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# Lachlan Valley Water Inc

Sustainable, productive and efficient water use in the Lachlan Valley

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## **Submission to IPART**

## **WaterNSW Operating Licence**

**October 2023**

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## Executive Summary

Lachlan Valley Water Inc (LVW) welcomes the opportunity to make this submission to IPART regarding WaterNSW's Operating Licence Review. Since the restructure of WaterNSW over the last 12 months there has been a noticeable reluctance to engage with water users and customers, a loss of corporate IP and operational knowledge, a reluctance to provide transparency around pricing and projects, and a cavalier attitude towards passing on costs to water users. While we have responded to Issues questions in this submission and provided high level details of examples, we believe that when conducting the Operating Licence review, the following should be noted and considered:

**Customer Engagement.** Water users have historically had good engagement with local/valley WaterNSW staff, with WaterNSW staff managing forecasts and issues through individual relationships and regular face-to-face engagement. This has been lost as a result of WaterNSW's restructure and there appears to be a reluctance to provide any meaningful engagement, with water users advised to call a single point of contact or use the customer centre. The customer centre are essentially phone operators with little water knowledge, and the centre is only open limited hours and days making it difficult for water users to amend waterhours on the weekends or after hours. The engagement through the CAG has become more of a "show and tell" for WaterNSW rather than meaningful engagement and a willingness to work through issues and concerns. WaterNSW must be required to provide meaningful engagement to both water users and through the CAGS and must be reminded of the 3'C's guidelines and principles set out in IPART's Water Operations Handbook.

**Costs & Transparency.** Under the Operating Licence, WaterNSW should be required to provide an annual cost/price list to water users, detailing "included services" and cost of each service, and "additional services" and cost/price of each service. Currently water users have limited ability to know the breakup of the fees being paid, and what additional services there are and what they would cost. WaterNSW have asked what services water users would like, however haven't provided any additional information or costs despite being requested several times. Further, WaterNSW should be required to consult with water users prior to engaging in any major project, or change to scope/cost of project, where the costs will be passed to water users. We have provided details further in this submission regarding the Lake Cargelligo Embankment project as an example.

**Maintenance of Corporate Knowledge & IP.** It has become evident to LVW that WaterNSW has lost documentation, operational knowledge, and corporate IP as a result of the restructure which has resulted in a reduction in operational performance, and the introduction of a rule (without consultation) that unfairly penalises water users (example details supplied later in this submission). It should be a requirement of the Operating Licence that WaterNSW maintains appropriate systems and processes to both capture and retain operational knowledge, and have a succession plan in place for key operations staff so that appropriate training experience can be provided and relevant operational experience gained.

**Nil Cost or Regulatory Increases to Water User.** An underlying principle of any changes or inclusions to the Operating Licence should be no additional financial penalty to water users, nor should any there be any additional regulatory requirements placed on water users as a result of the review. The water industry is already costly and heavily regulated and the cavalier attitude of passing on additional costs to water users must be addressed through the review, again citing WaterNSW's obligations under IPART's 3 C's framework.

## Introduction

Lachlan Valley Water (LVW) welcomes the opportunity to make a submission on the draft NSW Regional Water Strategy. Lachlan Valley Water is an industry organisation representing surface water and groundwater licence holders in the Lachlan and Belubula valleys. Membership of LVW is voluntary and our members represent all categories of licences except for those held by environmental water managers. While this submission is made on behalf of our members, individual members may also make their own submissions.

## Overview

This submission aims to respond to the questions set out in the IPART WaterNSW Operating Licence Review Issues Paper, August 2023. Where LVW doesn't have a preference or opinion on specific questions these have been noted. LVW would welcome the opportunity to provide further consultation on WaterNSW's Operating Licence and the performance WaterNSW in meeting their obligations under the licence.

## Responses

The Issues Paper questions follow in bold, with LVW's response below each question:

- 1. Should WaterNSW's obligation to undertake catchment management activities extend to the non-declared catchment? If so, what could WaterNSW do in the nondeclared catchment to encourage catchment management practices and source water protection? What are the benefits?**

LVW does not support WaterNSW's obligation to undertake catchment management to extend to non-declared catchment. We feel this could translate into additional costs for water users and landholders in non-declared catchments, for functions that are already provided through other agencies such as DPI and Local Land Services.

