



Sydney Water Operating Licence
Review 2023-24

Issues Paper

July 2023

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:

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Deborah Cope
Sandra Gamble

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Invitation for submissions

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

Submissions are due by Friday, 15 September 2023

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

You can also send comments by mail to:

2023-24 Review of the Sydney Water Operating Licence

Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

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

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

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

The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

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We want to know what you think about the Sydney Water Operating Licence

Sydney Water is a natural monopoly, providing an essential service. This means that in the absence of competition, regulation and licensing are generally required to promote positive consumer outcomes. The current operating licence (the 2019-2024 Sydney Water Operating Licence)^a authorises Sydney Water to operate under terms and conditions which address:

- the quality of products or services including the protection of public health and the environment
- the availability of essential products or services.

Sydney Water's prices are regulated by IPART's price determinations. Price regulation, in combination with licence requirements, protects customers from excessive (monopoly) prices.

Our recommendations for any changes to Sydney Water's operating licence will be informed by the findings of this end-of term review of the operating licence (Review).

Our review

We will conduct this Review to assess whether the operating licence meets its objectives and investigate any issues that have arisen during the term of the licence that may impact its effectiveness. The licence objectives are set out in clause 1.1 of the current operating licence:

- a. Authorise and require Sydney Water, within its area of operations, to:
 - i store or supply water
 - ii provide sewerage services
 - iii provide stormwater drainage services
 - iv dispose of wastewater
- b. set efficient and effective terms and conditions, including quality and performance standards, that require Sydney Water to provide services in a way that:
 - i supports its principal objectives under the *Sydney Water Act 1994* (the Act) to protect public health and the environment
 - ii support its principal objective under the Act to be a successful business, including by having regard to the interest of the community
 - iii does not prevent or hinder competition.

We will consider whether these objectives remain fit for purpose and whether the operating licence meets these objectives in a way that imposes the lowest possible cost on Sydney Water (and therefore its customers).

^a We understand that the current operating licence, which was set to expire on 29 November 2023, has now been extended until 30 June 2024.

We expect to make our recommendation for a new operating licence to the Minister for Water (the Minister) to come into effect by 1 July 2024. The current operating licence will expire on 30 June 2024.

We have provided context on the Review in Appendix A to this Issues Paper.



Follow the links to find out more about the context of the Review

Who is Sydney Water?

Why does Sydney Water need an operating licence?

Why are we reviewing the operating licence?

Who will this Review affect?

We encourage your input into the Review

This paper is an opportunity for you to provide feedback on the current operating licence and raise any issues of concern. It discusses our preliminary positions on how the operating licence could be improved, and we seek feedback to inform how these preliminary positions might develop into draft recommendations (which we expect to publish by the end of the year).

Your feedback will help us recommend terms and conditions that reflect customer preferences.

Throughout this paper we list specific questions where we invite your comment. You may also make a submission raising other issues that we have not covered in this paper.

The main focus areas for this Review are as follows:



What are the minimum service levels required to protect customers?



What water conservation and planning obligations should be imposed?



What climate risk management obligations should be imposed?



Should the operating licence drive additional tenancy protections?



Should obligations for information to Fire & Rescue NSW be imposed?

How will we conduct the Review?

We will take a customer-focused approach

Your feedback to this Issues Paper is important. We will undertake this Review with the interests of Sydney Water's customers at the forefront of our decision-making – what we refer to as a 'customer-focused approach'. By using a customer-focused approach, we seek to recommend terms and conditions in the operating licence that reflect customers' preferences and needs.

We believe a customer-focused approach to the Review will maximise customer protection which is a key objective in regulating water utilities. This is particularly important for customers of monopoly suppliers such as Sydney Water where most customers cannot change their provider.

We will apply 6 principles for this Review

We will apply the following 6 principles to guide our Review of the operating licence:

6 Principles of the Review

Principle # 1: Protecting customers, the community and the environment - Sydney Water's operating licence should authorise the provision of services that are safe and reliable in a way that protects customers, the community, and the environment.



Water and sewerage services are essential services, delivered to customers who mostly have no choice in who they buy their services from. Through this Review, we seek to support IPART's work to ensure that customers pay fair prices to receive these services. However, we will balance this with the need to ensure adequate safety and reliability standards are in place to protect customers.

Principle # 2: Setting minimum protections - The licence conditions should set minimum protections for safety and reliability that hold Sydney Water to account when delivering services to customers.



In this Review, we will explore if the current operating licence sets appropriate minimum protections for customers, the community and the environment. The operating licence establishes the minimum standards and allows us to monitor Sydney Water's compliance with delivering these protections.

Principle # 3: Supporting the pricing framework - This Review of the operating licence will support IPART's new approach to pricing regulation. The Review does not seek to drive reductions in the current level of service provided to customers or discourage Sydney Water from providing a higher standard of service than the operating licence requires. It will complement the objectives of the pricing framework which are to incentivise customer value and deliver a higher standard of service where customers want it and are willing to pay for it.



6 Principles of the Review

Principle #4: Focusing on outcomes - The Review will focus on outcomes for the customers, the community and the environment and consider how the operating licence works with other regulatory frameworks and NSW Government policies to achieve these outcomes.



Principle # 5: Removing redundancy - The Review will focus on removing redundancy and streamlining current regulation. This may mean removing current operating licence conditions that are redundant or duplicative without additional benefits



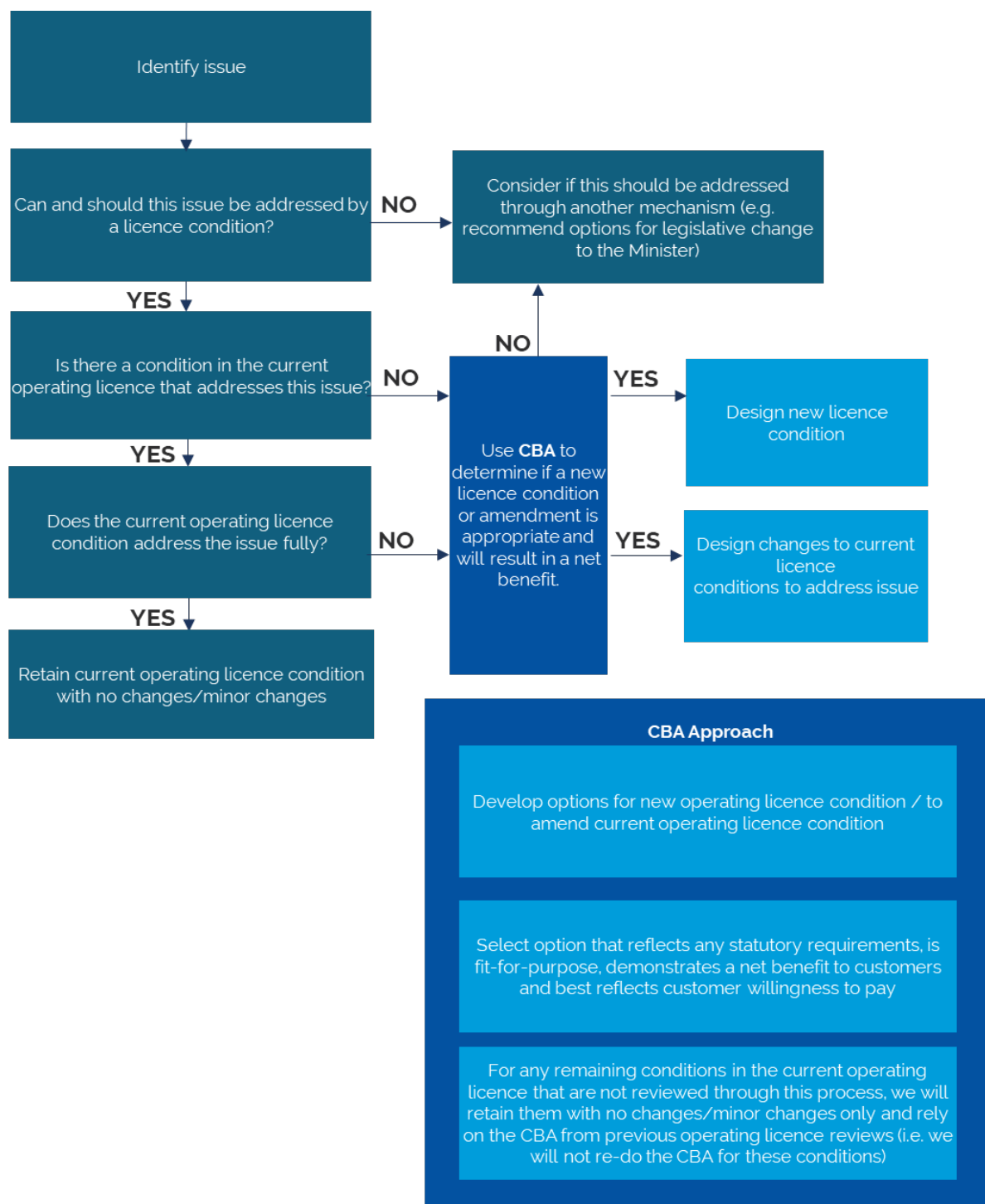
Principle #6: Recognising new strategies or policies - The Review will consider new events since the current operating licence conditions were drafted. We will consider changes to policy or the regulatory framework or environment since the previous 2019 end-of-term review of the Sydney Water operating licence review when making recommendations for a new operating licence (for example, recognising that the new NSW Water Strategy and Greater Sydney Water Strategy has now been published).



We will apply our Design Framework for designing the operating licence

After receiving your responses and identifying the relevant issues, we will develop our draft recommendations for the operating licence by applying the Design Framework summarised in **Figure 1** below. (CBA in Figure 1 refers to a cost-benefit analysis – discussed in the next section.)

Figure 1 Our Framework for designing the operating licence



Cost Benefit Analysis

We will undertake a cost-benefit analysis (CBA) when developing our draft recommendations for the operating licence to assess that our recommendations are providing a net benefit to customers that outweighs costs. The CBA considers both the qualitative and quantitative costs and benefits, as appropriate.

Complementing this Issues Paper, we have published our approach to undertaking the CBA in a CBA Approach paper, for your input. The CBA Approach paper focuses on the above identified focus areas for this Review and does not discuss all areas of the operating licence.

In the paper we ask a series of question seeking your feedback on our general CBA approach, the identified counterfactuals to the current operating licence conditions/regulatory framework and the preliminary costs and benefits that we have identified.

How the Issues Paper is structured

This Issues Paper discusses the key issues relevant to the Review and our preliminary positions, where we have them, for addressing these issues. We have grouped the issues under 6 key focus areas and structured the paper accordingly, as shown in Table 1 below.

Table 1 Structure of the Issues Paper and issues discussed in each chapter

Chapter of the Issues Paper	Issues discussed
Chapter 1: Performance standards	<ul style="list-style-type: none"> Water quality standards System performance standards for customer service interruptions Asset management
Chapter 2: Water conservation & efficiency and long-term planning	<ul style="list-style-type: none"> Water conservation & efficiency (5-year water conservation plan, the current economic method – which is the economic level of water conservation methodology) Water planning (Implementation of the Greater Sydney Water Strategy, Long Term Capital and Operational Plan, Water Supply Augmentation, Drought Planning, data sharing, Priority Sewerage Program) Stormwater drainage
Chapter 3: Climate risk readiness	<ul style="list-style-type: none"> Emissions abatement Climate risk resilience and adaptation Climate risk management
Chapter 4: Sydney Water's obligations to its customers	<ul style="list-style-type: none"> Customer contract and rebates Consumer protections (including tenants) Operating licence conditions for protecting customers' rights (payment assistance options, family violence policy, external dispute resolution, internal complaints handling, external dispute resolution and providing information to customers) Operating licence conditions for consulting with customers and the community
Chapter 5: Commitment to quality processes and systems	<ul style="list-style-type: none"> Stakeholder cooperation (with the Water Administration Ministerial Corporation, NSW Health, the Environment Protection Authority and Fire and Rescue NSW) Engaging with private water utilities and providing servicing information
Chapter 6: Critical infrastructure security	<ul style="list-style-type: none"> Cyber security management system Security clearances
Chapter 7: Administration	<ul style="list-style-type: none"> Administrative operating licence conditions (operating licence objectives, licence term, licence amendments, making copies of the licence available, end of term review of the licence, notices, licence authorisations, obligation to make services available to customers, performance monitoring and reporting)

Chapter of the Issues Paper	Issues discussed
Chapter 8: Full list of questions for your comment	<ul style="list-style-type: none"> Pricing condition <p>In each of the above chapters, we ask a series of questions where we seek your feedback on the issues discussed. This chapter includes the full list of questions asked throughout the paper.</p>

How you can submit feedback

We invite all interested people to make submissions in response to this paper. Please include any feedback that you have on the CBA Approach Paper in your response.

We request that Sydney Water make its submission on the Issues Paper by **1 September 2023**. We will publish Sydney Water's submission on our website.

We invite other interested parties to provide their submissions by **15 September 2023**, and to consider Sydney Water's submission in formulating their own submissions. We will publish all submissions on our website.

We look forward to receiving your submission. For more information on how to make a submission and our submission policy, and how to manage confidential or commercially sensitive information in your submission, please see page ii at the front of this paper.

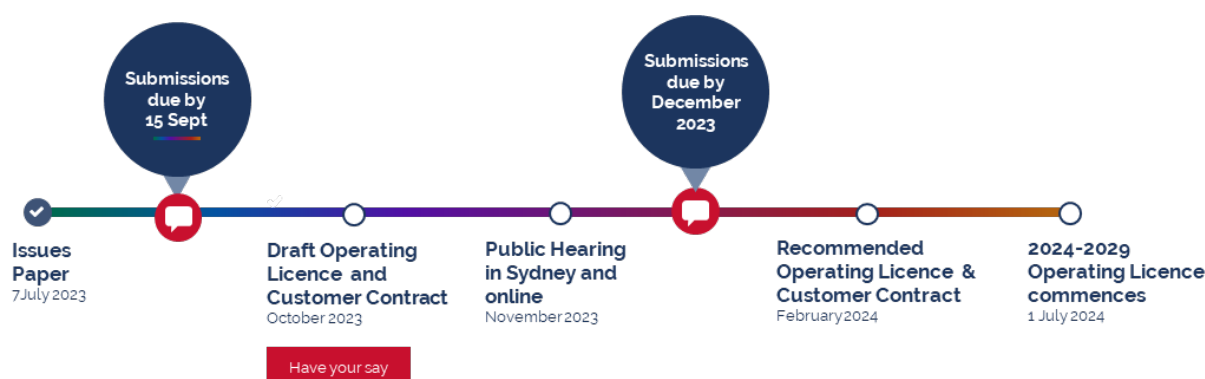
Your input is valuable to our review process.

[Make a submission »](#)

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

Next steps

We intend to provide our recommendation for a new Operating Licence, Customer Contract and Reporting Manual to the Minister by February 2024. This will allow a new operating licence to come into effect by 1 July 2024. We will complete the Review according to the timeline below:



1 Performance standards

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



The *Sydney Water Act 1994* (the Act) requires the operating licence to include quality and performance standards.¹ Quality and performance standards define the water quality and/or the levels of performance that a utility must meet to satisfy a regulatory or other requirements.

The standards generally focus on one or more aspects of the level of service customers can expect from the utility. Specifying standards in the operating licence protects customers by ensuring that the service provided to them does not fall below the required standard. This is especially important for protecting customers of monopoly service providers like Sydney Water, because most customers cannot change their service provider if they are unhappy with the service they receive.

The current operating licence sets 2 types of quality and performance standards that Sydney Water must meet:



Water quality standards


Drinking and recycled water quality management systems



System performance standards

Water continuity, water pressure and dry weather wastewater overflows

We seek your feedback on our preliminary views below. Follow the links for the full explanation of these views in this chapter.

Our preliminary views for the operating licence and questions asked in this chapter	Relevant principle of the Review addressed by this view
WATER QUALITY STANDARDS	
<p>Retain the current water quality standards.</p> <p>Clarify NSW Health may impose additional requirements to achieve health outcomes.</p>	 <p>Protecting customers, the community and the environment</p>
<p>Remove the current fluoridation related requirements to remove duplication with the Fluoridation regulation.</p>	 <p>Removing redundancy</p>
<p>Include only the minimum water quality related reporting requirements.</p>	 <p>Setting minimum protections</p>
PERFORMANCE STANDARDS FOR SERVICE INTERRUPTIONS	
<p>Determine the minimum service levels necessary to protect customers from unacceptable service interruptions.</p>	 <p>Setting minimum protections</p>
<p>Remove redundant reporting and rely on data reported against IPART indicators about service interruptions.</p>	 <p>Supporting the pricing framework</p>
	 <p>Removing redundancy</p>
ASSET MANAGEMENT	
<p>Retain requirements to maintain and implement an Asset Management System.</p>	 <p>Protecting customers, the community and the environment.</p>
<p>Sydney Water should provide a State of Assets Report every 2 years.</p>	 <p>Setting minimum protections</p>
<p>Remove the current requirement for a Strategic Asset Management Plan.</p>	 <p>Removing redundancy</p>

1.1 Water quality standards

Our preliminary position is to retain the current water quality standards but to clarify NSW Health's role in the operating licence for specifying additional health-based requirements

As stated above, the Act requires the operating licence to include water quality standards. Water quality standards in the operating licence minimise the risk of a utility providing drinking water to customers that is unsafe for consumption or recycled water that is not of the required quality for its intended end-uses.

The current operating licence requires Sydney Water to maintain² and implement³ a drinking water quality management system that is consistent with the Australian Drinking Water Guidelines (ADWG) and a recycled water quality management system that is consistent with the Australian Guidelines for Water Recycling (AGWR). We are not proposing to make substantive changes because we consider that these requirements are beneficial to customers and have been working effectively.

The ADWG and AGWR set the minimum standards necessary to ensure that Sydney Water provides water of an appropriate quality for its intended end-uses. The ADWG and AGWR are the current National Health and Medical Research Council (NHMRC) water quality standards. Since the first operating licence, the water quality standards have been based on NHMRC guidelines. NSW Health did not support recommending alternative water quality standards when we explored this in the 2022 Hunter Water operating licence review. NSW Health's position was that the ADWG/AGWR are the NSW Government endorsed water quality guidance in NSW.⁴ They ensure that the health standards will be set at a guaranteed minimum safety level to protect customers which is consistent with other water utilities across NSW.

