any proposal for construction of an artesian well by the Crown to the Director-General by notification in the Gazette, declare land to be a district with which charges may be levied, carry out work and all other action under s 107.
109*	Approve a request on petition of occupiers and construct a well, channels and other works following the petitions of occupiers and all other action under s 109.
111*	By notice in the Gazette, extend the supply of water from an artesian well to the lands of occupiers, owners and mortgagees and all other functions under s 111.
113*	Cause advertisement of application, receive application and prescribe form of application, plans and descriptions.
113A*	Issue or revoke orders or notices relating to invalidation of applications for licences under section 133A and reject applications.
115*	Issue a licence to the applicant in the prescribed form, determine limitations and conditions and all other action under section 115.
116*	Grant a licence for a limited period, renew a licence on payment of the prescribed fee, limit the period of renewal, grant an extended time for sinking bores and for enlarging, deepening or altering bores and all other action under section 116.
116A*	Issue or renew a licence at a nominal fee where the applicant is a public authority.
116B*	Reject an application for non-payment of prescribed fee under section 116B.
116C*	Impose limitations and conditions on a licence, cause written notice of intention to impose, have regard to any submissions made and all other action under section 116C.
117A*	Declare, vary, revoke or amend restricted sub-surface water areas, issue orders and all other actions under section 117A.
117B*	Prescribe, vary, revoke and amend prescribed areas, fix charges in relation to prescribed areas and remit or waive the payment of any charge paid or payable.

Section	Function
117E*	Once DPE Water has formed the view that there is a water shortage, restrict or suspend rights held under licences during period of water shortage and cause publication of the necessary notice under section 117E.
117G*	Vary a licensee's water allocation and all other action under section 117G.
117J*	Determine sub-surface water basins (or part of basins), approve applications to transfer the whole or part of the water allocation licence under section 117J, refuse to approve a transfer, require information to be provided and all other actions under s 117J.
118A	Issue or cancel a drillers licence, require information to be provided, require information in relation to a construction of a bore, cancel drillers licences.

Table A.3 *Water Management (General) Regulation 2018 (NSW)*

Section	Function
9(1)(a)*	Approve the form of an application for a water access licence.
12	Be satisfied of certain circumstances prior to permitting a nomination under s 71W(1)(b), and receive notification of the making and withdrawal of certain nominations
14*	Refuse to accept the surrender of an access licence in certain circumstances.
15*	Consider various criteria when determining whether the purpose for which a special purpose access licence was granted no longer exists.
17(2)(b)(ii)	Determine priority for the debit of water allocations where nomination is not made or is incapable of being implemented.
21(4)*	Extend the date an exemption with respect to approved water for basic human water needs.
21(5)	Determine requirements for an exemption under clause 21 with respect to the taking of water for the purposes and in the circumstances specified in clause 17 of Schedule 4 (Emergency safety measures).
21(6)(c)	Approve the form and manner of the making of the record as described in clause 21(6)
21(6)(e)	Approve the form and manner of the record to be given to the Minister under clause 21(6)(e) and receive such a record
21(6)(e)(ii)	Direct that a record required by clause 21(6)(e) be given on an earlier date
230(5)(b)(i)	Approve the form and manner of the record of water taken under the exemption specified in clause 17A of Schedule 4
230(5)(b)(ii)	Receive a copy of the record required by clause 230(5)(b)
230(5)(b)(iii)	Notify that a record required by clause 230(5)(b) be given by an earlier date
231(6)(b)	Approve the form and manner of the record of water taken under the exemption specified in clause 17A of Schedule 4 and receive such a record

Section	Function
231(6)(b)(ii)	Notify that a record required by clause 231(6)(b) be given by an earlier date
Schedule 4 (cl 14')	Determine whether it is satisfied that the watering proposed by the Ministerial Corporation is in the public interest and urgently required for basic human watering needs, and approve in writing a watering program that addresses the amount of water proposed to be taken and the water source from which the water will be taken.

Table A.4 Management plans/ Minister's plans

Function
Functions of the Minister under a Management Plan relating to the following:
<ul style="list-style-type: none"> • Amending access licence share components when informed by DPE Water; • Granting access licences*; • Managing water allocation accounts; Imposing daily access rules; • Managing access to daily flows other than supplementary water; • Granting and amending water supply work approvals*; • Imposing restrictions on water supply works located within restricted distances specified in a water sharing plan*; • Managing local access rules in local impact areas declared by the Minister*; and • Imposing mandatory conditions in accordance with any model conditions developed by DPE Water*.