- 2. Should WaterNSW be required to undertake a program of research in both the declared and the non-declared catchments?**

LVW supports WaterNSW being required to undertake programs of research in declared and non-declared catchments as long as funding for such programs is funded by Government and not passed through to water users.

- 3. Should WaterNSW be required to undertake education programs in the community for both the declared and non-declared catchments?**

LVW supports WaterNSW being required to undertake education programs in declared and non-declared catchments as long as funding for such programs is funded by Government

and not passed through to water users. It is important that communities are engaged both prior and during any water-related project that will have an impact on said communities, and are briefed on any changes of scope and cost to these projects.

**4. *Should the Licence specify what the education programs should include? If so, what should it specify?***

LVW's position is that it is important that communities are engaged both prior and during any water-related project that will have an impact on said communities, and are briefed on any changes of scope and cost to these projects. Programs that cover these engagements should be specified.

**5. *Should WaterNSW be required to manage river health, beyond monitoring and reporting against the catchment health indicators identified in the reporting manual?***

LVW has no preference, however if its to be the case that WaterNSW be required to manage river health beyond what is done now, the additional functions should be funded by Government and not passed on to water users.

**6. *Do you agree with removing licence conditions requiring WaterNSW to implement actions under the Greater Sydney Water Strategy?***

LVW has no preference.

**7. *Should the Licence require WaterNSW to implement actions in the Greater Sydney Water Strategy requested by the Minister?***

LVW has no preference.

**8. *Should the Licence require WaterNSW to maintain a long-term capital and operating plan, to be approved by the Minister?***

LVW supports the Licence requirement for WaterNSW maintaining a long term-capital and operating plan to be approved by the Minister. This plan should be available to the general public with clear and detailed information including both operational and capital costs.

**9. *Should the Licence require WaterNSW to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan?***

**10. *Are the current Licence requirements to calculate System Yield in the Declared Catchment Areas adequate? If not, what requirements are appropriate?***

**11. *Should the Licence require WaterNSW to maintain an agreement, MOU or protocol with Sydney Water to support water supply augmentation?***

Questions 9-11: LVW has no preference.

**12. Do you agree with transitioning the existing requirements in the current Licence for WaterNSW to maintain a Water Conservation Plan that is consistent with the NSW Water Efficiency Framework, NSW Water Strategy and the Greater Sydney Water Strategy?**

LVW supports transitioning the existing requirements to be consistent with the NSW Water Efficiency framework and the continuation of water system efficiencies.

**13. Is there anything else that WaterNSW's licence should authorise or require in relation to water conservation?**

LVW has no preference.

**14. Do you agree that planning and responding to flood emergencies is adequately regulated? If not, should we consider requiring WaterNSW to undertake any additional flood planning and emergency response activities?**

LVW agrees that planning and responding to flood emergencies is generally adequate and well regulated.

**15. Should the Licence authorise WaterNSW to undertake flood mitigation and management in all parts of NSW including the Sydney catchment area? If so, are there any terms and conditions that are appropriate for this?**

LVW has no preference.

**16. How could the advanced notification of changes to flow release patterns be strengthened to further warn and protect downstream customers and other stakeholders of water releases from the dams (not for the purpose of flood warning)?**

LVW recommends better integration of IT systems and customers portals, potentially with a single customer sign-in to access all portals. Currently the Early Warning System log in is different to the WaterNSW portal for example.

**17. Should the objectives in the Licence be amended to explicitly refer to abatement?**

LVW has no preference.

**18. Should the objectives in the Licence be amended to explicitly refer to climate change resilience and adaptation?**

LVW doesn't support the licence to be amended to explicitly refer to climate change and adaptation, and believes the Water Sharing Plan already accounts for Climate Change considerations.