In the CBA Approach paper, we explain that we intend to rely on the quantitative and qualitative assessments of the costs and benefits of imposing different water quality standards in the operating licence that we undertook in the 2019 end-of-term review of the Sydney Water operating licence as well as the approach in the 2022 end-of-term review of the Hunter Water operating licence. We concluded that the benefit of applying the national standards to the production of drinking water and recycled water outweighed the cost to customers. We consider it unlikely that the costs and benefits have significantly changed. Sydney Water is aware of the possibility for future updates to the ADWG covering disinfection by-products, but the costs are currently unknown.

During the current operating licence term, Sydney Water has had a high level of compliance with the water quality standards. The issues we have identified during audits of these requirements were because of issues with Sydney Water's asset management practices rather than issues with the water quality standards.

Other relevant regulation

Sydney Water is a 'supplier of drinking water' under the *Public Health Act 2010 (NSW)* (the Public Health Act).⁵ The Public Health Act requires all drinking water suppliers to implement a quality assurance program (QAP) for the safe supply of drinking water that addresses the Framework for Management of Drinking Water Quality^b (as set out in the ADWG).⁶

The Chief Health Officer at NSW Health may, by notice in writing, exempt a supplier of drinking water from a QAP if the Chief Health Officer is satisfied that the supplier is subject to other appropriate licensing or regulatory requirements.⁷ The Chief health Officer has exempted Sydney Water from this requirement because of the operating licence requirements. The exemption under the Public Health Act ensures there is no regulatory duplication.

There is currently no regulation for managing recycled water quality to a defined standard.

Clarifying NSW Health's role in the operating licence

The current operating licence sets out that Sydney Water must comply with any requirements relating to drinking water or recycled water specified by NSW Health.

Our preliminary position is to recommend clarifying that any requirements from NSW Health would be *additional* to what is in the ADWG/AGWR and they would be requirements intended to achieve health outcomes.

These changes are intended to clarify the current operating licence requirements, which could suggest that NSW Health's requirements may depart from the ADWG and AGWR but this is not the intended outcome. These changes will not pose additional burden on Sydney Water or NSW Health.

We seek your comment



1. Do you agree with retaining the current water quality standards in the operating licence and clarifying NSW Health's role for specifying additional health-based requirements?

1.1.1 Complying with fluoridation requirements

Our preliminary position is to remove the current operating licence requirements for Sydney Water to comply with the *NSW Code of Practice for Fluoridation of Public Water Utilities Supplies*.

Fluoridation of water in NSW is governed under the *Fluoridation of Public Water Supplies Act 1957*, *Fluoridation of Public Water Supplies Regulation 2022* and the *NSW Code of Practice for Fluoridation of Public Water Supplies* (Fluoridation Code). In general, Sydney Water has discretion to fluoridate drinking water supplies but, in some cases, it may be directed to fluoridate by NSW Health.⁸ Where Sydney Water fluoridates water, it must comply with the Fluoridation Code and other requirements of the Fluoridation legislation.⁹

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

The operating licence also requires Sydney Water to comply with the Fluoridation Code and any requirements for fluoridation specified by NSW Health.¹⁰ These requirements by NSW Health refer to directions from NSW Health to fluoridate.

The operating licence requirements duplicate those of the Fluoridation legislation and, in our view, do not provide additional benefits. To streamline current regulation, we propose to remove the requirements from the operating licence and rely on regulating fluoridation under the fluoridation legislation only.

The requirement to comply with the Fluoridation Code was retained in the current operating licence in the 2019 end-of-term review to allow us to audit and enforce compliance. NSW Health previously advised that it found benefit in being able to rely on IPART's operating licence audits to minimise the risk of a utility providing drinking water to customers that has not been fluoridated appropriately.

We consider that the operating licence does not need to continue to retain the current licence condition to achieve the same benefits. NSW Health can undertake an independent audit under the Fluoridation Code and review internal audits of Sydney Water's fluoridation requirements. We can continue to audit Sydney Water's Fluoridation Code by reviewing Sydney Water's implementation of its Drinking Water Quality Management System as Sydney Water is required to have a Drinking Water Quality Management System consistent with the Australian Drinking Water Guidelines. These guidelines call out the legislative framework for Fluoridation including the Fluoridation Code.

In the [2022 Sydney Water operational audit](#), we reviewed Sydney Water's fluoridation practices under the Water Quality Management System (clause 4.1.1 of the current operating licence) and found no issues.

Retaining the operating licence requirements for fluoridation can mean that Sydney Water's fluoridation practices are audited under both the drinking water quality management and the Fluoridation Code licence requirements resulting in avoidable auditing costs. Further, a non-compliance can result in breaches of 2 operating licence requirements.¹¹

There is no equivalent condition in the 2022-2027 Hunter Water operating licence for the same reasons.

We seek your comment



2. Do you agree with removing the current requirement in the Licence for Sydney Water to comply with the *NSW Code of Practice for Fluoridation of Public Water Utilities Supplies*?

1.1.2 Reporting requirements for water quality monitoring

Our preliminary position is to include only the minimum requirements necessary for reporting on Sydney Water's water quality management and monitoring.

Reporting requirements place a cost on Sydney Water. Testing compliance with reporting requirements adds additional cost. We seek to ensure all reporting is the minimum required to promote transparency to the public about Sydney Water's water quality performance and enable NSW Health to monitor for public health risks. Especially given that NSW Health does not monitor Sydney Water under the Public Health Act as the operating licence requirements allow Sydney Water an exemption from the requirements of the Public Health Act.

Currently, under Chapter 3 of the [Reporting Manual](#), Sydney Water is required to prepare:

- annual compliance reports on its Drinking Water Quality Management System and Recycled Water Quality Management System to IPART and NSW Health
- quarterly water quality monitoring reports and publish them on Sydney Water's website
- quarterly exception- based reports on its water quality monitoring to NSW Health
- monthly fluoride monitoring reports to NSW Health.

In addition, Sydney Water must immediately notify NSW Health of any water quality incidents and emergencies.

IPART audits Sydney Water's compliance with water quality management systems and monitoring program annually and publishes the findings on IPART's website. Reporting obligations extend Sydney Water's accountability beyond incident notification obligations and IPART's audit program.

We seek your comment



3. Are the current reporting requirements for Sydney Water's water quality management and monitoring adequate? Are they excessive?

1.2 System performance standards for service interruptions

The Act requires the operating licence to include performance standards for service interruptions.¹²

Our preliminary position is to retain performance standards in the current operating licence for water pressure, water continuity and dry weather wastewater overflows and set maximum limits for these service interruptions (thereby specifying the minimum level of service).

The system performance standards ensure that Sydney Water provides adequate quality products and services to meet customers' needs and a wastewater overflow standard protects public health by minimising overflow events. In the absence of mandatory requirements there is a risk that over time, Sydney Water's standards would not be maintained. Customers may receive services that do not meet their expectations for water supply continuity, water pressure, and dry weather wastewater overflows.

We intend to review the current service levels set in the operating licence to understand if they are the minimum levels necessary to protect customers.

In considering the appropriate minimum service levels that should be specified in the operating licence, we will have regard to customers' willingness to pay for current or improved service levels and their willingness to accept lower levels of service at reduced cost. We expect Sydney Water's customer engagement work, currently being undertaken as part of its 'Our Water, Our Voice' program to inform its 2024 pricing proposal to IPART, to provide information about customer willingness to pay.

In the CBA Approach paper, we explain that we seek a CBA from Sydney Water to determine the level for each of these standards that generates the highest net benefit and reflects customers' willingness to pay. We would expect Sydney Water's CBA to test the costs and benefits of retaining the current performance standards without change versus the costs and benefits of lowering or raising the current service levels. This will inform our analysis of the appropriate minimum service levels.

We will also consider:

- Sydney Water's historical and expected levels of performance
- Sydney Water's provisions to guard against repeat service interruptions and whether they provide the right level of protection for individual customers across the network
- the rebates Sydney Water provides to its customers for service interruptions and whether these align to the performance standards in the operating licence and customers' expectations generally.

We note that clause 7.2 of the Customer Contract requires Sydney Water to pay rebates to customers who are inconvenienced by planned and unplanned water interruptions, low water pressure and wastewater overflows. Any changes that we recommend to the system performance standard thresholds in this Review will inform our analysis of the rebate structure and rebate amounts to reflect the inconvenience experienced by customers.

We discuss rebates in section 4.1.1.

We seek your comment



4. Is there anything further we should consider when reviewing the system performance standards in the current operating licence to determine the minimum service levels necessary to protect customers?



5. Are there other standards that the operating licence should include to hold Sydney Water to account for the levels of service it provides to the community?

1.2.1 Reporting requirements for system performance standards

Our preliminary position is to remove the current reporting requirements for performance standards for service interruptions from Sydney Water's Reporting Manual and rely on data reported against IPART indicators connected to these performance standards.

Currently, under Chapter 4 of the Reporting Manual, Sydney Water is required to prepare annual compliance reports on its performance against the performance standards for service interruptions and submit them to IPART. Sydney Water is not required to publish this report on its website.

In Chapter 8, Sydney Water is required to prepare a compliance and performance report with information about Sydney Water's performance against IPART indicators and National Performance Report (NPR) indicators set out in Appendix C of the Reporting Manual. The IPART indicators include reporting against the number of properties that experience unplanned water continuity service interruptions, water pressure failures and properties that experience uncontrolled wastewater overflows in dry weather.

Sydney Water is not required to publish this report on its website. However, we publish information reported to us against IPART indicators, and the Bureau of Meteorology publishes information reported against the NPR Indicators.

We propose to remove the reporting requirements from Chapter 4 of the Reporting Manual to reduce the burden on Sydney Water. We consider that the relevant information that the public and IPART requires is included in the reporting against the indicators.

We seek your comment



6. Do you agree with consolidating current reporting requirements on Sydney Water's reporting against the performance standards for service interruptions (in chapters 4 and 8 of Sydney Water's current reporting manual)?

1.3 Asset management

Our preliminary position is to retain requirements in the operating licence to maintain and implement an Asset Management System. We do not propose additional requirements in the operating licence.

The current operating licence requires Sydney Water to maintain and fully implement an Asset Management System (AMS) consistent with the Australian Standard AS ISO 55001:2014 Asset Management – Management systems – Requirements. This is the only legal obligation for Sydney Water to have and implement an asset management

An AMS is a system for tracking, managing, and maintaining assets. Sydney Water's AMS enables it to meet its system performance standards and operate critical assets to provide essential services to more than 5 million customers. Poor asset management can lead to disruption in service quality and delivery, increase inefficient operational costs, and pose a risk to water quality and public health.

We consider that retaining the AMS is beneficial because it helps Sydney Water to:

- monitor asset performance, which determines its overall system performance
- meet objectives (such as the water quality and system performance standards for service interruptions) by effectively managing asset risks and asset performance

- identify and pre-empt issues that may pose a significant risk to asset integrity and/or public health, including risks brought about by a changing climate
- identify the root cause of poorly performing assets and maximise asset value
- keep records of maintenance activities, which is essential to track performance, optimise maintenance, and identify areas requiring frequent attention.

Poor asset management can lead to:

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

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

The Act does not specifically require Sydney Water to have an AMS. However, it does specify the following requirements for the operating licence. We consider that retaining the operating licence requirement for the AMS helps meet these requirements for Sydney Water to:

- provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for supplying water, providing sewerage services and disposing of wastewater¹³
- ensure that systems and services meet the quality and performance standards in the operating licence.¹⁴

We do not propose changes to the standard specified in the operating licence as we consider that AS ISO 55001:2014 sets the appropriate level mandatory requirements and guidance. We found Sydney Water's current AMS to be adequate and compliant with the elements of this standard, when audited during the current operating licence term.

However, we did identify issues with how Sydney Water implemented its AMS from 2020-2022.¹⁵ These issues were related to how Sydney Water documented its reasons and decisions for deferring asset maintenance and replacements actions. As this was a repeat non-compliance identified in 3 consecutive audits, and Sydney Water's maintenance of its critical assets is important to ensure ongoing water supply and quality to the people of NSW, the Tribunal issued a direction to Sydney Water to address the identified issues.

We propose that additional operating licence requirements are not necessary at this stage. We consider that Sydney Water's AMS adequately drives asset management and maintenance decisions, and Sydney Water has committed to addressing the identified implementation issues. It has commenced rectification actions. It is appropriate that such issues are managed through IPART's compliance function.

In the CBA Approach paper, we explain that we intend to rely on the quantitative assessment of the costs and benefits of imposing different water quality standards in the operating licence that we undertook in the 2019 end-of-term review of the current operating licence as well as the approach in the 2022 end-of-term review of the Hunter Water operating licence. We established that there is a net benefit in maintaining the operating licence requirements for the AMS. We do not expect the costs and benefits to have changed substantially since the 2019 review of the current operating licence.

We seek your comment



7. Is there anything further we should consider when deciding whether Sydney Water should maintain an Asset Management System consistent with Australian Standard AS ISO 55001:2014, and to implement it, with no substantial changes?

1.3.1 Reporting requirements for Asset Management

Our preliminary position is to:

- include a requirement in the Reporting Manual for Sydney Water to provide a State of Assets Report every 2 years
- remove the current requirement for a Strategic Asset Management Plan.

2-yearly State of Assets reporting

Under its direction to Sydney Water for addressing the issues with how it has been implementing its AMS during 2020-22, the Tribunal required a State of the Assets Report from Sydney Water. This report was required to include the following information:

- a description of each group of assets managed by Sydney Water.
- Sydney Water's assessment of the expected capability of the assets to deliver services and to meet its obligations under the operating licence, Customer Contract, and all applicable laws that Sydney Water must comply with
- Sydney Water's assessment of the major issues or constraints on current and future performance of its assets
- the strategies and expected costs of future investment in assets.

Given that asset management non-compliances were identified in consecutive operational audits from 2020 to 2022, we consider that Sydney Water should be required to continue to provide similar State of the Assets reports to IPART every 2 years.

A 2-yearly State of Assets report will support Sydney Water's renewed focus on asset management practices and provide IPART with a regular check-in on Sydney Water's progress in addressing previously identified asset management non-compliances. We consider that a 2-yearly report is sufficient as asset management is a long-term process and more frequent reporting is unlikely to provide additional benefit.

The 2015-2020 Sydney Water [Reporting Manual](#) required Sydney Water to submit a 2-yearly State of the Assets Report to IPART, but this was not included in the 2019-2024 operating licence/reporting manual. We consider that the repeat non-compliances justify reinstating this requirement.

Strategic Asset Management Plan

Section 4.2 of the Reporting manual requires Sydney Water to prepare a Strategic Asset Management Plan (SAMP) in line with the Australian asset management standard, AS ISO 55001:2014. This was a one-time requirement for Sydney Water to submit its SAMP to IPART by 1 February 2020 (or another date approved by IPART). Now that this has been completed, we do not propose to include another requirement to submit the SAMP to IPART in the next operating licence period.

Removing the reporting requirement for the SAMP will not affect Sydney Water's operating licence requirement to maintain the AMS.

We seek your comment



8. Do you agree that reinstating the reporting requirement to provide a 2-yearly State of the Assets Report will support a renewed focus on asset management practices?



9. Is there anything further we should consider when deciding whether to remove the requirement to provide a Strategic Asset Management Plan?

2 Water conservation & efficiency and long-term planning



Sydney Water's operating licences have had obligations relating to water conservation and planning since Sydney Water was established in 1994. However, they are not a specific requirement of the Act.

Water conservation and planning are integral to efficient investment in the long-term interest of customers. Long-term plans provide a framework for strategic decision making. They allow water utilities to set clear goals, prioritise investments, and align resources with long-term sustainable water supply objectives. Regular reviews and monitoring help ensure the utility's plans remain relevant, aligned with changing needs and responsive to emerging challenges.

Inadequate water conservation and planning measures can lead to greater supply augmentation costs in later years. On the other hand, too much investment in water conservation can mean unnecessarily high costs, both in the short and long term. In both cases, customers may be required to pay more than they need to.

Planning efforts should support growth in the region and ensure Sydney Water can respond to system shocks, including drought and longer-term changing climate impacts.

The current operating licence relies on the approaches outlined in the 2017 Metropolitan Water Plan that has now been replaced with the [NSW Water Strategy](#) and the [Greater Sydney Water Strategy](#).

The Greater Sydney Water Strategy underpins the long-term planning to support the delivery of the *Greater Sydney Region Plan – A Metropolis of Three Cities* and *Six Cities*^c regions, and the government's priority for Greater Sydney. The Greater Sydney Water Strategy sets the direction for water management in Greater Sydney to deliver sustainable and integrated water service for the next 20-40 years.

^c The document entitled *Greater Sydney Region Plan—A Metropolis of Three Cities* is taken to be the regional strategic plan made under the *Environmental Planning and Assessment Act 1979*, s 3.5(3).

We seek your feedback on our preliminary views below. Follow the links for the full explanation of these views in this chapter.

Our preliminary views for the operating licence and questions asked in this chapter

Relevant principle of the Review addressed by this view

WATER CONSERVATION AND EFFICIENCY

Transition the current water conservation work programs to a new 5-year water conservation plan.

Continue to require implementation of water conservation measures that have been assessed as economic under the Current Economic Method.

Sydney Water should be able to update the Current Economic Method with the Minister's approval.

Retain current reporting requirements about water conservation planning. Include new requirements to support the transition to the 5-year water conservation plan.



Focusing on outcomes



Recognising new strategies or policies

LONG-TERM WATER PLANNING

Sydney Water should cooperate in any review of the Greater Sydney Water Strategy and comply with Ministerial directions to implement specific actions.

Sydney Water should maintain its Long Term Capital and Operational Plan in cooperation with WaterNSW.

Should Sydney Water be required to maintain its Memorandum of Understanding (MoU) with WaterNSW to support the water supply augmentation arrangements?

Should Sydney Water be required to comply with the agreed Decision Framework when submitting production requests to Sydney Desalination Plant?

Sydney Water should participate in any review of the Greater Sydney Drought Response Plan in cooperation with WaterNSW and maintain and implement that plan.

Retain requirements for the data sharing agreement with DPE to support the government's urban water strategies and long-term planning.

Should the operating licence continue to retain conditions regarding the Priority Sewerage Program or is this now redundant?



Focusing on outcomes



Recognising new strategies or policies



Protecting customers, community and the environment



Focusing on outcomes



Removing redundancy

2.1 Water conservation and efficiency

Our preliminary position is to update requirements in the operating licence that rely on approaches in the 2017 Metropolitan Water Plan with those in the 2022 Greater Sydney Water Strategy and NSW Water Efficiency Framework.