Table A.5 Access Licence Dealing Principles Order 2004 (NSW)

Section	Function
11	Determine the conversion factor for the calculation of the share component on a new access licence. This is performed in accordance with any rules set out in the relevant management plan.
20	For water supply works dealings under 71W, determine capacity that would conserve water consistent with the share component of the access licence (s20(7)).

A.2 Approval functions

The functions in the table below under the *Water Management Act NSW 2000* (NSW) and the *Water Management (General) Regulation 2018* (NSW) which relate to approvals are conferred on Water NSW, subject to the exceptions specified below.

Exceptions

1. Where the function is highlighted with an asterisk (*), the conferral of that function to Water NSW is limited to not include the following:

Entities

All approvals or approval applications held or submitted by:

- a Major Utility;
- a Water Supply Authority;
- a Council or County Council;
- an Irrigation Corporation;
- the Commonwealth;
- another Australian Jurisdiction
- a New South Wales Government Agency;
- a Public School or Public Hospital;
- an authority that supplies water in Another Australian Jurisdiction;
- corporations owned by Another Australian Jurisdiction; or
- a New South Wales State Owned Corporation.

Approvals or approval applications

A specific approval or approval application:

- for a controlled activity approval or an aquifer interference approval;
- which relates to activities where the applicant or approval holder has obtained or will obtain an Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategory of access licence; or
- which relates to activities being carried out, or proposed to be carried out, by a person acting in their capacity as a licensed network operator under the *Water Industry Competition Act 2006* (NSW);
- which relates to activities being carried out, or proposed to be carried out, by a person acting in their capacity as a holder of, or person required to obtain, any authority, lease or licence under the *Mining Act 1992* (NSW), the *Offshore Minerals Act 1999* (NSW), or the *Petroleum (Onshore) Act 1991* (NSW) or any permit or licence under the *Petroleum (Offshore) Act 1982* (NSW); or
- which relates to activities for a development which has been:

- declared to be State Significant Development under section 89C of the EP&A Act or is declared to be State Significant Development under a State Environmental Planning Policy,
 - declared to be State Significant Infrastructure under s 115U of the EP&A Act or is declared to be State Significant Infrastructure under a State Environmental Planning Policy; or
 - approved under the now repealed Part 3A of the EP&A Act.
2. Where a function is highlighted with a hash (#), the conferral of that function is limited as described in the table.
 3. Where a function is highlighted with a caret (^), the conferral of that function is limited to exercising that function only on the ground that fees, charges, interest or rates imposed in respect of the approval have not been paid.

Table A.6 *Water Management Act 2000* (NSW)

For the purposes of this Table A.6, a reference to 'the Act' is a reference to the *Water Management Act 2000* (NSW).

Section	Function
92(4)*	Require a separate application to be made in relation to one or more approvals.
92(5)(a)*	Require an applicant for an approval to provide additional information within a specified time if of the opinion that additional information would be relevant to consideration of the application.
92(5)(b)*	Delay consideration of an application until additional information required under section 92(5)(a) is provided, or refuse to consider an application if the additional information is not provided within the time specified.
92(6)*	Refuse to accept an application for an approval if it appears that the application is incomplete.
92(8)	Receive notice in writing from an applicant for an approval to amend or withdraw the application.
93(2)*	Inform the applicant for an approval of the grounds of any objection to the granting of the approval and allow the applicant a specified time within which to make a written response in relation to the objection.
93(3)(a)*	Require an objector or applicant to provide additional information within a specified time if of the opinion that additional information would be relevant to consideration of the objection or response.
93(3)(b)*	Delay consideration of an objection or response until the additional information is provided, or refuse to consider the objections or response if additional information is not provided within the time specified.
93(4)*	Notify the objector or application of a deficiency in an objection or response and allow time to rectify.
93(5)*	Endeavour to resolve the issues raised by an objection through consultation with the applicant and objector, with a view to reaching agreement on the matters raised by the objection.