**19. Should the objectives in the Licence be amended to explicitly refer to a climate risk management program?**

**20. Is there anything further that we should consider when deciding whether WaterNSW should be required to develop and maintain a climate related risk management program consistent with the Guide?**

**21. Should the Licence require WaterNSW to include climate risks in their operations, water quality and asset management risk assessments? If so, should WaterNSW be made to report on its implementation of risk management measures?**

**22. Should the Licence require WaterNSW to undertake climate change risk assessments consistent with ISO 14091:2021 Adaptation to climate change — Guidelines on vulnerability, impacts and risk assessment?**

**23. Should WaterNSW be required to report on its progress to Net Zero?**

**24. Should the Licence include any other reporting requirements related to abatement, adaptation, resilience or climate risk?**

Questions 19-24: LVW has no preference.

**25. Are the current CSR performance standards still relevant to WaterNSW's operations?**

LVW water believes the current CSR performance standards remain relevant.

**26. Should we explore the inclusion of additional performance standards for CSR water? If so, what types of performance standards (e.g. water delivery or water quality) should we include?**

LVW would be open to discussion/consultation regarding additional standards for CSR water.

**27. What performance standards should apply to water delivery, water quality and service interruptions?**

LVW believes the current standards are adequate.

**28. Should the Licence prescribe any other performance standards in relation to Supplied Water? i.e. in addition to the required performance standards related to water delivery, water quality and service interruptions, minimum standards could be prescribed for timing of delivery and customer service.**

LVW believes that the Customer Service Hotline hours should be mandated to include public holidays and weekends, and that performance standards for customer service should be detailed in the licence. Currently water users don't have an option to cancel/modify water orders outside of the current customer service hours. LVW would be happy to consult further regarding as to what those standards might be

**29. Is there benefit in maintaining separate licence conditions in the licence for the declared and the non-declared catchments.**

LVW sees no benefit in maintaining separate licence conditions, especially if it reduces regulation and costs for water users.

**30. Should WaterNSW be required to define and monitor Water Quality Performance targets in consultation with NSW Health and relevant stakeholders?**

**31. Is there any reason we should not specifically exclude picnic areas from the WQMS obligations in the licence?**

**32. Should conditions for FRWSS be separated out in the licence? For example, a separate condition for WQMS and reporting requirements.**

**33. Should the FRWSS be excluded from some obligations under the Licence where there is duplication with the WMA? If so, which Licence obligations or activities should be excluded?**

**34. Should the Licence include new conditions in relation to FRWSS?**

**35. Is there benefit in increasing WaterNSW's responsibilities to monitor and provide information on water source events and the quality of raw water supplied to LWUs?**

**36. Should the information request procedure be recast to require WNSW to provide information to the LWU when specified parameters have not been met?**

**37. How else could WaterNSW be more proactive in notifying LWUs of water source events or sharing of information?**

**38. Should WaterNSW be required to have a family violence policy that protects customer privacy and ensures that family violence sufferers can access payment difficulty arrangements? If so, what as a minimum, should the condition include? Would a change to the Code of Practice on Payment Difficulties also be required?**

Questions 30-38: LVW has no preference.

**39. Should the Licence require WaterNSW to engage with its customers, but allow WaterNSW to determine the best way for engagement?**

LVW believes that WaterNSW should be required to engage with customers, however there needs to be set requirements on the minimum engagement types, frequency, and appropriateness (such as mandatory CAGs) as recent experience would indicate the WaterNSW are looking to minimise engagement with water users. Allowing WaterNSW to determine the best way for engagement runs the risk of having WaterNSW further disengage with water users. By way of appropriateness, where WaterNSW are determining costs/policy that affects only "Impactors" then community consult groups should be limited to the group the cost/policy will affect. The current method of social media surveys and community engagement groups for water pricing has the potential to skew data from those with low or limited water industry literacy, as does the "set questions" with limited choice of responses put forward during community consultations.

**40. Is there any value in continuing to require WaterNSW to utilise CAGs to engage with different customer groups?**

LVW supports the continuation of having WaterNSW to utilise CAGs. CAGs need to become more effective however in that it is recent experience that items/issues/concerns raised by customers during CAG meetings are not translating into tangible actions, and have become more of a “show and tell” by WaterNSW staff. There needs to be processes put in place so that feedback from customers is addressed appropriately, CAG charters reviewed by IPART and the customers, and a simple process where failures to perform can be reported to IPART, included as requirements in the operating licence.