The [NSW Water Strategy](#) and the [Greater Sydney Water Strategy](#) identify water efficiency and water conservation as NSW Government priorities. Ongoing water conservation practices allow better valuing of water resources. Therefore, it is appropriate for us to consider licence conditions for water conservation & efficiency.

The current operating licence requires Sydney Water to:

- maintain a water conservation program consistent with a set economic method of assessment
- implement water saving projects that have been assessed as economic using the set method that weighs the value of water saved against the cost of the project
- update and publish key outputs of the method each month
- publish a plain English summary of the method.¹⁶

Sydney Water's current water conservation program portfolio includes a combination of established programs, early lifecycle projects, pilot projects, and research and innovation projects. Sydney Water reviews these programs annually for consistency with the current economic method.

Transition the current water conservation requirements to align with the NSW Water Efficiency Framework

Our preliminary view is that the operating licence should require Sydney Water to transition its current water conservation work programs to a new 5-year water conservation plan that is consistent with the NSW Water Strategy, Greater Sydney Water Strategy and NSW Water Efficiency Framework (Framework - see **Box 2.1** for information on the Framework).

Action 2.1 of the implementation plan for the Greater Sydney Water Strategy sets out that Sydney Water, together with the NSW Department of Planning and Environment (DPE), will develop and maintain a detailed 5-year Water Efficiency Plan. This plan must be consistent with the long-term water efficiency goals for Sydney to save 38 GL/year of drinking water by 2030 and 49 GL/year by 2040.¹⁷ Sydney Water must report annually on progress against this plan by July 2023.

We propose that the Sydney Water's operating licence should including conditions requiring Sydney Water to develop and implement a 5-year water conservation plan that is consistent with the new NSW Water Strategy, the Greater Sydney Water Strategy and the Framework.

The Framework emphasises that an economic approach should be applied to water conservation. Currently, the operating licence specifies the Economic Level of Water Conservation (ELWC) methodology as the current economic method to be used (but allows the Minister to approve an updated method). It is our preference that investment in programs such as water conservation should continue to be economic, where possible, and we consider that the ELWC methodology will continue to be appropriate. In the next section, we discuss operating licence conditions for the current economic method further.

An operating licence condition for the 5-year water conservation plan would be an enforceable and transparent obligation, providing assurance that Sydney Water is undertaking water conservation appropriately. Similar requirements were included in the 2022-2027 Hunter Water operating licence.

Once developed, the 5-year water conservation plan will replace Sydney Water's current water conservation work programs and measures.

Box 2.1 NSW Water Efficiency Framework and Program

In 2022, DPE published the [NSW Water Efficiency Framework](#) and Program consistent with action 6.6 of the NSW Water Strategy.

Action 6.6 is one of many actions in the NSW Water Strategy to support resilient, prosperous and liveable cities and towns. The Framework seeks to drive greater water efficiency and water conservation in NSW and considers the total water cycle.

The Framework serves as a best practice guide for the water industry designed to use when implementing water efficiency initiatives. The Framework contains guidance for economic evaluation and criteria that emphasises the use of a robust economic assessment.¹⁸

Source: DPE, Water Efficiency Framework, September 2022. Available at: [Water Efficiency Framework \(water.dpie.nsw.gov.au\)](https://water.dpie.nsw.gov.au)

In the CBA Approach paper, we explain that we intend to rely on the approach in the 2022 end-of-term review of the Hunter Water operating licence. We established that there is a net benefit to including requirements in the operating licence to undertake water conservation consistent with an economic approach. We consider that the same principle applies to Sydney Water. However, we intend to seek new data from Sydney Water to confirm this view.

We seek your comment



10. Do you agree with transitioning the existing requirements in the operating licence for Sydney Water to maintain a Water Conservation program to a 5-year water conservation plan that:
- considers a range of options, including water efficiency, leakage and recycled water
 - is consistent with the Water Efficiency Framework
 - considers the strategic context provided by the Greater Sydney Water Strategy
 - includes details for proposed programs and projects against the Current Economic Method.

The Current Economic Method

Our preliminary position is to retain the current operating licence requirement for Sydney Water to implement water conservation measures that have been assessed as economic under the Current Economic Method.¹⁹

The requirement for thorough investigation before deciding on water conservation measures to be implemented makes it more likely that prudent investments will be identified and less likely that good conservation opportunities will be overlooked. On the other hand, if Sydney Water implements all measures that have been assessed as economic, there is a risk that it may not be in the best interest of customers as it does not consider the overall benefit and impact on the business. Sydney Water is not currently incentivised through the water pricing framework to conserve water as it would decrease income.

The current economic method requires Sydney Water to consider the largest amount of water conservation that can be achieved for a cost that is less than the value of the water that is saved. Conservation activities beyond that point are not useful for customers or taxpayers because the cost of achieving that extra conservation is higher than the benefit of the water saved. Here, the estimation of benefits should include environmental uses of water as well as consumptive uses. The requirement to implement the selected measures means that the calculated benefits will be realised.

On balance, our preliminary position is to retain the requirement in the next operating licence until a longer-term implementation plan for the Greater Sydney Water Strategy is developed to support the stated goals to save 38 GL/year of drinking water by 2030 and 49 GL/year by 2040.

In the reporting section of this chapter, we emphasise retaining the requirement for Sydney Water to report on implemented conservation measures as it will drive transparency and accountability for Sydney Water to make good economic decisions about water conservation.

Our preliminary view is that the current economic method, which is currently the Economic Level of Water Conservation method, remains an appropriate and robust methodology. This methodology requires Sydney Water to consider the largest amount of water conservation that can be achieved for a cost that is less than the value of the water that is saved. It considers the costs and benefits (including those that cannot be quantified) of candidate water conservation projects, applied consistently to ensure objective assessment. A methodological approach ensures water conservation projects are subjected to robust scrutiny based on sound economic principles. This makes it more likely that prudent investments will be identified and less likely that good conservation opportunities will be overlooked.

The operating licence is currently the only instrument driving this economic approach to water conservation. The operating licence provides a mechanism for IPART to audit how Sydney Water is applying the current economic method to water conservation and drives greater transparency and accountability.

Box 2.2 below explains findings from audits of Sydney Water's compliance and application of the economic method in previous years.

Box 2.2 Sydney Water's compliance with obligations in the current operating licence to apply the Current Economic Method

The NSW Auditor-General's [2020 report on water conservation in Greater Sydney](#) found that Sydney Water did not apply the economic method to assess the economic viability of its water conservation initiatives, as required, and was slow to respond to drought.²⁰ It was the lack of planning that led to its water conservation initiatives being limited in response to the recent drought. The audit found that Sydney Water had not effectively used the agreed methodology to develop its water conservation program.

Our 2020 audit of Sydney Water's compliance with the current operating licence also found that Sydney Water had failed to implement water conservation measures as required.²¹ The licence contravention was significant and aggravated by the fact that it occurred during a period of sustained drought conditions. We took enforcement action in response to Sydney Water's breach of its licence condition.

Sydney Water responded to the enforcement action and our 2022 audit found that Sydney Water's compliance had improved. Sydney Water maintained and implemented a water conservation program consistent with the set economic method during the audit period,²² and provided evidence that it effectively monitors and manages its water conservation program.

The issues identified by the 2020 audits were related to the methodology. DPE is currently reviewing the methodology and the operating licence will allow flexibility for the Current Economic Method to be updated (discussed in the next section).

In the CBA Approach paper, we explain that we intend to rely on the approach in the 2022 end-of-term review of the Hunter Water operating licence. We established that there is a net benefit to including requirements in the operating licence to undertake water conservation consistent with an economic approach. We consider that the same principle applies to Sydney Water. However, we intend to seek new CBA data from Sydney Water to confirm this view.

We seek your comment

11. Do you agree that the operating licence should continue to require Sydney Water to assess water conservation measures as economic by the Current Economic Method?
12. Should Sydney Water implement all measures assessed as economic or is there a better way to ensure Sydney Water makes good economic decisions that support the goals of the Greater Sydney Water Strategy?

Updates to the Current Economic Method

Our preliminary position is to include flexibility in the operating licence for Sydney Water to update the Current Economic Method from time to time, with the Minister's approval.

The operating licence currently only allows the Minister to direct Sydney Water to revise the Current Economic Method.²³ We consider that Sydney Water should be allowed the flexibility to also initiate a change to the Current Economic Method, when appropriate (with the Minister's approval).

We seek your comment



13. Do you agree with including a new condition in the operating licence to allow Sydney Water flexibility to modify its economic approach with Ministerial approval?

Reporting on water conservation

Currently the Reporting Manual requires Sydney Water to prepare an annual water conservation report, notifying IPART of changes to the current economic method, and to make documents publicly available. This drives greater transparency and accountability for Sydney Water to make good economic decisions about water conservation.

Our preliminary position is to retain these reporting requirements and include additional requirements to support the transition to a 5-year water conservation plan consistent with the NSW Water Efficiency Framework. The Operating Licence or Reporting Manual should require Sydney Water to review and annually update its 5-year water conservation plan and provide the updated plans and information about the reviews to DPE and IPART. We consider that an approval role for either DPE or IPART is not necessary. Information provided on the reviews and updated plans would be for information only.

We do not propose any additional reporting at this stage. The Framework drives reporting on all water efficiency initiatives, options and program performance compared against expected outcomes and requires reporting on implications for water planning and future programs.

We seek your comment



14. Should the operating licence or reporting manual impose additional obligations on Sydney Water to report on the 5-year water conservation plan?

2.2 Long-term water planning

In 2019, new requirements to participate in and support water planning were included in the operating licence. The primary objectives for including these requirements were to ensure that Sydney Water manages water supply and demand effectively and efficiently and contributes to achieving the policy objectives of the NSW Government.

Greater Sydney Water Strategy

Our preliminary position is to include a requirement for Sydney Water cooperate in any review of the Greater Sydney Water Strategy and retain the requirement for Sydney Water to comply with a direction from the Minister to implement specific actions.

The current operating licence requires Sydney Water to implement actions under the 2017 Metropolitan Water Plan as well as any actions that the Minister directs, in writing.²⁴ It also requires Sydney Water to participate in any review of the Metropolitan Water Plan.²⁵ We propose to update the requirement to cooperate in any review of the new Greater Sydney Water Strategy which has now replaced the Metropolitan Water Plan.

It is our preliminary view to not include a requirement to implement the actions in the Greater Sydney Water Strategy implementation plan. The current implementation plan is for 2022 – 2025, which aligns with our price determination period. The appropriate mechanism for long term planning consistent with the Greater Sydney Water Strategy is the Long Term Capital and Operational Plan (refer to the next section). Our preliminary view is to retain the existing operating licence condition which allows the Minister to direct Sydney Water to implement specific actions if necessary.

Sydney Water plays a key role in implementing initiatives under the NSW Water Strategy and Greater Sydney Water Strategy related to water planning. These strategies provide the policy guidance to inform water planning for the immediate and medium to long term. Therefore, it is appropriate for us to consider operating licence conditions for water planning.

Sydney Water plays a key role in implementing the Greater Sydney Water Strategy, including efforts to incorporate sustainable water use into planning and identifying the strategic pathway to ensure the right investment decisions are made at the right time, in consultation with customers and the community.

There are over 20 actions allocated to Sydney Water in the Greater Sydney Water Strategy implementation plan 2022 -2025. Under the implementation plan, Sydney Water must collaborate with WaterNSW and DPE to deliver coordinated actions. Delivery of the full Greater Sydney Water Strategy and future actions will be reported by DPE in subsequent annual implementation plans as funding is secured and delivery partners identified. DPE will formally evaluate, review and update the Greater Sydney Water Strategy at least every 5 years, or in response to changing circumstances.

We seek your comment



15. Do you agree with not including an operating licence condition to require Sydney Water to implement actions under the Greater Sydney Water Strategy Implementation Plan?



16. Do you agree with updating and retaining the operating licence condition requiring Sydney Water to participate cooperatively in any review of the Greater Sydney Water Strategy and retaining the requirement for Sydney Water to comply with a direction from the Minister to implement specific actions.?

Long Term Capital and Operational Plan

The current operating licence requires Sydney Water to develop and submit to the Minister a long-term capital and operational plan and use its best endeavours to develop the plan in cooperation with WaterNSW.²⁶ In January 2021, the then Minister for Water provided Sydney Water with written guidance²⁷ that the Long Term Capital and Operational Plan is to recommend to DPE the preferred water supply augmentation option(s) which should be taken forward for an investment decision. We have not yet tested the requirement, but it is included in the audit scope for an audit scheduled later this year.

The Long Term Capital and Operational Plan is an adaptive plan that currently captures Sydney Water's key infrastructure and operational decisions. It is aligned with the NSW Water Strategy and the Greater Sydney Water Strategy. It also provides the long-term context for future pricing proposals to IPART. We recently reviewed our price regulation framework and prepared a handbook for the utilities to guide proposals. The handbook addresses long-term planning and investment, see **Box 2.3** below.

Our preliminary view is to update the requirement for Sydney Water to maintain a Long Term Capital and Operational Plan in cooperation with WaterNSW. At the next licence review, we can consider whether long term planning has become an embedded process as a result of the newly updated pricing proposal process and assess if maintaining a requirement in the licence is still appropriate.

Box 2.3 IPART's Water Regulation Handbook for pricing proposals

In April 2023 we released our handbook to guide pricing proposals. Our determination periods are typically 5-years, but robust long-term planning is essential to delivering in customers' long-term interest. It allows businesses to make prudent investment decisions today that are ready for and resilient to future challenges.

We expect a business to provide us with its long-term investment plans to support its pricing proposals in some detail, together with supporting evidence and assumptions. We do not intend to micro-manage the investment programs, but we need to be confident that the investment plans are designed to deliver in the long-term interest of customers.

Source: IPART, *Water Regulation Handbook*, April 2023.

We seek your comment



17. Should the operating licence impose requirements on Sydney Water to have and maintain a Long Term Capital and Operational Plan in cooperation with WaterNSW, to support long term planning?

Water supply augmentation

In 2021, accountability for water supply augmentation was transferred to Sydney Water from WaterNSW.²⁸ The arrangements are currently managed under a MoU between Sydney Water and WaterNSW. It is not a requirement under the current operating licence to maintain such a MoU. However, there are no other requirements that monitor the arrangement. We seek your feedback about whether the operating licence should address this gap.

The Sydney Desalination Plant (SDP) is an important part of the water supply network which can produce up to 250 million litres of drinking water per day, equivalent to about 15% of Sydney's current demand.²⁹ Sydney Water will make production requests of SDP to supplement its water supply, as required. This is not currently regulated under the operating licence.

Action 2.2 of the Greater Sydney Water Strategy implementation plan sets out that Sydney Water, together with DPE, will:

- a. amend Sydney Desalination Plant (SDP) operating rules to provide flexible operation and optimise its contribution to water supply security and drought management in line with the Greater Sydney Water Strategy
- b. report annually on the operation and production of the SDP.

Sydney Water has prepared a Decision Framework to complete its obligation for action 2.2(b) of the Greater Sydney Water Strategy Implementation Plan.

The rules governing when SDP is to provide water are set out in its [operating licence](#) under the *Water Industry Competition Act 2006* (NSW). The operating licence provides that SDP must comply with annual production requests made in accordance with the Decision Framework and must use its best endeavours to comply with other requests that Sydney Water makes that are consistent with the Decision Framework.³⁰

The Greater Sydney Water Strategy and its implementation plan do not require Sydney Water to comply with the Decision Framework. If Sydney Water were to make a production request that was not in accordance with the Decision Framework, there is a risk of overproduction or underproduction of drinking water sourced from desalination. However, we consider that the risk of non-compliance is low. As Sydney Water prepared the Decision Framework, we would expect that it will follow the Decision Framework when preparing production requests to SDP. Further, Sydney Water is strongly incentivised to comply given the potential impact on Sydney Water's customers.

In addition, under the current operating licence, the Minister can direct Sydney Water to implement any action relating to the Metropolitan Water Plan and its replacement, the Greater Sydney Water Strategy.³¹ We are proposing to retain that requirement in the new operating licence (see the section on the [Greater Sydney Water Strategy](#) above).

Including an obligation in the operating licence would allow us to audit and enforce Sydney Water's compliance with the Design Framework and it would ensure transparency and accountability.

We seek your comment

- 18. Should the operating licence require Sydney Water to maintain a MoU with WaterNSW to support the water supply augmentation arrangements?
- 19. Should the operating licence require Sydney Water to consider the long-term interests of customers when preparing production requests for Sydney Desalination Plant?

Drought response planning

Our preliminary view is that the operating licence should require Sydney Water to participate in any review of the Greater Sydney Drought Response Plan in cooperation with WaterNSW and maintain and implement that plan.

The Greater Sydney Drought Response Plan was prepared to complement the Greater Sydney Water Strategy. It describes the actions to be undertaken by the NSW Government, Sydney Water and WaterNSW in preparing for and managing future droughts.

The current operating licence requires Sydney Water to develop and submit to the Minister an emergency drought response plan and use its best endeavours to develop the plan in cooperation with WaterNSW.³² We have not proposed that the operating licence should continue to require Sydney Water to develop a drought response plan as the Greater Sydney Drought Response Plan has already been developed. DPE published a [summary](#) of the joint drought response plan with Sydney Water in August 2022.

We seek to understand if the operating licence should require Sydney Water to maintain and implement the Greater Sydney Drought Response Plan. It is our preliminary view that it should. This would be consistent with action 2.4 of the Greater Sydney Water Strategy implementation plan which sets out that Sydney Water, together with WaterNSW, will maintain a Greater Sydney Drought Response Plan, including implementing the necessary governance, monitoring and reporting arrangements as well as undertaking an annual review and update as required..

We seek your comment

- 20. Should the operating licence impose requirements on Sydney Water to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan?

Data Sharing

Our preliminary view is to retain the current operating licence requirement for a data sharing agreement between Sydney Water and DPE to support the government's urban water strategies and long-term planning

A new operating requirement for a data sharing agreement with DPE was included in the operating licence after the 2019 end-of-term review of the Sydney Water operating licence. The data sharing agreement is for the purpose of 2-way data and information sharing to assist in the development of the now superseded Metropolitan Water Plan. In addition to matters agreed by Sydney Water and DPE, the requirement in the operating licence specifies what the data sharing agreement must do.³³

A data sharing agreement is a useful instrument for establishing requirements for provision of information by Sydney Water to DPE. Such an agreement supports both DPE's urban water policy, such as the Greater Sydney Water Strategy, and planning functions, while also ensuring that Sydney Water has certainty about the expectations for them to provide such information. The provision of accurate and timely data is not required or facilitated by any instrument. Therefore, our preliminary view is to retain a requirement for this in the operating licence.