Section	Function
93(6)*	Propose that matters raised by an objection be dealt with by way of mediation or a neutral evaluation involving an independent mediator or evaluator appointed by agreement between the applicant and objector.
93(7)*	Pay costs of mediation or neutral evaluation under section 93(6) .
93(8)*	Dismiss an application or objection for failure to participate in mediation or neutral evaluation proceedings.
94(2)(a)*	Refer an application for an approval and any objection to the application to a Planning Assessment Commission, including any information furnished in relation to the application.
95(1)*	Grant or refuse an application for a water use approval, water management work approval. Note: An approval may not be granted in contravention of the provisions of any relevant management plan.
95(4)*	Determine the form of an approval.
96*	Take into account various matters in considering whether to grant an approval.
97*	Refuse an application for a water use approval or water management work approval.
98*	Notify the applicant of the determination of an application, and if the application relates to an approval that has been advertised pursuant to section 92, to each person who has made an objection to the Minister in connection with the application.
99A*	On application or on own motion, grant 2 or more approvals by means of a single approval document.
100*	Impose mandatory and discretionary conditions on an approval, including conditions relating to the protection of the environment.
101(2)*	Impose conditions on a water management work approval for a water management work the subject of a joint scheme, as required by the regulations or as agreed by the landholders concerned.
102(1)*	Impose or amend discretionary conditions on an approval after the approval has been granted. Give notice to the approval holder, provide opportunity to make submissions and take submissions into consideration.
102(3)*	Impose, amend, revoke or suspend mandatory conditions on an approval.
102(4)*	Cause written notice of any conditions imposed, amended, revoked or suspended under section 102 to be served on the holder of the approval concerned.
103*	Revoke any discretionary conditions to which an approval is subject, whether or not on the application of the holder of the approval.
104(4)*	Fix a date for expiration of an approval once an application for an extension has been lodged.
104(5)*	Accept or reject reasons for delay in making an application for an extension of an approval.

Section	Function
105*	Grant or refuse an application for an extension of the period for which an approval has effect and all related action.
107(1)*	Amendment of approvals.
107(1A)*	Take certain steps prior to taking action under 107(1)(b) or (c).
107(6)*	Have regard to any order of the Supreme Court under s74, in considering any application under s107.
108(1)*	Receive a surrendered approval.
108(1A)*	Refuse to accept the surrender of an approval in certain circumstances.
108(3)*	Cancel a surrendered approval or transfer the surrendered approval to the Minister or to another person.
109(1)(c)*^	Suspend or cancel an approval for failure to pay any fees or charges imposed in respect of that approval.
109(1)(c)#	Suspend an approval for a failure to pay any fees or charges imposed by Water NSW in respect of that approval. This function is limited to the entities and approvals identified in paragraph A.2 clause 1 under the heading 'Exceptions'.
109(1)(c1)*#	Suspend or cancel an approval, for failure to pay any fees or charges imposed in respect of an access licence, where the access licence nominates that approval under section 71W.
109(1)(c1)#	Suspend an approval, for failure to pay any fees or charges imposed by Water NSW in respect of an access licence, where the access licence nominates that approval under section 71W. This function is limited to the entities and approvals identified in paragraph A.2 clause 1 under the heading 'Exceptions'.
109(2A)*^	Amend an approval to give effect to suspension or cancellation of part of an approval.
109(3)	Give written notice to an approval holder of proposed action under section 109, provide the approval holder a reasonable opportunity to make submissions, and take any submissions into consideration.
109(4)	Suspend, cancel or amend an approval without giving notice, if Water NSW has taken all reasonable steps to give notice under section 109(3) to the approval holder within the period of 28 days before taking the action.

Table A.7 *Water Management (General) Regulation 2018 (NSW)*

Section	Function
25(1)(a)*	Approve form for approval applications made under Part 3 of Chapter 3 of the <i>Water Management Act 2000 (NSW)</i> .
25(1)(b)*	Require an application under Part 3 of Chapter 3 to include or to be accompanied by an assessment of the likely impact of the water use, work or activity concerned.

Section	Function
25(2)*	Issue requirements for an assessment of the likely impact of water use, work or activity concerned for an application under Part 3 of Chapter 3 of the <i>Water Management Act 2000</i> (NSW).
26(2)* and (3)*	Assess whether an application for a flood work approval is a non-complying flood work and being satisfied that the work complies with the converted floodplain management plan.
26(7)*	Cause publication of notice of application for an approval.
29(1)*	Amend an approval in the prescribed circumstances.
29(2)(a)*	Amend an approval to correct any error or omission in a description in the approval of a location to which the approval relates.
30*	Refuse to accept the surrender of an approval in prescribed circumstances.
32(1)*, (2)*, (3)*, (4)* and (8)*	Impose a condition requiring a security be provided, take a security from an approval holder for the cost of the holder's obligations under the approval, determine the amount of a security, retain a security deposit and refund a security deposit.
34(4)*	Set applicable requirements on an exemption conferred under clause 34 and publish these in the Gazette or notify the person in writing.
39(1)(f)(ii)* and 39(5)*	Determine a period in writing for the removal of a water supply work and impose any applicable requirements on an exemption conferred under clause 39(1)(f).