**41. Do you agree that WaterNSW is responsible for collecting, managing, and sharing data and information of water resource data on behalf of the NSW Government? If so, does this obligation extend beyond the data and information it uses for its own purposes.**

LVW agrees that WaterNSW is responsible for collection, managing, and storing information and data. LVW believes there should be a simple process for sharing customer information (with their consent) to membership/user advocacy bodies to assist with water management at local levels.

**42. Is the licence the right instrument to ensure all NSW data and information users can adequately access water resource data for the state?**

LVW has no opinion.

**43. Does the current licence condition to agree to, and comply with, the Roles and Responsibilities agreement adequately obligate WaterNSW to provide access to information and data to all NSW data and information users?**

LVW has no opinion.

**44. Does the Roles and Responsibilities agreement require WaterNSW to provide sufficient access to information for other agencies (such as DPE and NRAR) to undertake their functions/statutory obligations?**

LVW believes there is opportunity to improve the requirement, by providing better integration of IT systems between services, and better definition of roles and responsibilities so that agencies work more effectively together. Customer experience has shown that when there is an issue its difficult to get resolved as each agency attributes blame/responsibility to one or more of the others.



**45. Are there any reasons why an arrangement could not be made with WaterNSW to address the data quality and data access requirements of DPE and NRAR?**

LVW believes there are no reasons why such an arrangement couldn't be made, however as this would be an "internal" arrangement any resulting costs to do so should be funded by government.

**46. Do the current conditions provide DPE and NRAR the access to information and systems they need? What, if any changes are required?**

LVW has no opinion.

**47. Should the Licence require WaterNSW to develop, operate and maintain IT systems, and provide support, to allow access to users of NSW water resource information and data? If so, what information and data should the system provide access to?**

LVW believes there needs to be better integration of user's systems and a better system to order water, and would support a "one-stop-shop" approach. The cost to do so should be funded by the efficiencies realised through better system integration.

**48. How else could WaterNSW facilitate the sharing of water resource information with the NSW water sector?**

LVW has been requesting details around services costs from WaterNSW for some time now, and with no result. LVW believes that WaterNSW should be required to produce and provide an annual "Water User Price List" that breaks down the costs and services of normal operational services, and additional cost services. Currently water users have no idea of what is covered by their payments, and what any additional services there are, and what the cost to the user of each additional service are.

**49. Do the Data Sharing Agreement adequately address the needs of NRAR and DPE Water in relation to data accuracy, quality, continuity and timeliness of data provision?**

**50. Should the Licence require WaterNSW to manage data consistently with any standards or guidelines? If so, which standards would you recommend and why? (NSW Government Standards for Data reporting, ISO 8000:1, ISO 9001:2015, or another standard or guideline not listed)**

**51. Are there any other options to improve data integrity and reliability we have not considered?**

Questions 49-51: LVW has no opinion.

**52. Should we amend the current Licence condition about accounting for water extracted or supplied to account for the needs of other agencies?**

LVW has no issue with extraction/supply details being supplied to other agencies, however would like it notes that water users have paid for telemetry, so this should be accessible without further costs to the water users.

**53. Is there other data that should be collected, and accuracy confirmed, at a greater frequency than is already required?**

**54. Should the nature or purpose of the MOUs with NSW Health and EPA change? If so, what should the revised nature and/or purpose of the MOUs be?**

Questions 52 & 53: LVW has no opinion

**55. Should the Licence further specify the contents of the MOU (or similar) between WaterNSW and NRAR? If so, what should the MOU prescribe? Alternatively or additionally, should the Licence directly impose conditions on WaterNSW related to NRAR?**

LVW believes that any MOU between WaterNSW and NRAR should address any overlap of services and clarification between agencies of their roles and responsibilities.

**56. Are there any other parties that WaterNSW should enter into an MOU (or similar) with? If so, who are these parties and what should the Licence require for each of the parties? Alternatively or additionally, should the Licence directly impose conditions on WaterNSW related to other agencies?**

**57. How effective are the current mechanisms in achieving the required relationship and information sharing needs between WaterNSW and LWUs?**

**58. Should WaterNSW be required to manage its relationships with LWUs through an MOU, protocol or policy?**

Questions 56-58: LVW has no preference.