We seek your comment



21. Should the operating licence continue to require a data sharing agreement between Sydney Water and DPE to assist with the review of the Greater Sydney Water Strategy?

2.3 Priority sewerage program

The current operating licence requires Sydney Water to co-operate with, and participate in, any government review of the Priority Sewerage Program. If required by the Minister, Sydney Water must implement and comply with any outcomes of a review of the Priority Sewerage Program.³⁴

The Priority Sewerage Program was initiated by the NSW Government in the 1990s. The program provides improved wastewater services to selected existing but unsewered urban towns and villages in environmentally sensitive areas identified at that time by the Environment Protection Authority (EPA). The EPA does not have a role in determining Priority Sewage Program obligations, the primary responsibility for the program is with the government. The areas to which the Priority Sewerage Program currently applies are Austral, Menangle, Menangle Park, Nattai, Scotland Island and Yanderra.^d

The Priority Sewage Program has been a long running NSW Government program where properties in some of the unsewered areas have progressively been serviced or commitments for the provision of services have been made at various times. We consider that continuing to retain the current operating licence condition related to the Priority Sewerage Program may lead to a misperception that Sydney Water is responsible for delivering the program, when better options for servicing unsewered areas may be available now. We want to avoid encouraging residents to defer maintenance and upgrades to their onsite systems because they believe that a centralised sewerage service will shortly be provided by Sydney Water.

^d Listed in Schedule B of the current operating licence

IPART has determined maximum prices for connecting to a water supply, sewerage or drainage system.^e Currently Sydney Water is consulting on the development servicing plans (DSPs) required under IPART's determination following the re-introduction of developer charges. This follows recommendations set out by the [NSW Productivity Commission's review](#) which were adopted by the [NSW Government](#). Some existing properties could be serviced under these arrangements.

We seek your comment



22. What are your views on retaining the current operating licence conditions requiring Sydney Water to cooperate in and implement any outcomes from a review of the Priority Sewerage Program?

^e [Developer charges and backlog sewerage charges for metropolitan water agencies 2018 | IPART \(nsw.gov.au\)](#)

3 Climate risk readiness











Climate change is long-term shifts in temperatures and weather patterns. NSW's climate is projected to change with increasing frequency,³⁵ duration and intensity of extreme weather events such as bushfires, floods and changing weather patterns.³⁶

Sydney Water provides essential water and wastewater to more than 5 million people in NSW.³⁷ Therefore, it is important for Sydney Water to:

- consider the impact of climate change risks to its service delivery, both now and into the future
- develop climate change resilience and adaptation strategies
- reduce its greenhouse gas (GHG) emissions (abatement).

Sydney Water is already tackling climate change by implementing mandatory legislative requirements as well as acting on aspirational targets. In this chapter, we discuss the actions Sydney Water is taking with respect to climate change, relevant obligations that Sydney Water must currently comply with, any emerging obligations and gaps we have identified.

We seek your feedback on our preliminary views below. Follow the links for the full explanation of these views in this chapter.

Our preliminary views for the operating licence or questions asked in this chapter	Relevant principle of the Review addressed by this view
OPERATING LICENCE OBJECTIVES FOR CLIMATE CHANGE RISKS AND ACTIONS	
The licence objectives could be amended to provide greater certainty and establish clear expectations about climate change.	 Protecting customers, community and the environment
	 Recognising new strategies or policies.
ABATEMENT, RESILIENCE AND ADAPTATION	
New operating licence conditions to undertake abatement actions may not be necessary.	 Protecting customers, community and the environment
New operating licence conditions to undertake resilience or adaptation actions may not be necessary.	 Recognising new strategies or policies.
CLIMATE-RELATED RISK MANAGEMENT	
Should Sydney Water be required to develop and maintain a climate-related risk management program consistent with NSW Government issued guidance for climate risk management?	 Protecting customers, community and the environment
	 Recognising new strategies or policies.
REPORTING	
Sydney Water should report on its progress towards achieving net zero.	 Protecting customers, community and the environment
	 Recognising new strategies or policies.

3.1 Operating licence objectives for climate change risks and actions

Sydney Water's objectives under the Sydney Water Act (see **Box 3.1** below) is to protect public health, environment, show social responsibility by having regard to the interest of the community. The current licence objectives require Sydney Water to provide its service in a way that supports these objectives.

Our preliminary view is that the objectives of the current operating licence already implicitly address a need to consider climate change risks and actions. However, the licence objectives can be amended to provide greater certainty and establish clear expectations.

Box 3.1 The objectives of the Corporation under the Act

Section 21 (1) The principal objectives of the Corporation are—

- (a) to be a successful business and, to this end—
 - (iii) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
- (b) to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991*, and
- (c) to protect public health by supplying safe drinking water to its customers and other members of the public in compliance with the requirements of any operating licence.

We seek your comment



23. Should the operating licence objectives be amended to explicitly refer to climate change?

3.2 Abatement

Our preliminary view is that Sydney Water's actions under the Greater Sydney Water Strategy and its objectives under the Act obligate Sydney Water to undertake abatement actions. Licence requirements requiring Sydney Water to undertake prescriptive abatement actions may not provide additional benefit.

Abatement refers to how Sydney Water is reducing the impact of its operations on climate change. The services that Sydney Water provides are energy intensive and the processes that it undertakes, such as wastewater treatment, release significant GHG emissions to the environment.³⁸

Sydney Water has set its own aspirational target to achieve Net Zero by 2030 for its Scope 1 and 2 emissions^f and in its supply chain by 2040 (Scope 3 emissions^g).³⁹ This aspirational target and associated actions align with Sydney Water's social and environmental objectives set under the Act.

Sydney Water's aspirational targets exceed the targets set in the NSW Net Zero Plan, which is to achieve a 70% reduction in GHG emissions by 2035 compared to 2005 emission levels and reach net zero by 2050.⁴⁰ Sydney Water's Statement of Expectations sets out the NSW Government's expectations for Sydney Water to operate its business in a way that is consistent with the NSW Net Zero 2050 Plan.^h

The EPA also expects to impose climate change obligations on Sydney Water. Action 5(b) of the Environment Protection Authority (EPA)'s Climate Change Action Plan 2023-26 provides that the EPA will progressively require environment protection licensees (including Sydney Water) to prepare and implement a Climate Change Mitigation and Action Plan (CCMAP) to minimise emissions and exposure to climate risks.⁴¹ The licensees will also have to report on the effectiveness of their CCMAP.⁴²

Currently, the EPA is still developing the requirements for the CCMAP. The focus for the CCMAP is expected to be on environmental impacts from emissions and risk of pollution events due to climate change impacts on licensee infrastructure. This could potentially include emissions targets for sectors or specific facilities. It will not encompass impacts to customers or service delivery. These requirements will support Sydney Water in implementing appropriate climate-related opportunities and risk mitigation actions.

In addition, the Greater Sydney Water Strategy Implementation Plan⁴³ includes actions for reducing emissions and supporting the NSW Government's Net Zero Plan, see **Box 3.2** below.

We consider that the Statement of Expectations, Sydney Water's objectives under the Act together with other existing obligations (including reporting obligations under other legislation discussed in Section 3.5 of this Issues Paper) provide sufficient incentive for Sydney Water to implement climate abatement actions.

^f Scope 1 emissions refer to those that are generated from sources that are directly owned or controlled by Sydney Water. Scope 2 emissions refer to all indirect emissions from the generation of the electricity purchased and used by Sydney Water on location.

^g Scope 3 emissions refer to all indirect emissions that occur in Sydney Water's supply chain.

^h The Statement of Expectations for Sydney Water Corporation was issued by the then NSW Portfolio Minister and Shareholding Ministers on 26 April 2022. The purpose of the statement is to help Sydney Water ensure that its strategic direction aligns with the NSW Government's expectations.

Box 3.2 The Greater Sydney Water Strategy Implementation Plan actions for reducing emissions

Action 3.4 of the Greater Sydney Water Strategy Implementation Plan requires:

- Sydney Water and DPE to develop a strategy and implementation plan to transition water services in Sydney towards a circular economy model to support delivery of the NSW Government's targets of net zero emissions by 2050 and to reduce emissions by 50% below 2005 levels by 2030, by July 2030.
- Sydney Water to explore opportunities to incorporate food, energy, water and waste processing in new or upgraded wastewater treatment facilities within 3 years.⁴⁴

We seek your comment



24. Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the Greater Sydney Water Strategy and its actions for reducing emissions and to regulate abatement?

3.3 Resilience and Adaptation

Our preliminary position is that Sydney Water's actions under the Greater Sydney Water Strategy and its objectives under the Act obligate Sydney Water to undertake resilience and adaptation actions. Licence requirements requiring Sydney Water to undertake prescriptive resilience or adaptation actions may not provide benefit.

Resilience and adaptation are vital to ensure that Sydney Water is able to provide its services both now and into the future. Resilience relates to Sydney Water's ability to withstand and adapt to changing climate conditions and recover positively from shocks and long-term stresses. Adaptation refers to actions that Sydney Water takes to reduce the impact of changing climate conditions on assets, systems and products.

As discussed in section 3.2, Sydney Water has climate change obligations under the Greater Sydney Water Strategy and under the incoming requirements from the EPA.

Sydney Water has been proactive with developing climate-related initiatives⁴⁵ such as:

- progressing toward a circular economy including harnessing biomethane from wastewater plants and co-digestion of food wastes
- planning to use stormwater for greening and cooling Western Parkland City.

These initiatives are consistent with the objectives of the Greater Sydney Water Strategy. A key focus of the Greater Sydney Water Strategy is on improving Sydney's water security by building resilience to drought and the changing climate. The Greater Sydney Water Strategy Implementation Plan includes actions to adapt to climate risks, see **Box 3.3** below.

We consider that the Statement of Expectations, Sydney Water's objectives under the Act together with other existing obligations (including reporting obligations under other legislation discussed in section 3.5) provide sufficient incentive for Sydney Water to implement climate change resilience and adaptation actions.

Box 3.3 The Greater Sydney Water Strategy Implementation Plan actions related to climate risk

The [Greater Sydney Water Strategy Implementation plan 2022-25](#) has the following actions related to climate risk, for Sydney Water:

- Action 1.2(a) - Publish information on the latest climate change modelling and consider how this modelling and data might be used to consider future supply and demand projections and inform future infrastructure planning by July 2023.
- Action 2.1 - Develop and maintain a detailed 5-year Water Efficiency Plan consistent with the long-term water efficiency goals for Sydney to save 38 GL/year of drinking water by 2030 and 49 GL/year by 2040.
- Action 2.3(a) - Plan for portfolios of rainfall-independent supply augmentation, system resilience and water security options. Includes how to manage system risks associated with resilience and climate change.
- Action 2.4 - Maintain the Greater Sydney Drought Response Plan in collaboration with WaterNSW.
- Action 2.5(a) - Complete long-term capital and operating plan (LTCOP) detailing 20-year investment needs to meet growth, renewals, service standards, and Greater Sydney Water Strategy outcomes. (The LTCOP is to include consideration of climate-related risks and adaptation in identifying investment needs for the future)
- Actions 2.5 (b), 2.5 (c), 3.1(b), 4.3(b) - Making better use of stormwater, wastewater and recycled water.^a

^a Greater Sydney Water Implementation Strategy Plan 2022-2025.

We seek your comment



25. Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the Greater Sydney Water Strategy and its actions for regulating climate resilience and adaptation?

3.4 Climate-related risk management

We seek your input to determine if there is benefit in requiring Sydney Water to develop and maintain a climate-related risk management program consistent with NSW Government issued guidance for climate risk management.

Climate-related risk management program

The operating licence does not explicitly require Sydney Water to address climate-related risks. However, there are several risk-management obligations on Sydney Water, including:

- under its operating licence, Sydney Water is required to have management systems in place which include risk management frameworks that would implicitly consider risks posed by natural hazards.ⁱ
- new rules under the *Security of Critical Infrastructure Act 2018* (Cth), requiring Sydney Water to have a Critical Infrastructure Risk Management Program (CIRMP) for critical water assets.⁴⁶
- the EPA's incoming requirements for a CCMAP (refer to section 3.2).

Some enterprise level risks exist outside Sydney Water's current management systems, and these will be identified and considered separately by Sydney Water.⁴⁷

Climate-related risks are addressed for specific areas over different management systems and obligations. There could be benefit in requiring Sydney Water to establish a climate risk management program that addresses climate-related risks specifically, including identifying priority risks and mitigative actions.

A climate risk management program could ensure that all climate-related risks are clearly identified, visible and appropriately addressed. It could also provide a mechanism for IPART to review and audit Sydney Water's management of climate-related risk and drive greater transparency and accountability.

However, such a program would need to draw from existing management systems rather than replace them to ensure current management systems do not become truncated and climate change risks continue to be managed through the appropriate organisational processes and structures.

Consistency with NSW Government issued guidance for climate risk management

To provide Sydney Water with clear expectations for a climate-risk management program we consider that the operating licence could require Sydney Water to develop and maintain a program that is consistent with the NSW Climate Risk Ready Guide (Guide).⁴⁸ The Guide is aligned to the general process and considerations contained in *ISO 31000:2108 – Risk management guidelines* and *ISO 14091 – Adaptation to climate change – Guidelines on vulnerability, impacts and risk assessment*.

ⁱ Sydney Water currently has a Drinking Water Quality Management System, Recycled Water Quality Management System, Asset Management System and Cyber Security Management System, as required by the current operating licence, in addition to other management systems.

The Guide provides direction to the NSW Government agencies for considering climate risks that might impact their ability to achieve government objectives.^j A key message from the Guide is that climate risk management and adaptation should be integrated into existing frameworks and procedures where possible.

Following the Guide could strengthen Sydney Water's management of climate-related risks. Further, an operating licence obligation would allow us to audit Sydney Water's compliance, providing assurance that climate-related risks are being identified and managed appropriately.

The Guide recommends:

- establishing an authorising environment and resources for climate change risk assessment and management
- establishing a plausible climate future and document priority climate change risks
- developing an adaptation plan to treat priority climate change risks and increase climate risk maturity with a cost benefit assessment to prioritise adaptation actions.
- monitoring implementation of adaptation plans, climate change impacts and embed reviews in existing procedures and systems.

We seek your comment



26. Is there anything further that we should consider when deciding whether Sydney Water should be required to develop and maintain a climate-related risk management program consistent with the NSW Climate Risk Ready Guide?

3.5 Reporting

Our preliminary view is to require Sydney Water to report on its progress towards achieving net zero.

Currently, Sydney Water's reporting includes both mandatory and voluntary obligations. For net zero objectives and abatement, emissions data is provided as an aggregate value for the whole organisation. **Table 3.1** below describes Sydney Water's current reporting obligations relating to climate change.

The EPA is considering emissions reporting for specific Sydney Water facilities under its Climate Change Action Plan. These may potentially be limited to wastewater systems as these facilities are generally covered under the EPA's environment protection licences and are typically the largest source of Sydney Water's emissions. Obtaining emissions data for specific facilities or systems would be beneficial to the EPA in performing its function. However, emissions data from specific systems or facilities may not be as useful for the public or for compliance requirements related to Sydney Water's operating licence.

^j The Guide is aligned to the general process and considerations contained in *ISO 31000:2108 – Risk management guidelines* and *ISO 14091 – Adaptation to climate change – Guidelines on vulnerability, impacts and risk assessment*.

A noticeable gap is that Sydney Water does not publish its progress towards achieving net zero. There could be benefits in terms of public accountability and gaining trust in placing an obligation on Sydney Water to publish its progress towards net zero. This would also enable Sydney Water to demonstrate its regard to the interest of the community, as required under its current operating licence objective 1.1.1 (b) (ii).

Sydney Water is also required to report to NSW Treasury on the recommendations of the Task Force on Climate related Financial Disclosures (TCFD) ⁴⁹ under the *Government Sector Finance Act 2018 (NSW)*.⁵⁰ The climate-related disclosure requires an entity to disclose information on sustainability-related risks and opportunities that could reasonably be expected to affect the entity's operation's future performance. The report from an entity is meant to be used by prospective investors to make an informed investment decision. The TCFD framework reporting is organised under four pillars: Governance, Strategy, Risk Management and Metrics & Targets. The reporting focuses on adaptation and abatement but not resilience.

In June 2023, the International Sustainability Standards Board (ISSB) released the IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information* and IFRS S2 *Climate-related Disclosures* standards.⁵¹ The Federal Government is consulting on implementing mandatory climate-related disclosures by large businesses and financial institutions. It is also considering the development of Australian climate disclosure standards that will closely align with the ISSB standard.⁵² The requirements of the ISSB climate-related disclosures are consistent with the 4 pillars and 11 recommended disclosures published by TCFD. The primary difference is in the guidance, which differs substantially from TCFD guidance, and a requirement to provide more detailed information including how the entity intends to respond to risks and opportunities.

Our preliminary position is that there should not be any additional requirements on climate-related disclosures in the operating licence as this could overlap with and duplicate:

- work being undertaken by the Federal Government to implement mandatory climate-related disclosure requirements and
- the existing mandatory climate-related disclosure requirements from NSW Government.

Sydney Water will be required to produce an annual publicly available Communication on Progress report from 2023, as a participant in the United Nations Global Compact,⁵³ The report includes climate change information,

Apart from the TCFD requirements, there are no specific requirements on Sydney Water to report on its climate change resilience or on climate change opportunities it identifies and implements. However, Sydney Water does publish on its website, activities or programs that it is undertaking that relate to circular economy, greening and cooling and renewable energy.