A.3 Compliance functions

The functions in the tables below under the *Water Management Act NSW 2000* (NSW) and the *Water Act 1912* (NSW) which relate to compliance are conferred on Water NSW to the extent that the person who the compliance activity is being taken against holds, or is required to hold, a licence or an approval which it is within the authority of Water NSW to grant under this operating licence subject to the exceptions specified below.

1. Where a function is highlighted with a caret (^), the conferral of that function is limited to exercising that function only in relation to a failure or potential failure to pay any fees, charges, interest or rates imposed in respect of a licence or approval.
2. The conferral of the function to revoke or vary a notice by a subsequent notice or notices, under section 340C(4) of the *Water Management Act 2000* (Table A.8) applies only to notices given by Water NSW.

Table A.8 *Water Management Act 2000* (NSW)

For the purposes of this Table A.8, a reference to 'the Act' is a reference to the *Water Management Act 2000* (NSW).

Section	Function
60A(8)*	Receive notification of the establishment of a defence to prosecution under section 60A(7).

Section	Function
324(3)	Cause a copy of an order under 324 to be published.
324(4)	Cause notice of the order to be broadcast by a television or radio station transmitting to the part or parts of the State within which the water source is situated.
332*	By order in writing, direct a landholder to take specific measures (a) to prevent stock from straying from the landholder's land into or onto a water management work that is owned by, or is under the control or management of, the Ministerial Corporation, or (b) to repair any damage caused to any such water management work as a consequence of stock having strayed from the landholder's land.
336A(2)*	Authorise the recovery, in a court of competent jurisdiction as a debt due to the Ministerial Corporation from a person on whom a direction was served, the amount of any costs and expenses incurred as a result of taking measures under 336A(1).
338A(1)*^	By notice in writing, require a person to furnish information or records (or both) under section 338A(1).
338B(2)*^	By notice in writing, require a corporation to nominate in writing, within the time specified in the notice, a director or officer of the corporation to be the corporation's representative for the purpose of answering questions.
339E(2)*^	By notice in writing, require the owner or occupier of a premises to provide such reasonable assistance and facilities as specified in the notice, within a specified time and in a specified manner.
339G*	Compensate parties for damage caused by authorised officers where the authorised officer is carrying out a function conferred on Water NSW under this or any other operating licence.
340C(4)*	Revoke or vary a notice by a subsequent notice or notices.
343(1)*	Authorise a person to take water from a water supply work owned by, or under the control and management of, the Minister or the Ministerial Corporation.
356*	Charge interest on an overdue rate. The rate of interest is not to exceed the rate of interest payable on an unpaid judgement of the Supreme Court.
362A	Co-holders of a licence are jointly and severally liable to the Minister for fees and charges related to the licence.
362B	Issue a certificate as to the specified amount that is payable in relation to an access licence pursuant to fees and charges imposed under the Act, or that no amount is payable.
362C	Recover unpaid fees and charges, under section 362C (including commencement of court proceedings to do so).
367(1) and (2)	Issue an evidentiary certificate which is admissible in legal proceedings as evidence of facts stated, including that instruments have been made by authorised delegates and that payments have been made under the Act.
367(5)	By order published in the NSW Government Gazette, approve a gauge of a type or design, as an approved river gauge, for the purpose of measuring the level or flow of water in a river or lake.