**59. Should the current Licence conditions relating to an EMS be changed? If so, what should these changes include?**

LVW supports changes that minimise onerous regulation that's holds up major works, maintenance, and repairs to water infrastructure.

**60. Would adding a requirement under the licence requiring WaterNSW to develop, maintain and implement a QMS provide benefit to WaterNSW and/or its customers? If so, what are these benefits?**

LVW has no preference.

**61. What other mechanisms could be included in the licence to improve WaterNSW's corporate record keeping.**

LVW believes that some operational IP in relation to river management has been "lost" as result of WaterNSW's restructure. LVW supports adding mechanisms that include knowledge capture/sharing, maintenance of IP, appropriate succession planning and training, and transparency of supporting systems to the customer. This is evident in the recent Evaporation Rule that was applied to waterusers without consultation with industry, and was different to what was agreed to during the State Advisory Panel in 2018. WaterNSW were unable to produce the original document. The new rule negatively impacts the water users.

**62. Should the current Licence conditions relating to an AMS be changed?**

LVW supports changes to the AMS to include a system/process to work with owners of privately owned assets such as weirs to so that jointly the assets are maintained to at least a minimum safe standard for WaterNSW staff to be able to operate them in regulated river/creek systems. This may include WaterNSW being responsible for producing annual repair/maintenance reports (including estimated costs) so that owners can ensure the assets meet WaterNSW's safety requirements.

**63. Should WaterNSW be required to comply with the latest version of ISO 55001?**

LVW supports WaterNSW needing to comply with the latest version of ISO 55001.

**64. Do you agree that the Licence should impose national security clearance requirements for executive level employees responsible for operational technology security, network operations security, and personnel security operations; and at least two board members?**

LVW has no preference.

**65. Do you have any other issues or concerns you would like to raise relating to WaterNSW's Licence?**

LVW would like to see the following requirements added into WaterNSW's operating licence:

**Provision of Visible Annual Pricing Structure.** Currently water users are unsure of what services are included in WaterNSW's regular pricing, and what services would represent "additional services" and therefore would require additional costs to the users. LVW has requested this through various CAG meetings however have been unable to secure any details. Additionally, water users should be engaged prior to any significant pricing change. As an example, LVW took part in the State Advisory Panel that included calculation and agreement of a specific set of rules to calculate water evaporation in storage facilities, with an associated cost to be passed on to water users and was included in the draft Water Sharing Plan. The rules were to take effect in October this year, and for the past 9 months LVW has been requesting WaterNSW to provide a fact sheet for water users on how the calculations were to be applied, and again WaterNSW were not forthcoming. The week before the rules were to be applied, and under a request for ministerial intervention from LVW, a different set

of rules were provided which increases the costs to the water user. This was done without any consultation or engagement with the water users.

**Consultation with Water Users before undertaking/modifying Major Projects.** The cost of major projects are usually passed on to water users, therefore any increase to those costs should be socialised with water users prior to any undertaking. To give a recent example, the Lake Cargelligo Embankment Project was approved for \$11.5M in 2021, however at the last Lachlan CAG meeting in July 2023, water users were advised that the estimated budget required to complete would be closer to \$37M, with water users along the Lachlan River expected to wear the additional cost. There needs to be a facility in the operating licence to protect water users from such arbitrary price increases etc.

**Maintenance and Operation of Privately Owned Weirs in Regulated Systems.** There needs to be a facility in the operating licence that compels WaterNSW to work with the owners of privately owned assets such as weirs in regulated systems, so that those assets are maintained to a the minimum safety standard required for WaterNSW to operate them. This could include WaterNSW funding and providing reports on costings on work needed etc. Currently WaterNSW has point blank refused to provide any assistance to asset owners in the Mid-Lachlan creeks system, including providing a report of what is needed to have them at a point which WaterNSW could operate them, instead citing non-specific “safety” issues.

## **Conclusion**

It is important that when reviewing the Operating Licence systems and processes be put in place to hold WaterNSW accountable to the 3 C’s Framework, as currently there is little evidence of its consideration in day-to-day experiences of water users. LVW are happy to consult further with IPART and/or WaterNSW to explore opportunities for continuous improvement in provision of services by WaterNSW in each area of the 3 C’s framework.