Table 3.1 Sydney Water's climate-related reporting obligations

Climate area	Obligation	What's reported	Reporting frequency	Mandatory/voluntary
Abatement	National Greenhouse and Energy Reporting (NGER) under <i>National Greenhouse and Energy Reporting Act 2007</i>	Scope 1 and 2 GHG emissions as an absolute annual value for the whole organisation	Annual (public)	Mandatory
Abatement	National Water Initiative – National Performance Report urban water utilities (NWI NPR)	Aggregated GHG emissions normalised per 100 properties serviced. Scope 3 emissions are currently excluded from the total.	Annual (public)	Mandatory
Abatement	Current Sydney Water Operating Licence condition 10.2.2 and Sydney Water Reporting Manual	Energy data as annual energy consumption and renewable electricity generation as a percentage of total electricity consumption.	Annual (public)	Mandatory
Abatement	Environmental Performance Report under the <i>Sydney Water Act 1994 (NSW)</i>	Sydney Water's overall carbon footprint (Scope 1, 2 and 3)	Annual (public)	Mandatory
Abatement, climate risks, adaptation and resilience	Communication on Progress (CoP) ^{liv} as commitment to the UN Global Compact.	Includes providing the following for the reporting period: <ul style="list-style-type: none"> • Details on policy commitment on climate change, engaging with stakeholders, • actions on preventing/mitigating the risks/impacts associated with climate change • details on how the company assesses progress in preventing/mitigating the risks/impacts associated with climate change, and • how progress is tracked • gross GHG emissions, percent of revenue invested in R&D of low carbon products/services • actions to support climate change adaptation and resilience • renewable energy consumption • percent of company's revenue from low carbon products and services 	Annual (public)	Voluntary
Climate-related risks	Taskforce on Climate-related Financial Disclosures (TCFD) recommendations ^{lv} reporting under <i>Government Sector Finance Act 2018</i> .	<ul style="list-style-type: none"> • Disclose the organization's governance around climate-related risks and opportunities. <ul style="list-style-type: none"> – Describe the board's oversight of climate-related risks and opportunities. – Describe management's role in assessing and managing climate-related risks and opportunities. 	Annual, commencing in 2023-24	Mandatory

Climate area	Obligation	What's reported	Reporting frequency	Mandatory/voluntary
		<ul style="list-style-type: none"> • Disclose the actual and potential impacts of climate-related risks and opportunities on the organization's businesses, strategy, and financial planning where such information is material. <ul style="list-style-type: none"> – Describe the climate-related risks and opportunities the organization has identified over the short, medium, and long term. – Describe the impact of climate-related risks and opportunities on the organization's businesses, strategy, and financial planning. – Describe the resilience of the organization's strategy, taking into consideration different climate-related scenarios, including a 2°C or lower scenario. • Disclose how the organization identifies, assesses, and manages climate-related risks • Describe the organization's processes for identifying and assessing climate-related risks. <ul style="list-style-type: none"> – Describe the organization's processes for managing climate-related risks. – Describe how processes for identifying, assessing, and managing climate-related risks are integrated into the organization's overall risk management. • Disclose the metrics and targets used to assess and manage relevant climate-related risks and opportunities where such information is material. <ul style="list-style-type: none"> – Disclose the metrics used by the organization to assess climate-related risks and opportunities in line with its strategy and risk management process. – Disclose Scope 1, Scope 2 and, if appropriate, Scope 3 greenhouse gas (GHG) emissions and the related risks. – Describe the targets used by the organization to manage climate-related risks and opportunities and performance against targets. 		

We seek your comment



27. Do you agree with adding a requirement in the Reporting Manual for Sydney Water to report on its progress to net zero?



28. Do you consider that there should be any other reporting requirements related to abatement, adaptation, resilience or climate risk?

4 Sydney Water's obligations to its customers

The Customer Contract and customer-focused licence conditions directly affect customers



Sydney Water is a monopoly supplier and provides services to more than 5 million people across Sydney, the Blue Mountains and the Illawarra.⁵⁶ Having adequate measures to protect customers' rights is important. They prevent Sydney Water from potentially taking advantage of its monopoly power and adversely affecting the quality and delivery of essential water and sewerage services.

The operating licence includes terms and conditions that aim to ensure that a minimum level of customer service is provided to Sydney Water's customers and consumers (such as tenants, where relevant – see the following paragraphs). In the absence of licence requirements such as those set out below, Sydney Water may not offer consumer protections where it is not in its commercial interest to do so.

Sydney Water's 'customers' are the owners of land that is connected to a water or sewer main owned by Sydney Water.^k Tenants are not Sydney Water's customers. 'Consumers' are defined in the operating licence as 'any person who consumes or uses the services and includes and includes a tenant or an occupier'. The operating licence requires Sydney Water to extend some customer protections to consumers, including tenants.

In this chapter, we discuss the provisions of the current operating licence that seek to protect Sydney Water's customers and consumers and ensure that Sydney Water considers its customers views and preferences in its decision making. Our preliminary position is to retain the provisions in the current operating licence for protecting customers' and consumers' rights with some changes that mirror the 2022-2027 Hunter Water Operating Licence.

We seek your feedback on our preliminary views below. Follow the links for the full explanation of these views in this chapter.

^k 'Customer' is also defined in the operating licence to mean any person who owns Property in the Rouse Hill Stormwater Catchment Area and any person who is taken to enter into a Customer Contract under s 55(2) of the Sydney Water Act relating the imposition of availability charges or stormwater drainage area charges.

Our preliminary views for the operating licence or questions asked in this chapter

Relevant principle of the Review addressed by this view

CUSTOMER CONTRACT AND REBATES

We request that Sydney Water explain any changes it seeks to the Customer Contract in its submission..

Are the current rebates in the Customer Contract well targeted and set at the right level?

Should any more provisions of the Customer Contract be extended to 'consumers' who are not parties to the contract (e.g. tenants or property occupiers that are not landowners)?



Setting minimum protections

PAYMENT ASSISTANCE

Retain requirements to provide payment assistance options.



Setting minimum protections

How could the operating licence and Customer Contract better protect tenants who pay water usage charges to their landlords, where they live at separately metered properties?



Removing redundancy



Focussing on outcomes

FAMILY VIOLENCE PROTECTION

Retain requirements for a family violence policy.



Setting minimum protections



Focussing on outcomes

INTERNAL COMPLAINTS HANDLING AND EXTERNAL DISPUTE RESOLUTION

Retain requirements for internal complaints handling.

Retain requirements for external dispute resolution.



Setting minimum protections

INFORMING AND CONSULTING WITH CUSTOMERS AND THE COMMUNITY

Retain for providing information to customers about customer protection provisions available to them under the Customer Contract.





Setting minimum protections

Retain requirements for Sydney Water to maintain and regularly consult with its Customer Council.



Setting minimum protections

Our preliminary views for the operating licence or questions asked in this chapter	Relevant principle of the Review addressed by this view
Remove prescriptive requirements in the operating licence originally intended to support the Customer Council's operations.	 Removing redundancy
Retain requirements for Sydney Water to undertake customer consultation (outside of its Customer Council).	 Setting minimum protections

4.1 Protecting customers' and consumers' rights

The operating licence includes a Customer Contract (in schedule C of the licence) as well as the following provisions for protecting customers' rights. These provisions require Sydney Water to:

- make services available to properties in its area of operations (clause 1.5.1)
- have policies in place for payment difficulties, including payment assistance and actions for non-payment (clause 6.4)
- have internal complaints handling procedures (clause 6.7)
- facilitate external dispute resolution (clause 6.8)
- provide information to customers and the general public (clause 6.2)
- undertake customer engagement to understand customer preferences, willingness to pay for service levels and to identify any issues in the community (clause 6.6).

The operating licence extends some provisions of the Customer Contract to consumers in limited circumstances (e.g. payment assistance, protections to avoid restrictions and complaints handling and resolution).

4.1.1 Customer Contract

The terms and conditions of Sydney Water's customer contract must be set out in the operating licence.⁵⁷

In addition to being a mandatory requirement of the operating licence, we consider that the Customer Contract provides benefit because it sets out the terms and conditions for supply of services to its customers. The Customer Contract aims to ensure that customer service is provided at a quality that meets customers' expectations. The terms and conditions of the Customer Contract relate to, amongst other matters, the services that Sydney Water provides, what customers pay, billing arrangements, complaints handling and customer protection.

We request Sydney Water to provide a draft Customer Contract in their submission to this Issues Paper (due by 1 September 2023). You can review Sydney Water's submission and include any comments in your submissions to this Issues Paper (by 15 September 2023). (Please refer to the Introduction of this Issues Paper for further information on how to make a submission.)

At this stage, we expect to recommend some changes to the Customer Contract for readability and ease of understanding. We will consider Sydney Water's proposal for any changes to the Customer Contract, and any other submissions to determine whether further changes are needed.

We will release a draft Customer Contract for public consultation in October 2023.

Rebates

The Customer Contract requires Sydney Water to pay rebates to compensate affected customers and consumers for events that cause inconvenience. We will consider rebates in conjunction with the review of system performance standards and consider the recent Sydney Water customer engagement outcomes to test customers' willingness to pay or accept service levels.

The current operating licence contains quality and system performance standards in relation to water quality,⁵⁸ water continuity, water pressure and dry weather wastewater overflows onto private properties.⁵⁹ The Customer Contract requires Sydney Water to pay customers rebates where those performance standards are not met. **Table 4.1** provides details of the rebates.

Table 4.1 Rebates in Sydney Water's Customer Contract

Category	Conditions
Unplanned interruptions	Where your water supply service is interrupted for over 5 hours by an unplanned interruption you are entitled to an automatic rebate of \$40 for each of up to 2 unplanned interruption events. If you experience 3 or more unplanned interruptions that last for more than one hour each in a rolling 12-month period, the rebate outlined in clause 7.3 will apply in relation to those additional unplanned interruptions .
Planned interruptions	Where your water supply service is interrupted for over 5 hours by a planned interruption you are entitled to an automatic rebate of \$20. You are eligible for this rebate for each and every event of this type that you experience.
Low water pressure	Where your drinking water pressure is below 15 metres head of pressure at the point of connection to our water system for a continuous period of one hour (low water pressure), unless as a result of an unplanned interruption or a planned interruption , you are entitled to a rebate of \$40. This rebate is payable for one event each quarter. A rebate will be granted automatically when this is identified through our monitoring. However, you are not entitled to a rebate for low water pressure under this clause if you live in the vicinity of a property cluster and we inform you of the risk of recurring low water pressure at your property before your property is connected to our water system for the first time.
Wastewater overflows	If you experience a wastewater overflow on your property due to a failure of our wastewater system , you are entitled to a rebate of \$75. If you experience 2 or more wastewater overflow events in a rolling 12-month period, the rebate outlined in clause 7.4 will apply in relation to those additional wastewater overflows .
Dirty water	If we provide you with dirty water (water that is not suitable as drinking water), you may be entitled to a rebate of \$40 for each occasion that we provide you with dirty water . If the cause of the problem is identified in your water system the rebate will not apply.
Boil Water Alert	If NSW Health issues a 'boil water alert' due to contamination of drinking water caused by us, you are entitled to a rebate of \$50 for each incident in relation to which the 'boil water alert' is issued.

Source: Clause 7.2 of the Sydney Water Customer Contract, Available at [Customer Contract](#)

Note: Bold terms are defined in the Customer Contract.

Consumers

The Customer Contract does not apply to consumers as they are not parties to the Customer Contract. The Act provides that there is a customer contract between Sydney Water and the landholder but any tenants occupying a property would not be party to the Customer Contract.⁶⁰

To protect the interests of such consumers, the operating licence currently extends Sydney Water's obligations under the following parts of the Customer Contract to also apply to consumers in the same way that they apply to customers:

- payment difficulties and assistance options (clause 5.1 of the Customer Contract)
- provisions for tenants to pay charges to avoid restriction or disconnection (clause 6.5)
- complaint handling and complaint resolution procedures. (clause 12)
- consultation and privacy handling (clause 13)
- termination of contract (clause 14).⁶¹

This does not create enforceable contractual arrangements between Sydney Water and consumers but does require Sydney Water to give consumers the benefit of these provisions as though consumers were parties to the Customer Contract. If Sydney Water fails to do this, it will have contravened its operating licence.

We consider that these provisions should be continued to protect consumers. In addition, the provisions of the Customer Contract allowing customers to seek redress and claim for damages (clause 7 of the Customer Contract) should also be extended to consumers.

We seek your feedback on whether Sydney Water should be required to extend any other parts of the Customer Contract to consumers. Our analysis will consider the relative costs and benefits of our recommended approach.

While we consider that consumers should have access to equivalent protections to those in the Customer Contract where relevant, our preliminary view is that the mechanism for achieving this could be improved. For example, the licence could instead require Sydney Water to prepare a separate document specifically targeted at consumers and to deal with consumers in accordance with that document.

We seek your feedback on how best to extend the relevant protections in the Customer Contract to consumers. Our analysis will consider the relative costs and benefits of our recommended approach.

In section 4.1.3, we discuss how the Customer Contract (and operating licence) could better protect vulnerable tenants paying water usage charges to their landlords.

We seek your comment



29. Regarding the Customer Contract:

- Are the rebates in the current Customer Contract well targeted and set at the right levels?

- Should any of the provisions of the Customer Contract, other than those already specified in clause 6.3 of the operating licence, be extended to 'consumers' who are not parties to the contract (e.g. tenants or property occupiers that are not landowners)?
- Do you support Sydney Water's proposed changes to the Customer Contract (we expect this will be published as part of Sydney Water's submission to the Issues Paper due by 1 September 2023)?

4.1.2 Protecting customers experiencing financial difficulty

Our preliminary view is to retain the current operating licence requirements for payment assistance options. We do not propose substantial changes.

Access to payment assistance options is necessary to protect customers experiencing financial difficulty. Ultimately, payment assistance is necessary to protect them Sydney Water restricting or disconnecting the water supply due to unpaid bills. Customers require adequate access to their water service for basic hygiene and drinking water.

The operating licence requires Sydney Water to maintain and fully implement payment assistance options and actions for non-payment. This includes:

- a policy that assists customers and consumers experiencing payment difficulty to better manage their current and future bills
- procedures for payment plans for customers and consumers experiencing payment difficulty
- procedures for identifying the circumstances under which Sydney Water may disconnect or restrict a supply of water to a property
- provisions for self-identification, identification by community welfare organisations and identification by Sydney Water of customers and consumers experiencing payment difficulty.

In addition, Sydney Water must make information about its payment assistance options known to its customers and must provide the information to customers that are identified as facing payment difficulty within one day of identification.⁶²

We consider that the current operating licence requirements are effective in specifying the minimum necessary protections for customers and additional requirements are not necessary to drive outcomes in this area. Sydney Water currently provides several payment assistance options that go above the requirements set in the operating licence. Therefore, our preliminary approach is to propose minimal changes. It is likely that Sydney Water would continue to undertake these measures even without an operating licence mandate. However, we consider that retaining these operating licence conditions will ensure that these payment assistance options are maintained in the future if there were to be competing commercial incentives.

We intend to recommend additional requirements for Sydney Water to keep the information it publishes about payment assistance options up-to-date and to communicate changes made.

During the current operating licence term, Sydney Water has had a high level of compliance with these operating licence requirements for payment assistance options.

In the last Sydney Water operating licence review (in 2019), we concluded that the benefits of requiring payment assistance options outweigh the costs. We consider it unlikely that the costs and benefits have significantly changed.

Sydney Water's payment assistance options

Sydney Water's [payment assistance policy](#) objectives are to help customers keep their water service connected (i.e. avoid restrictions or being disconnected), irrespective of their capacity to pay, and to help customers to pay their bills in a way that they can manage.

Under this policy, Sydney Water offers customers the following payment assistance options:

- Customers can seek extensions to their payment date.
- Sydney Water offers payment plans where customers can pay bills in smaller amounts more frequently with no payment fees or interest charges applied.
- Customers can seek payment assistance through the Payment Assistance Scheme (PAS). Sydney Water will apply PAS credits directly to the customer's bill if they're eligible (thereby reducing the total bill that the customer must pay). Customers must seek PAS credits before paying the bill and not retrospectively.
- Sydney Water's Customer Care team maintains a Debtor's Report and Call List. This is used as the basis for proactively monitoring customers who may be experiencing payment difficulties and then engaging with them to offer support.
- PlumbAssist available to property owners experiencing financial difficulty to repair or replace leaking plumbing fixtures or to find and repair hidden leaks. PlumbAssist is not available to tenants because it is the property owner's responsibility, under the Customer Contract, to fix leaks.⁶³
- Customers receiving an aged disability or service pension government allowance may qualify for a pension rebate on their water service charges (not water usage charges).⁶⁴ Sydney Water is committed to assisting customers determine any applicable concessions. Sydney Water applies these concessions directly to the customer's bills.

Sydney Water advertises these programs on its website as well as on its customer bills so that customers facing payment difficulties are aware.

In addition, Sydney Water participates in the Thriving Communities Partnership where essential service providers can collaborate to protect vulnerable customers. The partnership's One Stop One Story (OSOS) Hub enables frontline workers in corporate and community organisations to connect and refer their clients to a range of supports through a single access point. Cases about financially vulnerable customers can be referred to Sydney Water the OSOS Hub for Sydney Water to action.

Sydney Water takes steps to avoid restrictions due to payment failures as far as possible, with the objective of protecting those who have not paid due to payment difficulty. Sydney Water will send 3 notices of an overdue bill payment. If still unpaid, Sydney Water will hand-deliver a restriction notice to the customer's property which includes information on the escalation process to avoid restrictions. Sydney Water will only consider restrictions if the customer has not made contact (or payment) at the end of this process.

We seek your comment



30. Do you agree that the current operating licence requirements for maintaining, and implementing and advertising payment assistance options are the minimum necessary to protect customers experiencing payment difficulty?