Section	Function
Schedule 1A*	All action in relation to recording matters in the access licence register and all other action under Schedule 1A excluding those already listed above

Table A.9 *Water Act 1912 (NSW)*

Section	Function
20AE*	Authorise persons to enter on any land and dismantle for inspection a water meter or other measuring device that is on the land and is connected to a work constructed or used for taking water from a water source which is subject to a volumetric water allocation scheme.
22(1)*	Authorise persons to enter on any land and take levels and make surveys and marks, fix pegs and stakes and inspect any works.
120(2)*	Issue a notice to effect repairs and do other things in order to put a channel in an efficient condition, cause repairs and other such things specified in a notice to be done, if, after one week, the notice is not complied with.
122A*	Make declarations regarding the cessation of supply from an artesian well and cause publication of the necessary notice.
124(1)*	Authorise persons to enter any land and take levels and make surveys and marks, and fix pegs and stakes, and inspect any artesian well or bore and works in connection therewith, and measure and take the pressure of any artesian well or bore under section 124(1).

A.4 Metering functions

The functions in the table below under the *Water Management Act 2000 (NSW)*, *Water Act 1912 (NSW)* and specified clauses of the *Water Management (General) Regulation 2018 (NSW)* which relate to meters are conferred on Water NSW.

Table A.10 *Water Management Act 2000 (NSW)*

Section	Function
326(1)*	By order in writing, direct a landholder or person to take specified measures to install, replace or to properly maintain metering equipment for use in connection with the water supply work.
372A(1)	Install, test and remove metering equipment.
372A(2)	Metering functions provided for by the Regulations.

Table A.11 *Water Act 1912 (NSW)*

Section	Function
20AC	Approve the taking of water when a work is not connected to a water meter or other measuring device or approve a water meter or other measuring device, or consent to interference with a meter or measuring device and all other action under section 20AC.
117D	Provide consent in writing for interfering with a measuring or metering device, authorise persons as agents to enter land and dismantle for inspection metering or measuring devices for the purpose of ascertaining whether an offence has been committed.

Table A.12 *Water Management (General) Regulation 2018 (NSW)*

The conferral of functions under clauses 241, 242 and 243 takes effect from 1 April 2019.

Section	Function
3(1)	Approve the manner and notification of an approved manner on a publicly available website maintained by Water NSW, but the notification on a website maintained by Water NSW is only with respect to a manner approved by Water NSW under a clause listed in this table
241	Receive notice that metering equipment is faulty and approve the form and manner in which that notice is to be given.
242(2)	Direct a person, by notice in writing, to record specified information when taking water by means of a metered work while its metering equipment is faulty.
242(3)	Approve the form and manner for information to be recorded relating to the take of water when metering equipment is faulty.
242(4)	Direct a person to use an alternative specified means to determine the quantity of water taken and approve the form and manner in which that information is to be recorded.
242(5)	Receive a copy of the records required to be made under clause 242 and approved the manner in which those records are to be provided.
243(3)	Receive notification that metering equipment cannot be repaired within the prescribed period, receive applications for an extension to that period and approve the form and manner in which the notification is to be made.
243(5)	Determine whether the extension to the period for repairs should be approved or not, and give notice to the person.
243(7)	Receive information about repairs to faulty metering equipment and approve the form and manner in which a person is to give notice about repairs to faulty metering equipment.
244(2)(a)	Approve the form and manner of the record referred to in clause 244(2)(a)
244(2)(b)	Approve the form and manner of the record referred to in clause 244(2)(b)
244(2B)	Approve the form and manner of giving of a record under clause 244(2)(a) and receive such a record

Section	Function
244A(2)	Receive a report from holder of an authority as described in clause 244A(2)
244A(3)	Approve the form and manner of a report described in clause 244A(2)
250(2A)(b)	Approve the form and manner of the record made under clause 250
250(2B)	Approve the form and manner of the record made under clause 250(1)(a), (b) or (c) and receive such record from the holder of an authority
250(2C)	Approve the form and manner of the record referred to in clause 250(2C) and receive such record from the holder of an authority
258(2)	Modify metering equipment.
258(3)	Maintain, repair, modify, replace and operate metering equipment that is either metering equipment installed, modified or replaced: <ul style="list-style-type: none"> a) by the Ministerial Corporation on or after 4 March 2011; or b) by the Ministerial Corporation before 4 March 2011 pursuant to the Funding Deed dated 15 April 2009 between the Commonwealth of Australia and the New South Wales Government in relation to the Hawkesbury Nepean River Recovery Project.
Sch 8, cl 8(3)	Receive a report from a person who intends to rely on clause 8 of Schedule 8 setting out the steps taken in relation to the metering equipment
Sch 8, cl 8(4)(b)	Approve the form and manner of a report referred to in clause 8(3) of Schedule 8
Sch 8, cl 9(2)(b)	Receive written certification as to the matter set out in clause 9(2)(b)
Sch 8, cl 9(5)	Receive a report from a person who intends to rely on clause 9 of Schedule 8, setting out the steps taking in relation to the metering equipment
Sch 8, cl 9(6)(b)	Approve the form and manner of a report referred to in clause 9(5) of Schedule 8

A.5 Border Rivers functions

The functions in the table below of the Water Administration Ministerial Corporation under the *New South Wales – Queensland Border Rivers Act 1947* (NSW) are conferred on Water NSW subject to any requirements imposed by the Minister administering the *New South Wales – Queensland Border Rivers Act 1947* (NSW) or the Border Rivers Commission.

