

# Sydney Water Operating Licence Review Issues Paper

NSW GOVERNMENT SUBMISSION

# Contents

<b>Sydney Water Operating Licence Review Issues Paper .....</b>	<b>0</b>
Strategic Context .....	0
Performance Standards and Water Quality .....	0
Water conservation, long term planning and water efficiency .....	3
NSW Government Water Efficiency Framework .....	4
Long Term Water and Drought Response Planning .....	5
Supply Augmentation Planning .....	6
Climate Change .....	7
Integrated water cycle management .....	9
Customers and Stakeholders .....	11
MoU with Fire and Rescue NSW .....	11
<i>MoU with the Water Administration Ministerial Corporation (WAMC)</i> .....	12
<i>MoU with Health</i> .....	12
MoU with the EPA .....	12
Community .....	13
Competition and Transparency .....	13
Next Steps .....	14

# Sydney Water Operating Licence Review Issues Paper

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## Strategic Context

The NSW Government welcomes this opportunity to comment on the Independent Pricing and Regulatory Tribunal's (IPART) *Review of the Sydney Water Operating Licence - Issues Paper 2023*. This submission includes contributions from the Department of Planning and Environment (DPE), NSW Health, the Environment Protection Authority (EPA) and Fire and Rescue NSW (FRNSW). This submission has been provided to assist IPART in drafting licence conditions which support the NSW Government's goals and objectives.

The NSW Government recently passed the *Constitutional Amendment (Sydney Water and Hunter Water) Bill 2023*, to ensure utilities offering essential services remain in public hands. Amending the NSW Constitution demonstrates the NSW Government's commitment to securing a resilient and sustainable supply of water to meet the pressures of population growth and climate change over the coming decades, while safeguarding affordability and access for all NSW residents.

Since Sydney Water's Operating Licence was last reviewed in 2019, there have been significant reforms to water management across NSW, including changes to how we plan to ensure long-term water security, through publication of the NSW Water Strategy and the Greater Sydney Water Strategy. These changes reflect the lessons of the last drought, and look to improve the security, reliability, quality and resilience of water resources and rely on Sydney Water to deliver and drive key actions in partnership with OPE, WaterNSW, the community and other stakeholders. Recommended changes to the operating licence seek to ensure Sydney Water is equipped to perform these enhanced functions as a modern public utility while carrying out its core objectives to protect public health, the environment and provide taxpayers value for money. Achieving this balance of objectives is always critical, but particularly in the current context of growing cost of living challenges and a potential El Nino declaration, which if realised, will bring additional water management challenges.

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## Performance Standards and Water Quality

In general, OPE supports a set of performance standards that will ensure a minimum level of service, but that also allow Sydney Water the flexibility and innovation to improve their performance in line with customer expectations and willingness to pay.

### NSW Health

NSW Health supports retaining the current water quality standards and clarifying NSW Health's role. NSW Health understands that IPART's proposed inclusion of 'health-based' standards is intended to clarify that NSW Health may specify requirements which are in addition to the requirements of the *Australian Drinking Water Guidelines* or *Australian Guidelines for Water Recycling* as deemed necessary to protect public health in NSW. This would align the requirements for Sydney

Water with the Hunter Water Corporation's Operating Licence. NSW Health suggests that this requirement be rephrased to specify 'Sydney Water must comply with any health-based requirements specified by NSW Health, which are additional to the *Australian Drinking Water Guidelines* or *Australian Guidelines for Water Recycling*.'

In practice, NSW Health would rarely specify additional requirements, unless there was a benefit to public health, and that Sydney Water and IPART consider cost implications via the pricing pathways. An example of additional requirements may be the detection of a chemical that is not included in the *Australian Drinking Water Guidelines* or *Australian Guidelines for Water Recycling* that would require specific NSW Health advice on monitoring or management. Another example may be the application of updated log reduction targets for purified recycled water which have not yet been published in the *Australian Guidelines for Water Recycling*, which align reference pathogens and disability adjusted life years to the recent update to the *Australian Drinking Water Guidelines*.

NSW Health does not support removal of obligations relating to fluoridation in the Operating Licence. NSW Health considers the licence to be the most appropriate mechanism to set out key Government requirements of public interest in a succinct and accessible form. This does not present duplication as NSW Health does not have an annual formal audit program, as exists for the Operating Licence. Removing this requirement and leaving the fluoridation system compliance to the NSW Code of Practice to be audited separately to the drinking water management systems would present a duplication with additional audits. The *Australian Drinking Water Guidelines* only refers to the NSW Code of Practice in the reference list of a factsheet.