4.1.3 Protecting tenants experiencing payment difficulty

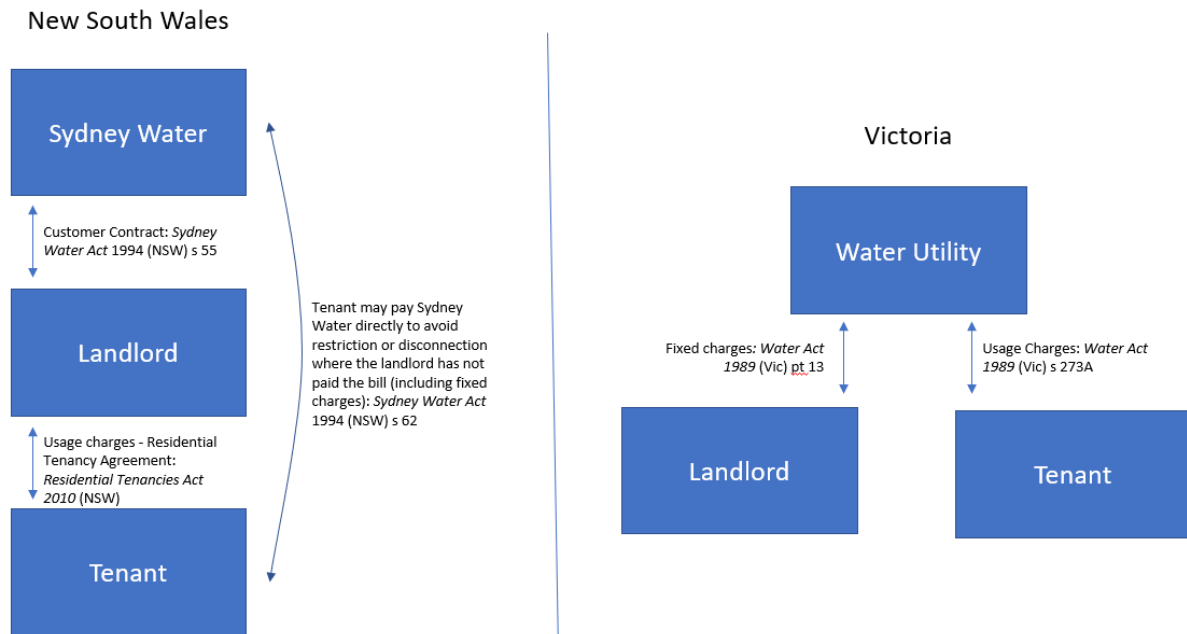
Sydney Water's Customer Contract sets out that the landlord, as the owner of the property serviced by Sydney Water, is Sydney Water's customer. Property owners are billed for Sydney Water's services, including where they have rented out their property. Tenants do not have a direct relationship with Sydney Water.

With almost one-third of NSW residents renting their home, there is a significant proportion of consumers of Sydney Water services who do not have a direct customer relationship with Sydney Water. As such, they do not pay any bills directly to Sydney Water. Some of the customer protections under the Customer Contract are extended to tenants as consumers (see section 4.1.1). However, advocacy groups argue that these provisions are not enough and tenants could be better protected through a step change that sees Sydney Water bill tenants directly for their water usage.

Our preliminary view is that enabling or requiring a direct customer relationship between Sydney Water and residential tenants would provide additional protections to tenants who are users of Sydney Water's services and are responsible for paying water usage charges. However, this would require legislative change and may be beyond the scope of the operating licence. We seek your feedback to determine how tenants could be better protected under the operating licence and Customer Contract, within the limitations of the current legislative framework.

Figure 4.1 below provides a high-level comparison of the billing arrangements between Sydney Water and Victorian water utilities. Unlike in Victoria, the NSW legislative regime does not establish a direct billing relationship between Sydney Water and tenants.

Figure 4.1 Comparison of NSW and Victorian billing arrangements



Tenancy protections under the Residential Tenancies Act

Tenants are the consumers of the services provided by Sydney Water at the residence that they are occupying, and in many cases are responsible for paying the water usage charges. As they do not have a direct billing relationship with Sydney Water, tenants pay these water usage charges to their landlord¹. This relationship is set up under the *Residential Tenancies Act 2010* (Residential Tenancies Act).

Acknowledging the imbalance of power between tenants and their landlords, the Residential Tenancies Act seeks to protect tenants paying for their water usage bills in the following ways:

- A landlord must pay all charges (other than water usage charges) in connection with a water supply service to separately metered residential premises and all charges in connection with a water supply service to residential premises that are not separately metered.⁶⁵
- Under the standard residential tenancy agreement,⁶⁶ the tenant agrees to pay water usage charges to the landlord, but only if the service is separately metered or the premises are not connected to a water supply service and water is delivered to the premises by vehicle.
- In addition, the tenant is only required to pay water usage charges to the landlord if:
 - the property meets certain water efficiency measures
 - the landlord gives the tenant at least 21 days to pay the charges
 - the landlord requests payment of the charges not later than 3 months after the issue of the bill for the charges
 - the landlord provides the tenant with a copy of the bill (or a copy of the part of the bill setting out the charges, or other evidence of the cost of water used by the tenant).

¹ *Residential Tenancies Regulation 2019 (NSW) sch 1, cl 11.*

- The landlord must give the tenant the benefit of, or an amount equivalent to, any rebate received by the landlord for water usage charges payable or paid by the tenant.⁶⁷

Tenancy protections under the Operating Licence and Customer Contract

The operating licence and Customer Contract do not duplicate the protections under the Residential Tenancies Act. Instead, they have, to date, focused on protections for vulnerable tenants such as those experiencing payment difficulties. Sydney Water must make payment assistance options available to tenants responsible for paying water usage charges and who are facing payment difficulty.⁶⁸

Sydney Water's NSW Payment Assistance Scheme (PAS) is one of the options available to tenants facing difficulties paying their water usage bill.^m Tenants can seek PAS assistance by calling Sydney Water and requesting to speak to a case coordinator in Sydney Water's Customer Care team, or by making an appointment with an accredited community agency in the individual's local government area. Any applicable PAS credits will be applied to the property owner's account for the usage charge.

Advantages and disadvantages of retaining the customer relationship with the landlord

An advantage of retaining the customer relationship with landlords for Sydney Water is that Sydney Water is afforded security against unpaid bills. Landlords remain responsible for debts incurred at a property. Landlords can seek to recover costs relating to water usage from tenants through various means, but Sydney Water cannot.

However, for tenants, the current relationship has the following limitations which we consider further disadvantages already vulnerable tenants:

- A tenant may not wish to access payment assistance from Sydney Water if there is a risk that their financial situation could be disclosed to the landlord. Advocacy groups have told us that a tenant's real or perceived vulnerability to discontinuance of a rental arrangement or rental increases from a landlord who becomes aware of the tenant's financial situation strongly deters tenants from seeking payment assistance from Sydney Water.

Sydney Water's PAS is one of the options available to tenants facing difficulties paying their water usage bill.ⁿ Tenants can seek PAS assistance by calling Sydney Water and requesting to speak to a case coordinator in Sydney Water's Customer Care team, or by making an appointment with an accredited community agency in the individual's local government area. Any applicable PAS credits will be applied to the property owner's account for the usage charge.

^m Clause 6.3 of the 2019-2024 Sydney Water Operating Licence and clause 5.1 of the Sydney Water Customer Contract requires Sydney Water to make payment assistance options available to tenants who are responsible for paying water usage charges and who may be facing payment difficulty.

ⁿ Under Clause 6.3.1(a) of the 2019-2024 operating licence, Sydney Water's obligations under clause 5.1 of the Customer Contract (payment difficulties and assistance options for all customers) is extended to consumers as though they were parties to the customer contract.

- Tenants may prioritise paying water usage charges to their landlord over other essential expenses to avoid their financial difficulties becoming known to their landlord. Advocacy groups claim that tenants are more likely to prioritise payment of water usage charges levied by their landlord over less visible costs such as food or medications to avoid disclosing their financial situation and placing their tenancy at risk.⁶⁹
- If the landlord has already paid the full bill to Sydney Water and seeks the water usage charges retrospectively, the PAS credits can still be applied but they will apply for the landlord's next bill. There is a risk that the landlord could seek the full amount from the tenant for the bill already paid.
- There is a risk that property owners may seek payments from tenants exceeding what they are entitled to under the Residential Tenancies Act. While there are protections in place to escalate complaints tenancy issues (such as complaining to NSW Fair Trading), the advocacy groups advise that the likelihood for consumers to pursue those mechanisms is low, even where they are aware of them, to protect their rental status. Communities facing language barriers and who are less aware of NSW protection laws may be particularly at risk.

In addition, landlords may seek to reclaim water usage charges from tenants by providing them with a bill up to 3 months after the landlord receives a bill from Sydney Water. Advocacy groups claim that this puts tenants at further disadvantage because:

- Tenants do not receive timely price signals to reduce their usage. The lag between water usage and a bill being received by a tenant is increased by the additional 3 months a landlord has to recover water usage costs after receiving the bill from Sydney Water.
- Tenants have limited visibility of potential leaks due to lags between water usage and billing of tenants. A tenancy may receive a bill up to 6 months after a water leak occurs. It is the landlord's responsibility to monitor and fix leaks once notified. Sydney Water proactively contacts property owners when leaks at their properties are suspected. However, in practice, this arrangement may leave tenants vulnerable to large water usage bills if the leak goes undetected and unreported or a landlord does not fix the leak.
- Tenants rely on their landlords for timely payment of water bills and have no visibility or assurance that this occurs. Sydney Water takes steps to ensure that services to properties are only restricted when there is no response from customers after Sydney Water tries to seek payments and provides reasonable notice of restriction directly to the occupier of the property (whether that is the property owner or tenant).
- Tenants can contact Sydney Water directly if services to their residence have been restricted and can arrange to pay Sydney Water directly for outstanding water charges (including their usage charges) to resume services.⁶⁹ The tenant may then recover the amount paid as a debt due to the tenant or by deducting the amount paid from any rent. This is currently the only scenario where the tenant can pay directly to Sydney Water. The advocacy groups reported that Sydney Water's response for returning services after contact from tenants is timely and appropriate. However, tenants can face the inconvenience of a restriction occurring and the administrative and financial burden of having to make and recover payment due to circumstances beyond their control.

⁶⁹ Information provided by the Tenants Union of NSW and the NSW Public Interest Advocacy Centre

- Landlords, not tenants, are paid rebates for service interruptions despite the inconvenience experienced by a tenant. Under the standard residential tenancy agreement, the landlord agrees to give the tenant the benefit of any rebate received by the landlord for water usage charges payable by the tenant. However, this may not always occur in practice and tenants may not be aware of the rebate to seek it directly from the landlord.

We seek your comment



31. Within the limitations of the current legislative framework, we seek your feedback on how protections could be improved for tenants who are responsible for paying water usage at a separately metered property through the operating licence or customer contract?

4.1.4 Family violence policy

Our preliminary view is to retain the current operating licence requirements for a family violence policy. We do not propose substantial changes at this stage. However, we will consider learnings from the Victorian Essential Service Commission's review of family violence standards in water.

In Victoria, the *Family Violence Protection Act 2008* (Vic) defines family violence to be any behaviour that occurs in family, domestic or intimate relationships that causes a person to feel fear for their safety or wellbeing or that of another family member. It also includes behaviour of a person that causes a child to hear or witness or otherwise be exposed to the effects of family violence. It is important that service providers take actions to reduce risks for victims.

Customers and consumers experiencing family violence need to be confident that when they are dealing with their water utility, their personal information is secure. There should be no deliberate or inadvertent disclosure of the customer's personal information to anyone associated with the perpetrator of abuse.

Family violence can increase the complexity of financial hardship.⁷⁰ Perpetrators of family violence often avoid responsibility for debts and leave their partners or former partners with substantial liabilities. Debt incurred through jointly held accounts is one of the most difficult issues for victims to resolve with financial institutions.⁷¹ Domestic and family violence is the leading cause of homelessness for women and children.⁷²

The operating licence currently requires Sydney Water to develop and implement a family violence policy, which at minimum, provides for:

- the protection of private and confidential information
- access to payment difficulty programs
- processes that minimise the reliance on individuals to disclose their family violence
- processes for referrals to specialist services.⁷³

We consider that the policy offers some security to vulnerable customers and Sydney Water should be required to continue to maintain and implement it. The current licence conditions would benefit from minor changes to require Sydney Water to better inform their customers of the existence of the policy and to keep the policy up to date. However, these changes will not substantively change the current licence obligations. There may be some minor costs to Sydney Water for providing this information in many formats (for example with bills and not just on its website), if it does not already do this.

We are not aware of significant issues with the effectiveness of the current operating licence conditions. During the current licence term, Sydney Water has had a high level of compliance in this area. The 2022 operational audit did identify that Sydney Water could make improvements for more effective implementation of the family violence policy, but this does not reflect an issue with the adequacy of Sydney Water's family violence policy or the operating licence conditions.

We made recommendations for these operating licence provisions in the 2019 end-of-term review of the Sydney Water operating licence informed by the provisions introduced in Victoria in 2017. The Essential Services Commission is currently reviewing the effectiveness of those provisions, with a focus on promoting better practice. The ESC expects to complete its review in 2023⁷⁴. We will consider learnings from the ESC's review in making recommendations for the operating licence in this area.

We seek your comment



32. Does the current operating licence requirement for Sydney Water to implement a family violence policy offer adequate protection for vulnerable customers?

4.1.5 Internal complaints handling

Our preliminary view is to retain the current operating licence requirements for internal complaints handling. We do not propose substantial changes.

Customers of utilities should have the opportunity to provide feedback and make complaints. This allows the utility to improve the services that they provide customers and provide a service that meets customer expectations. This is particularly important in the case of monopoly suppliers of essential services like Sydney Water where customers do not have the choice of changing providers. We consider that effective complaints handling is the next best option.

The operating licence requires Sydney Water to undertake the following actions to enable customers to make complaints:

- maintain an internal complaint handling procedure for receiving, responding to and resolving complaints consistent with *Australian Standard AS/NZS 10002:2014 – Guidelines for complaint management in organisations*.
- implement the internal complaints handling procedure.
- publicise information about the internal complaints handling procedure to customers.⁷⁵

We consider that these operating licence conditions are working effectively. During the current operating licence term, Sydney Water has had a high level of compliance with these operating licence requirements. We consider that Sydney Water has been implementing its complaints handling procedure effectively and are not aware of any issues in this area.

We seek your comment



33. Do you agree that the current operating licence requirements for internal complaints handling are adequate to protect customers?

4.1.6 External dispute resolution

Our preliminary view is to retain the current operating licence requirements for external dispute resolution. We do not propose substantial changes.

The current operating licence requires Sydney Water to have mechanisms provisions for customers to raise complaints to Sydney Water, and also to escalate these complaints to an external dispute resolution service where customers are not satisfied that their complaints have been adequately addressed. This also helps to ensure that the service Sydney Water provides meets customer expectations.

The current operating licence requires Sydney Water to be a member of the Energy and Water Ombudsman NSW (EWON) and to publicise to its customers the dispute resolution services that EWON provides and how customers can contact EWON to refer their complaints or disputes.⁷⁶ We propose minimal changes to these operating licence conditions. The only change we propose, at this stage, is to allow Sydney Water the option of being a member of an alternative dispute resolution scheme that IPART approves. This allows Sydney Water to choose a more cost-effective membership if an alternative scheme meets our specifications for an effective external dispute resolution provider.

We consider that these operating licence conditions are working effectively and continue to provide benefits. If Sydney Water were not a member of an external dispute resolution scheme, customers would not have an avenue to escalate unresolved complaints. Requiring Sydney Water to publish information about the external dispute resolution process empowers customers to access the process where they have been dissatisfied with using Sydney Water's internal complaint handling process.

During the current operating licence term, Sydney Water has had a high level of compliance with these operating licence requirements for external dispute resolution. We are not aware of any issues in this area.

We seek your comment



34. Do you agree that the current operating licence requirements for external dispute resolution are the minimum necessary to protect customers?

4.1.7 Providing information to customers

Our preliminary view is to retain the current operating licence requirements for providing information to customers to make them aware about customer protection provisions available to them under the Customer Contract. We do not propose substantial changes.

The customer protections discussed in this chapter (such as family violence protection and payment assistance) are only effective if customers are aware of their existence and know how to gain access to them. It is important that Sydney Water provides information on its customer protection provisions and educates its customers on how to gain access to these services.

The current operating licence requires Sydney Water to provide up to date information to customers to:

- briefly explain or summarise the Customer Contract and customers rights and obligations under it
- explain the payment assistance options available
- outline the rebates available and how customers may be eligible
- outline that customers can enter into service agreements with Sydney Water that are separate to the Customer Contract
- provide information on how customers can contact Sydney Water.

Sydney Water is also required to annually advertise about the payment assistance options and rebates available,⁷⁷ recognising that these are the key customer protections for vulnerable customers facing payment difficulties and potentially family violence.

We consider that the current operating licence requirements are working effectively. Sydney Water advertises its protective services through its website and with its Waterwrap newsletter that it sends to customers every quarter with their bills. Sydney Water focuses on messaging about payment assistance, water efficiency measures and service rebates. Sydney Water makes efforts to ensure messaging that reaches a diverse audience including First Nations People, people living with disabilities, culturally and linguistically diverse (CALD) communities, in addition to those that they know are vulnerable to financial difficulty and family violence.

During the current operating licence term, Sydney Water has had a high level of compliance with these operating licence requirements for publicising relevant customer protection provisions. In the last Sydney Water operating licence review (in 2019), we concluded that the benefits of requiring payment assistance options outweigh the costs. We consider it unlikely that the costs and benefits have significantly changed.

We seek your comment



35. Do you agree that the current operating licence requirements for Sydney Water to publicise its customer protection provisions are the minimum necessary to achieve ensure customers are aware of the provisions?

4.2 Consulting with customers

Consulting customers through the Customer Council

Our preliminary view is to retain the current operating licence requirements for Sydney Water to maintain and regularly consult with its Customer Council and remove prescriptive requirements that are currently in the operating licence regarding the Customer Council's operations. The requirement for the Customer Council⁷⁸ reflects the Act's requirements for the operating licence to include terms and conditions for Sydney Water to establish and regularly consult with one or more Customer Councils in relation to the provision of its systems and services.⁷⁹

We consider that it is important for the operating licence to include such terms and conditions. Not only because it is required by the Act, but because as a monopoly supplier, the best way for Sydney Water to determine its customers' preferences is through customer consultation, and the Customer Council provides an avenue for such consultation. Sydney Water should consult with its customers to understand their views, priorities and needs, and this understanding should inform its decision-making. Seeking customer preferences is consistent with our expectations for water pricing proposals submitted by public water utilities to IPART.

Sydney Water has a Customer and Community Reference Group (CCRG) which is its Customer Council under these provisions. The objective of the CCRG is to work alongside Sydney Water as an independent voice to ensure that Sydney Water's strategic plans, investment decisions and regulatory submissions are in the best long-term interests of customers and the community. Key topics for discussion will include Sydney Water's Price proposal, Strategic Planning and Customer Engagement.⁸⁰

Sydney Water's CCRG includes members who aim to bring perspectives and identify issues concerning First Nations people, vulnerable groups, developers, business owners, the environment, regional areas and customers and local government.⁸¹

To support the operation of the Customer Council (or the CCRG), the current operating licence also requires Sydney Water to:

- provide the Customer Council with information to be able to undertake their assigned tasks.
- maintain and make publicly available minutes of the proceedings of the Customer Council
- review the operation of the Customer Council and report on the review to IPART.⁸²

Our preliminary view is to remove the above conditions as they are not necessary to meet the requirements of the Act and we consider that Sydney Water should have flexibility in how it undertakes its customer consultation. Sydney Water should be able to design its customer engagement to be fit for purpose and to achieve outcomes for its customers.