Table A.13 New South Wales – Queensland Border Rivers Act 1947 (NSW)

Section	Function
14	Constructing, maintaining, operating and controlling relevant works in New South Wales.
20	Exercising the powers and obligations of a Controlling Authority.

A.6 General administrative functions

The functions in the table below under the *Water Management Act 2000* (NSW) are conferred on Water NSW.

Table A.14 *Water Management Act 2000* (NSW)

Section	Function
114(1)	Impose fees and charges for the purposes of the Act consistent with any relevant determination in relation to the price of Bulk Water made by IPART or any other pricing authority vested with the power to determine prices for Water NSW.
114(2)	Waive or reduce fees or charges, in a particular case or class of cases, if of the opinion that the circumstances warrant it.
372(1)(a),(a1), (b) and (c)	Construct, maintain and operate water management works, gauging stations and other monitoring equipment, conduct research, collect information and develop technology in relation to water management and acquire rights to water whether within or beyond New South Wales.
377	Delegate to any Water NSW employee exercise of any power of the Ministerial Corporation conferred on Water NSW via this Licence, other than this function of delegation.
389(1)	Delegate to any person any functions of the Minister conferred on Water NSW via this Licence, other than this function of delegation.
390	Appoint authorised officers and authorised analysts.

A.7 Joint private works functions

The functions in the table below under the *Water Management Act 2000* (NSW) are conferred on Water NSW.

Table A.15 Private irrigation board powers

Section	Function
156(3)	Consider any application from a private irrigation board for authority to take over any water supply work that is located on an authorised site for that work, and cause a notice containing particulars of the application to be published in the Gazette and in the authorised manner.
157(4)	Where an objection is lodged to an application from a private irrigation board to take over a water supply work, consult with the objector and make a recommendation with respect to the objection.

Table A.16 Private water trust powers

Section	Function
229(2)	Give approval or refuse to approve the cessation or supply of water or deviation of water in a water supply district.
229(4)(b)	Direct members of a private trust to reduce or discontinue the taking of water from a water source.

A.8 Group licences functions

The functions in the table below under the *Water Act 1912* (NSW) are conferred on Water NSW.

Table A.17 Group licences functions

Section	Function
20K	Approve the prescribed form for a group access licence.
20L	Decide whether to grant a group licence. Notify the Board of any prescribed fee, the period of time for which the licence is to be issued and the terms, limitations and conditions attached to the licence. Issue a Board with a group licence and reject an application due to failure to pay a fee.
20M	Determine not to lapse pre-existing licences, group licences or authorities within the private district of the Board when a group licence is issued and set any terms, limitations and conditions (including by restrictions, modifications or variations) in relation to such pre-existing licences.
20N	Waive an amount of the prescribed group licence fee where any licence or authority lapses under s 20M.
20O	Renew group licences. Notify the Board of any prescribed fee, the period of time for which the licence is to be issued and the terms, limitations and conditions attached to the licence renewal. Issue a Board with a group licence renewal.
20Q	Approve the prescribed form for an application to amend a group licence, grant an amendment to a group licence and set a fee for an amendment to a group licence.
20S	Be satisfied that a notice may be issued, issue a notice to a Board and revoke, suspend or modify a group licence.
20T	Consent to make alternations in connection with a work covered by a group licence.
20U	Notify the revocation or cancellation of a group licence in the Gazette.

A.9 Functions relating to legal proceedings

The functions in the table below under the *Water Management Act 2000* are conferred on Water NSW.

Table A.17 Functions relating to legal proceedings

Section	Function
336	All functions of the Minister as the respondent; in proceedings arising from a Conferred Function carried out by Water NSW
368	All functions of the Minister as the respondent; in an appeal arising from a determination made by Water NSW