Advocacy groups we have met with claimed that in recent years after the CCRG was developed, replacing Sydney Water's 's previous Customer Advisory Group, Sydney Water's focus has shifted away from identifying issues affecting its customers and the community. However, Sydney Water explained to us that the CCRG's charter includes a wider scope than the previous Customer Advisory Group, but it is still focused on identifying relevant community issues.

The advocacy groups were also concerned with the ability and funding available for the CCRG members to continue to participate meaningfully over the long-term as they identified that there was a substantial commitment involved for the members. Sydney Water verbally responded that to date members have continued to engage meaningfully but agree that it is a longer-term risk. However, Sydney Water is receptive to feedback from the CCRG members for improved clarity for the CCRG charter and preparatory material for meetings going forwards.

During the current operating licence term, Sydney Water has had a high level of compliance with the operating licence requirements in this area.

We seek your comment



36. Do you agree that the current operating licence should only require Sydney Water to maintain a Customer Council (or Customer and Community Reference Group), to reflect the requirements of the Act, but should not include any additional prescription for the Customer Council?

Consulting customers through other avenues

Our preliminary view is to retain the current operating licence requirements for Sydney Water to undertake customer consultation (outside of its Customer Council) with some minor additions.

The operating licence currently requires Sydney Water to undertake customer engagement to understand its customers' preferences and willingness to pay for service levels. The customer engagement must be relevant, representative, proportionate, objective, clearly communicated and accurate.⁸³

We propose to retain these requirements in the operating licence as they reflect our view that the Customer Council is not the only way that Sydney Water should engage with its customers and Sydney Water should be required to undertake customer engagement using other mechanisms that it considers effective.

At this stage, we do not propose many material new requirements for how Sydney Water must undertake its consultation as we have not identified any systemic issues in this area. However, we do propose minor amendments to clarify that in addition to undertaking customer engagement to understand customer and community needs, interests and preferences, and willingness to pay for service levels Sydney Water should be required to:

- understand how its systems and processes can better support more effective, direct relationships with consumers including residential tenants
- obtain advice and perspectives on the Customer Contract
- obtain advice on such other key issues related to Sydney Water's planning and operations under the operating licence which impact on customers and the community in Sydney Water's Area of Operations

We consider that these additions will not result in substantial burden for Sydney Water. Sydney Water is already doing some of this work when engaging with its customers through its ongoing "Our Water Our Voice" community engagement program. Sydney Water uses this program to understand customers' preferences and willingness to pay as well as to obtain advice and perspectives on the Customer Contract and other key issues related to Sydney Water's planning and operations.

Sydney Water aims to ensure that it engages with a diverse audience including First Nations People, people living with disability, Culturally and linguistically diverse communities and people coming from various ages, genders, sectors of the industry and geographical locations.⁸⁴

In addition, Sydney Water has an ongoing customer feedback and community sentiment tracking program and it proactively reaches out to communities affected by its infrastructure projects to obtain feedback.

The 2022-2027 Hunter Water operating licence requires Hunter Water to develop and implement a procedure for consulting with its customers. We have not considered similar requirements in the Sydney Water operating licence, as those conditions were included in the Hunter Water licence to meet requirements of the *Hunter Water Act 1991* (NSW) which do not apply to the *Sydney Water Act 1994* (NSW). As a general principle, we seek to recommend only the minimum requirements necessary to achieve the intended objective of the operating licence. Requirements for a consultation procedure in the Sydney Water operating licence may go above these minimum requirements. However, we seek to understand if you consider that there are benefits for including similar conditions in the Sydney Water operating licence.

We seek your comment



37. Do you agree that the current operating licence conditions for Sydney Water to undertake customer engagement (outside of its Customer Council) are adequate?



38. Should the operating licence include conditions for Sydney Water to develop and implement a customer consultation procedure to guide its consultation processes?

5 Critical infrastructure security



Since July 2018, Sydney Water has been regulated as a responsible entity under the *Security of Critical Infrastructure Act 2018* (Cth) (SOCI Act). The SOCI Act aims to provide a risk-based regulatory framework to manage national security risks from foreign involvement in Australia's critical infrastructure.

Sydney Water is the largest operator of water and wastewater services in Sydney, Illawarra and the Blue Mountains areas. To protect Sydney Water's critical assets, the current operating licence includes requirements for Sydney Water to:

- maintain and implement a cyber security management system
- ensure select staff hold security clearances
- nominate a dedicated compliance manager responsible for compliance with the SOCI Act and the critical infrastructure security conditions in the operating licence cyber security management system.



These operating licence conditions reflect the conclusion of the last Sydney Water operating licence review (in 2019) that Sydney Water must adapt its risk management strategies to ensure risks to the operation of assets critical to economic and social wellbeing are appropriately captured.

New rules under the SOCI Act commenced on 17 February 2023.⁸⁵ They require responsible entities to have a Critical Infrastructure Risk Management Program (CIRMP) for critical water infrastructure assets.⁸⁶ The responsible entities have until 17 August 2024 to comply with the CIRMP requirements.^p Until that time, we consider that it is beneficial to retain the current operating licence obligations to manage risks to Sydney Water's critical infrastructure. However, after that date, the current operating licence obligations should be retired to avoid duplication.

Prior to the 2022 Hunter Water operating licence review, we concluded that equivalent obligations were not necessary for inclusion in the Hunter Water operating licence because of the risk of duplication with the new SOCI Act rules (which were still in development at the time).

^p The rules have an 18-month grace period from commencement until compliance is required.

We seek your feedback on our preliminary views below. Follow the links for the full explanation of these views in this chapter.

Our preliminary views for the operating licence or questions asked in this chapter	Relevant principle of the Review addressed by this view
Retain requirements to maintain and implement a cyber security management system until the new rules under the SOCI Act commence.	 Recognising new strategies or policies.
Retain requirements to appoint a critical infrastructure compliance manager responsible for implementing the cyber security management system until the new rules under the SOCI Act commence.	 Removing redundancy
Retain the current licence requirement for select staff to hold security clearances.	
Remove current reporting requirements for an annual independent audit report of the cyber security management system as this will duplicate requirements in the SOCI Act.	

5.1 Cyber security management system

Maintain and implement a cyber security management system

Our preliminary view is to retain the current requirement in the operating licence for Sydney Water to maintain and implement a cyber security management system until the new rules under the SOCI Act commence. At which time, and after an appropriate transition period, this requirement should be retired.

Prior to the rules, the SOCI Act did not specify how responsible entities were to secure information. Information is a high-risk area for cyber related harm. The current operating licence requirements for Sydney Water to maintain and implement a cyber security management system address this gap. The new rules developed under the SOCI Act to have a CIRMP will also address this gap once the transition period has ended. Retaining the current licence conditions will ensure that there is no gap until after the new rules commence.

Responsibility for Implementation

Our preliminary view is to retain the current requirement in the operating licence for Sydney Water to appoint a critical infrastructure compliance manager responsible for implementing the cyber security management system until the new rules under the SOCI Act commence. At which time, and after an appropriate transition period, this requirement should be retired.

The current operating licence requires Sydney Water to nominate a critical infrastructure compliance manager who is responsible for compliance with the SOCI Act and the critical infrastructure security conditions in the operating licence. Prior to the introduction of the rules, the SOCI Act did not require a specific compliance manager. The current operating licence sought to address this gap. The new rules developed under the SOCI Act to have a CIRMP will also address this gap once the transition period has ended. Retaining the current licence conditions will ensure that there is no gap until after the new rules commence.

We seek your comment



39. Do you agree with maintaining the current operating licence requirements for a cyber security management until the commencement of the rules under the SOCI Act?

5.2 Security clearances

Our preliminary view is to retain the current licence requirement for select staff to hold security clearances. This requirement should not be retired as there is no requirement under the SOCI Act or rules for select staff to hold security clearances. The security clearances are required for select staff to participate in classified discussions with government agencies.

We seek your comment



40. Do you agree with maintaining requirements in the operating licence for select staff to hold security clearances?

5.3 Reporting

Our preliminary view is to remove the current reporting requirements for an annual independent audit report of the cyber security management system as this will duplicate requirements in the SOCI Act

Sydney Water is currently required to provide an annual independent audit report of the cyber security management system. This reporting requirement will no longer be required once the transition to the rules under the SOCI Act has been made. The SOCI Act has provisions for periodic and event-based reporting. Further, the SOCI Act requires Sydney Water to submit an annual report within 90 days after the end of the financial year. Any additional reporting requirements would be duplicative.

We seek your comment



41. Do you agree with maintaining the current reporting requirements for a cyber security management until the commencement of the rules under the SOCI Act?

6 Stakeholder cooperation and information and services to competitors

Cooperative relationships ensure alignment of Sydney Water's operations with the expectations of customers, Government and regulators



We seek your feedback on our preliminary views below. Follow the links for the full explanation of these views in this chapter.

Our preliminary views for the operating licence or questions asked in this chapter

Relevant principle of the Review addressed by this view

REGULATED RELATIONSHIPS WITH GOVERNMENT STAKEHOLDERS

Retain requirements for the Memoranda of Understanding (MoUs) with the Water Administration Ministerial Corporation (WAMC), NSW Health and the EPA.

Retain requirements for the MoU with Fire and Rescue NSW (FRNSW).



Protecting customers, community and the environment

Should Sydney Water be required to share water pressure/flow information at fire hydrants in its network with FRNSW by specified date(s)?



Recognising new strategies or policies.

RELATIONSHIPS WITH LICENSEES UNDER THE WATER INDUSTRY COMPETITION ACT 2006 (WIC ACT)

Retain requirements for Sydney Water to provide services to licensees under the *Water Industry Competition Act 2006* (WIC Act).

Retain requirements for Sydney Water to negotiate with WIC Act licensees (and other potential competitors) in good faith,



Setting minimum protections

Our preliminary views for the operating licence or questions asked in this chapter

Relevant principle of the Review addressed by this view

Retain requirements for Sydney Water to cooperate with WIC Act licensees seeking to establish a code of conduct.

PUBLISHING INFORMATION ABOUT THE WATER AND WASTEWATER SYSTEMS

Is requiring Sydney Water to publish servicing information about its water and wastewater systems the most efficient way to enable potential competitors to make informed investment decisions before entering the market?



Setting minimum protections

6.1 Engaging with government stakeholders

The current operating licence requires Sydney Water to develop and/or maintain cooperative relationships with certain stakeholders through memoranda of understanding (MoUs). These arrangements promote alignment of Sydney Water's operations with the expectations of customers, Government and regulators.

Generally, we consider MoUs to be cost effective ways for parties to establish effective working relationships. They provide flexibility, as they can be easily reviewed and updated, and promote cooperative approaches to addressing issues of mutual concern.

6.1.1 MoU with the Water Administration Ministerial Corporation, NSW Health and the EPA

Our preliminary view is to retain the current operating licence requirements for the MoUs with the Water Administration Ministerial Corporation (WAMC), NSW Health and the EPA.

The Act requires Sydney Water to enter into MoUs with WAMC, NSW Health and the Environmental Protection Authority (EPA).⁸⁷ The current operating licence requires Sydney Water to maintain these MoUs.⁸⁸ MoUs are intended to encourage cooperative relationships between the organisations.

The current MoU with WAMC recognises the role of WAMC in regulating water access, use and management and Sydney Water's right to use water vested in WAMC. WAMC is a statutory body representing the Crown established under the *Water Management Act 2000*. The Department of Planning and Environment works together with the Natural Resource Access Regulator and WaterNSW to carry out WAMC functions.

NSW Health is the lead agency on water-related public health incident response. The current MoU recognises the role of NSW Health in providing advice to the Government about drinking water quality standards and the supply of water which is safe to drink.

The MoU with EPA recognises the role of EPA as the environment regulator of New South Wales and to commit Sydney Water to environmental obligations.

It is our preliminary view that the new operating licence should require Sydney Water to both maintain and comply with the MoUs. Requiring Sydney Water to maintain a MoU alone does not obligate it to comply with it. Without compliance, the MoUs will not be effective in achieving cooperative relationships between Sydney Water and the WAMC, NSW Health and the EPA. These organisations require Sydney Water's support to fulfill their roles.

We have not yet audited Sydney Water's compliance with the requirements for these MoUs during the current operating licence term. However, we are not aware of any issues. We are not proposing any additional requirements in relation to these MoUs at this stage.

We seek your comment



42. Do you agree that the proposed operating licence requirements for Sydney Water to maintain *and* comply with its MoUs with WAMC, NSW Health and the EPA are adequate to ensure cooperative relationships between these organisations?

6.1.2 Memorandum of Understanding with FRNSW

Our preliminary view is to retain the current operating licence requirements for the MoU with Fire and Rescue NSW (FRNSW)

FRNSW is Sydney's urban fire and rescue service. Its purpose is to enhance community safety, quality of life, and confidence by minimising the impacts of hazards and emergency incidents on the people, property, environment, and economy of NSW.⁸⁹ The current operating licence does not require Sydney Water to provide water to FRNSW for firefighting purposes. However, as a monopoly water supplier, the community expects Sydney Water to provide a system that is not prone to failure and will meet community needs, including for firefighting. It is one of Sydney Water's principal objectives under the Act to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates.⁹⁰

Sydney Water's water supply network is one of several mechanisms affecting water availability for urban firefighting. Others include the maintenance and continuing provision for existing fire systems such as installed systems required by building codes. Sydney Water can contribute to improving fire safety by collaborating with FRNSW for better understanding by both parties of water availability needs for firefighting and water supply network limitations.

The Act does not require a MoU between Sydney Water and FRNSW as it does with respect to regulatory agencies. However, the current operating licence requires Sydney Water to use its best endeavours to maintain and comply with a MoU with FRNSW, because it recognises the benefits of and need for Sydney Water and FRNSW to work together collaboratively. The MoU provides a flexible mechanism for Sydney Water and FRNSW to identify needs and agree on actions. It can be easily and regularly updated with agreement from both parties.

We understand that the MoU has facilitated a working relationship between the 2 organisations, and it is beneficial in continuing the requirements for the MoU. However, we seek to understand if the MoU is adequate to meet both parties' needs, as discussed below, or if the operating licence should impose additional requirements.

Water pressure/flow rate information at hydrants in Sydney Water's network

We seek to understand if the operating licence should be expanded to include requirements for Sydney Water to share water pressure/flow information at fire hydrants in its network with FRNSW by specified date(s).

There are parts of Sydney Water's area of operations where the water pressure in the supply is insufficient for fire hydrants to meet the fire standard.^q This is because increased development in older areas reduces overall water pressure and upgrades are expensive and would result in increased costs to customers.

FRNSW must provide alternative water for firefighting purposes where the water pressure at an emergency location is inadequate (e.g. by bringing in tankered water). In some cases, the onus is on building owners or developers to provide stored water for firefighting, particularly in larger commercial and industrial properties or residential medium-to-high rise apartment blocks.

We do not propose that the operating licence should require Sydney Water to improve water pressure in areas where it is insufficient for fire hydrants to meet the standard. This is generally less of an issue in new or growth areas.

However, to be able to undertake its role effectively, FRNSW seeks information from Sydney Water about the water pressure and flow rates available at fire hydrants in its network. Currently, FRNSW has information for about 25% of the hydrants in Sydney Water's network. Having this information allows FRNSW to resource firefighting jobs efficiently and effectively, improving FRNSW's response to emergencies and implementation of preventative measures. Availability of information about water pressure at the hydrants is important to continue to protect the community.

While FRNSW now has access to 25% of the required information, there have been ongoing delays with obtaining this information. Sydney Water has been limited in its capacity to provide the information as its hydraulic models have not been set up to include it. Sydney Water is currently upgrading its models to include this information and is committed to providing the remainder of the required information to FRNSW once the model upgrade works are completed.

The current operating licence requires the MoU to set out that Sydney Water's Fire Fighting Working Group with FRNSW must consider information sharing arrangements between the 2 organisations as well as agreed timelines and a format for Sydney Water to report on availability of water for firefighting (both pressure and flows).⁹¹ We query whether this is adequate to ensure that FRNSW receives the information it needs in a timely manner. Currently, there is no requirement for Sydney Water to agree to any particular timeline or format for responding to information that FRNSW seeks.

FRNSW has explored obtaining the water pressure information from other stakeholders, but this is not always feasible or efficient as it concerns Sydney Water's network.

^q This is separate to meeting the water pressure standards in the current operating licence, which are intended to meet domestic water needs.

The fire standard referred to here is Australian Standard 2419: Fire hydrant installations System design, installation and commissioning.

We seek your comment



43. Should the operating licence require Sydney Water to provide water pressure information at the hydrants in its water supply network to FRNSW, within specified times?

6.2 Engaging with WIC Act licensees

Our preliminary view is to retain the current operating licence requirements for Sydney Water to:

- provide services to licensees under the *Water Industry Competition Act 2006* (WIC Act)
- negotiate with WIC Act licensees (and other potential competitors) in good faith
- cooperate with WIC Act licensees seeking to establish a code of conduct.

The WIC Act and *Water Industry Competition (General) Regulation 2021* were introduced to encourage private sector participation and competition in the supply of water and provision of sewerage services in NSW. This regulatory framework enabled a new type of water supplier to emerge - WIC Act licensees. WIC Act licensees are private water utilities that can provide drinking water, recycled water and/or wastewater services to end-use (or 'retail') customers within their defined areas of operations.

The private water utilities are in turn customers of Sydney Water when they seek a connection to Sydney Water's services (for onselling to residential customers). As such, they should be adequately protected. Sydney Water is often the only option for a private water utility to connect to for additional or supplementary capacity. If Sydney Water were to refuse to deal with its competitors (current or potential), there is a risk that they could be discouraged from entering the market to supply water or sewerage services. This in turn can reduce the ability of the competitors to effectively compete with Sydney Water.

The current operating licence includes the following provisions to protect the private water utilities in their dealings with Sydney Water:

- Sydney Water must provide drinking water and wastewater disposal services to WIC Act licensees, where a connection is available, and subject to any reasonable conditions for the safe, reliable and financially viable supply of services.⁹²
- Sydney Water must negotiate the provision of services with WIC Act licensees and potential competitors in good faith.⁹³
- Sydney Water must use its best endeavours to cooperate with WIC Act licensees seeking, in writing, to establish a code of conduct required by their WIC Act licence.⁹⁴

We propose minimal changes to these operating licence obligations as we consider that they are beneficial in protecting Sydney Water's competitors and consequently supporting the objectives of the WIC Act of encouraging private sector participation in the water industry.

In the last Sydney Water operating licence review (in 2019), we concluded that the benefits offered by these licence conditions outweighed the costs. We consider it unlikely that the costs and benefits have significantly changed since then.

We seek your comment



44. Do you agree with retaining the current operating licence obligations for protecting WIC Act licensees and other potential competitors when dealing with Sydney Water?

6.3 Publishing servicing information to competitors

We seek to understand if the current operating licence requirements for publishing servicing information about Sydney Water's water and wastewater systems is the most efficient way to ensure that potential competitors to make informed investment decisions before entering the market.

The current operating licence requires Sydney Water to publish servicing information for each of its major water and wastewater systems.⁹⁵ In the 2019 review of the operating licence, we recommended this licence condition in response to the findings of the 2018 *Independent review of economic regulatory barriers to cost-effective water recycling* which identified that there was a lack of information available to market participants on public water utilities' long-term growth servicing plans, system constraints and the costs (or savings) of alleviating (or deferring) constraints in water and wastewater systems.

As a result, this 2018 review recommended that the operating licences for WaterNSW, Sydney Water and Hunter Water should require the utilities to develop and publish an annual 'system limitation report' that makes key information publicly available on long-term growth servicing plans and system constraints in a consistent, timely and accessible way. The recommendation was supported by the NSW Government.

The operating licence requires Sydney Water's published servicing information to cover to provide least 10 years' worth of data and must include, at minimum:

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

Sydney Water has published a [5-year Growth Servicing Plan](#) to meet these requirements. Sydney Water updates this plan every year.

We consider that the operating licence requirements should be retained as they address the identified asymmetry in available servicing information. Making this information available to the market allows private water utilities to make decisions about investments before committing to the investment. We consider that this benefits Sydney Water in the long-term as well. Greater investment by other water utilities reduces the need for Sydney Water to invest in larger network assets.

Sydney Water has queried if the information included in their Development Service Plans (DSPs) can achieve this objective. This would allow Sydney Water to phase out the Growth Servicing Plan and minimise its reporting.

With the re-introduction of developer charges (see **Box 6.1** below), both Sydney Water and Hunter Water will publish information on DSPs and review them every 5 years. Content requirements for the DSPs are set out in Schedule 4 of IPART's [Determination](#) on the maximum charges levied by metropolitan water utilities. Sydney Water has published its [DSPs](#) for exhibition.

Box 6.1 Re-introduction of developer service charges for water, wastewater and stormwater

In the 2018 *Independent review of economic regulatory barriers to cost-effective water recycling* report, another recommendation was made to DPE. This recommendation was to review and report on the costs and benefits of a continuation of the 2008 Treasurer approval to set specified water, wastewater and stormwater developer charges for Sydney Water and Hunter Water to zero.⁹⁶

In March 2021, the NSW Government accepted the recommendation from the Productivity Commissioner *Review of Infrastructure Contributions in NSW* to rescind the 2008 approval for Sydney Water and Hunter Water.⁹⁷

Sydney Water has recently consulted with stakeholders on its proposed DSPs and will shortly send these to IPART for registration.

However, we seek to understand from the industry if the information in the DSPs is adequate for new market entrants to make investment decisions prior to entering the market. Sydney Water acknowledges that its DSPs provide most of the information required by the operating licence but not all. We seek to understand if the full suite of information required by the operating licence is in fact necessary.

We seek your comment



45. Are the current operating licence requirements for Sydney Water to publish servicing information the minimum necessary to ensure there is adequate information available to market entrants or is there a more efficient way to achieve the same objective?

7 Administration

We consider that the following parts of the operating licence are working effectively, but we may propose minor amendments and clarifications in the draft operating licence when we consult on it later in 2023:

- Term of the operating licence (clause 1.3 of the current operating licence) – this clause specifies the term of the operating licence. At this stage we propose that the new licence would be issued for a term of 5 years from 1 July 2024.
- Licence amendment (clause 1.4) – this clause explains the process if the operating licence were to be amended. This clause provides information about the amendment process.
- Non-exclusive licence (clause 1.5) – this clause states that the operating licence does not prohibit another person from providing services in Sydney Water's area of operations that are the same as, or similar to, Sydney Water's services, if the person is lawfully entitled to do so.
- Making copies of this operating licence available (clause 1.6) – this clause requires Sydney Water to make a copy of the operating licence available to any person free of charge, on its website and upon request.
- Pricing (clause 1.7) – this clause requires Sydney Water to set prices consistent with any relevant price determinations.⁹⁸ The Act requires the Licence to include performance standards for pricings.⁹⁹ This clause meets this requirement of the Act.

We propose to consider minor changes in the operating licence so that the prices that Sydney Water then charges customers for its services do not exceed those specified in the price determinations. We consider that this would be more effective customer protections but does not signal concerns that we currently have with how Sydney Water has been operating in this space.

We could also consider a new operating licence obligation requiring Sydney Water to submit a proposal to inform the next price review.

- End of term review (clause 1.8) – this clause states when the next review of the operating licence is expected to occur.
- Notices (clause 1.9) – this clause provides the contact details for IPART, the Minister and Sydney Water, for sending any notices or communication under the Licence.
- Licence authorisation (clause 2.1) – this clause specifies what the Licence authorises, and in some cases requires, Sydney Water to do.
- Obligation to make services available (clause 2.2) – this clause specifies that the operating licence must make services available to its customers, where a connection to its supply network is available, and subject to reasonable terms and conditions that Sydney Water may specify.
- Performance monitoring and reporting (Part 10 of the operating licence) – this part of the operating licence includes Sydney Water's responsibilities for IPART's operational audits and for reporting in accordance with the Reporting Manual.

We seek your comment



46. Do you have any other issues or concerns you would like to raise relating to Sydney Water's operating licence?

8 Full list of questions for your comment

We have included the full list of questions, asked in this Issues Paper, for your comment below:

1.	Do you agree with retaining the current water quality standards in the operating licence and clarifying NSW Health's role for specifying additional health-based requirements?	15
2.	Do you agree with removing the current requirement in the Licence for Sydney Water to comply with the <i>NSW Code of Practice for Fluoridation of Public Water Utilities Supplies</i> ?	16
3.	Are the current reporting requirements for Sydney Water's water quality management and monitoring adequate? Are they excessive?	17
4.	Is there anything further we should consider when reviewing the system performance standards in the current operating licence to determine the minimum service levels necessary to protect customers?	18
5.	Are there other standards that the operating licence should include to hold Sydney Water to account for the levels of service it provides to the community?	18
6.	Do you agree with consolidating current reporting requirements on Sydney Water's reporting against the performance standards for service interruptions (in chapters 4 and 8 of Sydney Water's current reporting manual)?	19
7.	Is there anything further we should consider when deciding whether Sydney Water should maintain an Asset Management System consistent with Australian Standard AS ISO 55001:2014, and to implement it, with no substantial changes?	21
8.	Do you agree that reinstating the reporting requirement to provide a 2-yearly State of the Assets Report will support a renewed focus on asset management practices?	22
9.	Is there anything further we should consider when deciding whether to remove the requirement to provide a Strategic Asset Management Plan?	22
10.	Do you agree with transitioning the existing requirements in the operating licence for Sydney Water to maintain a Water Conservation program to a 5-year water conservation plan that:	27
	• considers a range of options, including water efficiency, leakage and recycled water	27
	• is consistent with the Water Efficiency Framework	27
	• considers the strategic context provided by the Greater Sydney Water Strategy	27
	• includes details for proposed programs and projects against the Current Economic Method.	27
11.	Do you agree that the operating licence should continue to require Sydney Water to assess water conservation measures as economic by the Current Economic Method?	29
12.	Should Sydney Water implement all measures assessed as economic or is there a better way to ensure Sydney Water makes good economic decisions that support the goals of the Greater Sydney Water Strategy?	29

13.	Do you agree with including a new condition in the operating licence to allow Sydney Water flexibility to modify its economic approach with Ministerial approval?	30
14.	Should the operating licence or reporting manual impose additional obligations on Sydney Water to report on the 5-year water conservation plan?	30
15.	Do you agree with not including an operating licence condition to require Sydney Water to implement actions under the Greater Sydney Water Strategy Implementation Plan?	31
16.	Do you agree with updating and retaining the operating licence condition requiring Sydney Water to participate cooperatively in any review of the Greater Sydney Water Strategy and retaining the requirement for Sydney Water to comply with a direction from the Minister to implement specific actions.?	31
17.	Should the operating licence impose requirements on Sydney Water to have and maintain a Long Term Capital and Operational Plan in cooperation with WaterNSW, to support long term planning?	32
18.	Should the operating licence require Sydney Water to maintain a MoU with WaterNSW to support the water supply augmentation arrangements?	34
19.	Should the operating licence require Sydney Water to consider the long-term interests of customers when preparing production requests for Sydney Desalination Plant?	34
20.	Should the operating licence impose requirements on Sydney Water to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan?	34
21.	Should the operating licence continue to require a data sharing agreement between Sydney Water and DPE to assist with the review of the Greater Sydney Water Strategy?	35
22.	What are your views on retaining the current operating licence conditions requiring Sydney Water to cooperate in and implement any outcomes from a review of the Priority Sewerage Program?	36
23.	Should the operating licence objectives be amended to explicitly refer to climate change?	39
24.	Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the Greater Sydney Water Strategy and its actions for reducing emissions and to regulate abatement?	41
25.	Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the Greater Sydney Water Strategy and its actions for regulating climate resilience and adaptation?	42
26.	Is there anything further that we should consider when deciding whether Sydney Water should be required to develop and maintain a climate-related risk management program consistent with the NSW Climate Risk Ready Guide?	44
27.	Do you agree with adding a requirement in the Reporting Manual for Sydney Water to report on its progress to net zero?	48
28.	Do you consider that there should be any other reporting requirements related to abatement, adaptation, resilience or climate risk?	48

29.	Regarding the Customer Contract:	53
	• Are the rebates in the current Customer Contract well targeted and set at the right levels?	53
	• Should any of the provisions of the Customer Contract, other than those already specified in clause 6.3 of the operating licence, be extended to 'consumers' who are not parties to the contract (e.g. tenants or property occupiers that are not landowners)?	54
	• Do you support Sydney Water's proposed changes to the Customer Contract (we expect this will be published as part of Sydney Water's submission to the Issues Paper due by 1 September 2023)?	54
30.	Do you agree that the current operating licence requirements for maintaining, and implementing and advertising payment assistance options are the minimum necessary to protect customers experiencing payment difficulty?	56
31.	Within the limitations of the current legislative framework, we seek your feedback on how protections could be improved for tenants who are responsible for paying water usage at a separately metered property through the operating licence or customer contract?	60
32.	Does the current operating licence requirement for Sydney Water to implement a family violence policy offer adequate protection for vulnerable customers?	61
33.	Do you agree that the current operating licence requirements for internal complaints handling are adequate to protect customers?	62
34.	Do you agree that the current operating licence requirements for external dispute resolution are the minimum necessary to protect customers?	62
35.	Do you agree that the current operating licence requirements for Sydney Water to publicise its customer protection provisions are the minimum necessary to achieve ensure customers are aware of the provisions?	63
36.	Do you agree that the current operating licence should only require Sydney Water to maintain a Customer Council (or Customer and Community Reference Group), to reflect the requirements of the Act, but should not include any additional prescription for the Customer Council?	65
37.	Do you agree that the current operating licence conditions for Sydney Water to undertake customer engagement (outside of its Customer Council) are adequate?	66
38.	Should the operating licence include conditions for Sydney Water to develop and implement a customer consultation procedure to guide its consultation processes?	66
39.	Do you agree with maintaining the current operating licence requirements for a cyber security management until the commencement of the rules under the SOCI Act?	69
40.	Do you agree with maintaining requirements in the operating licence for select staff to hold security clearances?	69
41.	Do you agree with maintaining the current reporting requirements for a cyber security management until the commencement of the rules under the SOCI Act?	69
42.	Do you agree that the proposed operating licence requirements for Sydney Water to maintain <i>and</i> comply with its MoUs with WAMC, NSW Health and the EPA are adequate to ensure cooperative relationships between these organisations?	72

43.	Should the operating licence require Sydney Water to provide water pressure information at the hydrants in its water supply network to FRNSW, within specified times?	74
44.	Do you agree with retaining the current operating licence obligations for protecting WIC Act licensees and other potential competitors when dealing with Sydney Water?	75
45.	Are the current operating licence requirements for Sydney Water to publish servicing information the minimum necessary to ensure there is adequate information available to market entrants or is there a more efficient way to achieve the same objective?	76
46.	Do you have any other issues or concerns you would like to raise relating to Sydney Water's operating licence?	78

Appendices

A Contextual information

This section provides contextual information for the Review, specifically on the following matters:

1. Who is Sydney Water?
2. Why does Sydney Water need an operating licence?
3. Why are we reviewing the operating licence?
4. Who will this Review affect?

A.1 Who is Sydney Water?

Sydney Water is a State-Owned Corporation, wholly owned by the NSW Government and governed by an independent Board of Directors. It operates under the *Sydney Water Act 1994* (the Act) and the *State Owned Corporations Act 1989*.

Sydney Water provides water and wastewater services to over 5 million people in the Sydney, Illawarra and Blue Mountains regions. It also provides recycled water and stormwater drainage services in certain areas.

A.2 Why does Sydney Water need an operating licence?

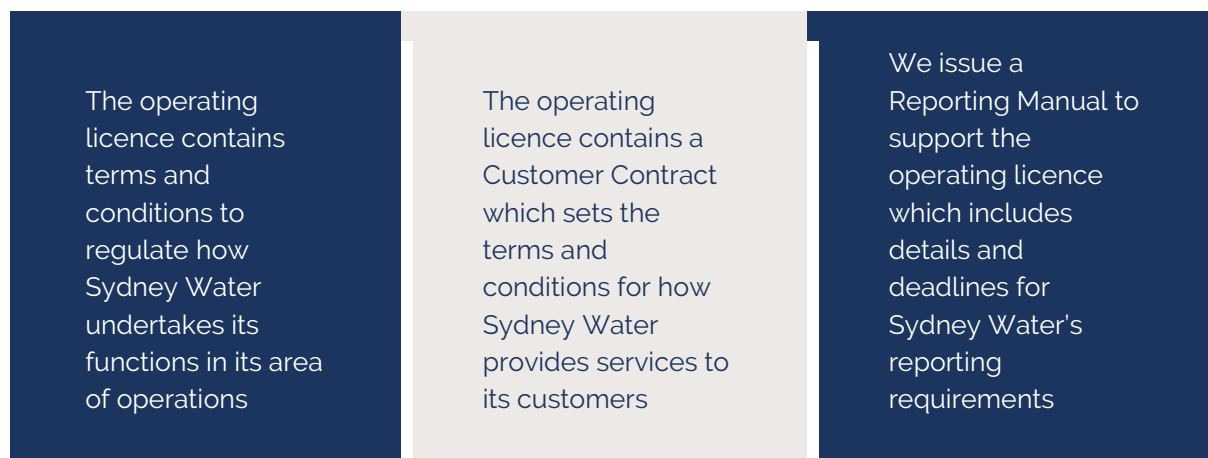
The supply of water is an essential service that is regulated in most developed countries. Water supply businesses are commonly government-owned, public utilities and are usually monopoly suppliers within geographic regions. Several large utilities in NSW, including Sydney Water, were corporatised during the early 1990s as part of wider microeconomic reform of the NSW public sector. The operating licence was originally established in 1995 to ensure Sydney Water, as a new corporation, would not exploit its natural monopoly position.

The operating licence enables and requires Sydney Water to provide, construct, operate, manage and maintain systems and services, in a defined area of operations in the Greater Sydney region, for:

- supplying water
- providing sewerage services
- disposing of wastewater
- providing stormwater drainage systems.

The operating licence is an enforceable instrument and is subject to a compliance monitoring regime with penalties for contravention. The operating licence has already been subject to a number of public reviews, conducted by IPART. We last reviewed the licence in 2019. The current operating licence term is from 30 November 2019 to 29 November 2023. We expect the operating licence to be extended until 30 June 2024. We are responsible for administering the operating licence including the functions of monitoring, auditing and reporting to the Minister on compliance.

Sydney Water's operating licence is supported by a Customer Contract and a Reporting Manual. The Reporting Manual was established so that procedural matters associated with the operating licence could be more easily updated.



A.3 Why are we reviewing the operating licence?

The current operating licence contemplates an end-of-term review prior to expiry.¹⁰⁰ We are conducting this Review to investigate whether the existing operating licence is fulfilling its objectives, and any issues that have arisen during the term of the licence that may impact its effectiveness. As part of the Review, we may recommend amendments to the operating licence to address the issues we identify.

If the Minister accepts our recommendations, the Minister will endorse the new operating licence for approval by the Governor of NSW.

A.4 Who will this Review affect?

As this Review may result in amendments to the current operating licence, it may directly affect the operation of Sydney Water. The following stakeholders would also be affected by this Review because they have direct relationships with Sydney Water under the operating licence:

- all customers and consumers of Sydney Water's water, sewerage, stormwater, and recycled water services, particularly where there are amendments to Sydney Water's customer contract
- some licensees under the *Water Industry Competition Act 2006* (NSW)
- NSW Government agencies that Sydney Water has cooperative relationships with (including the Department of Planning and Environment, Environmental Protection Authority, Fire and Rescue NSW, NSW Health and the Water Administration Ministerial Corporation).

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¹ *Sydney Water Act 1994* (NSW), s 14(1)(c).

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- ⁵ *Public Health Act 2010* (NSW), s 5(1), definition of 'supplier of drinking water'.
- ⁶ *Public Health Act 2010* (NSW), ss 25(1) and (1A); *Public Health Regulation 2012*, clause 34A.
- ⁷ *Public Health Act 2010* (NSW), s 25(3).
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- ²⁶ 2019-2024 Sydney Water Operating Licence, cl 3.2.1 and 3.2.2.
- ²⁷ [Letter dated 21 January 2021](#) from the then Minister for Water for Sydney Water regarding explicit expectations of what the Long Term Capital and Operational Plan must demonstrate.
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