NSW Health notes this position is consistent with feedback provided in the NSW Government Submission to the Issues Paper for the Hunter Water Corporation Operating Licence review 2021-22.

NSW Health supports retaining the current reporting requirements. NSW Health views water quality monitoring as an essential requirement for satisfactory implementation of a water quality management system in accordance with the *Australian Drinking Water Guidelines* and the *Australian Guidelines for Water Recycling*. NSW Health does not consider the reporting requirements excessive.

NSW Health notes IPART's comment in section 1.2 that it '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.' NSW Health considers a safe drinking water supply essential for public health and notes that loss of service for extended periods may have health impacts. If system performance standards were set based on customers' willingness to pay, there is potential that different standards may be applied for different areas. IPART should carefully consider the rationale for this approach and potential equity implications, particularly if the outcomes are health-related. NSW Health considers that there may be a risk if the current health standards are diminished.

NSW Health supports retaining the asset management system requirements and reinstating the 2-yearly state of assets report to IPART. NSW Health agrees with IPART that '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.' NSW Health has raised concern over Sydney Water's asset renewal and maintenance in recent audits. NSW Health does not object to IPART's proposal to remove the strategic asset management plan requirement if IPART is satisfied the asset management system and 2-yearly report are sufficient.

## EPA

The EPA supports retaining and strengthening clauses 5.3 and 5.5 in the Sydney Water Operating Licence, which relate to dry wastewater overflow standards and asset management.

The EPA expresses concern regarding compliance with the standard, noting that they issued Sydney Water with six Official Cautions for exceeding the limit (in its Environment Protection Licences) on the permitted number of dry weather sewage overflows in 6 of its 23 sewage treatment systems in the 2021-22 reporting period.

In 2023 the EPA implemented a long-term Pollution Reduction Program on the 23 Licences requiring Sydney Water to develop and implement a risk-based choke prioritisation framework by July 2024 for implementation over the 2025-2030 IPART price path. Sydney Water has estimated this will involve a significant increase in its expenditure on renewing, upgrading and maintaining its sewerage assets to comply with the Program requirements (approximately \$600M over the 5-year price path) to reduce sewer chokes that result in discharges of raw sewage to the environment.

After a series of significant failures in sewage rising mains and pumping stations, resulting in large discharges (millions of litres) of raw sewage to the environment between 2018 and 2022, the EPA has required Sydney Water to conduct a Mandatory Environmental Audit under the Protection of the Environment Operations Act 1997 into its entire network of rising mains and sewage pumping stations using an independent environmental auditor. This audit, currently being conducted by GHD Pty Ltd is looking into the design, construction, operation, maintenance and management of the network of rising mains and pumping stations and is anticipated to report back to the EPA in early 2024, providing recommendations for improved management of these assets. The EPA supports clauses 5.3 and 5.5 being strengthened to incentivise and fund proactive asset maintenance, to encourage Sydney Water to replace pumps and pipes in line with best practice. An audit of the asset management system in 2008 recommended when determining suitability for replacement or maintenance, Sydney Water should consider the cost of failure to include negative impacts on community and the environment, rather than just direct and immediate costs.

DPE and the EPA further support retaining the licence condition for Sydney Water to cooperate with and implement any findings from a review of the Priority Sewerage Program. The EPA notes it is important as NSW moves towards higher sewerage treatment levels and water recycling, that smaller unsewered areas are not left behind.

### Recommended Changes:

**Amend** the licence to clarify Sydney Water must comply with any health-based requirements NSW Health specifies, which are additional to the *Australian Drinking Water Guidelines* or *Australian Guidelines for Water Recycling*.

**Retain** existing quality standards, fluoridation requirements and asset management requirements (including re-instating the two yearly state of assets report).

**Consider** changes to clauses 5.3 and 5.5 to encourage proactive asset management.

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## Water conservation, long term planning and water efficiency

Water conservation and efficiency plays a critical role in making the most of our existing water supplies and helping to defer major investment in water supply augmentation. Both the NSW Water Strategy and the Greater Sydney Water Strategy highlight the importance of water efficiency, especially in the context of increasing pressures on our water supplies through a combination of climate variability and population growth. The resilience of Sydney's water system can be improved by increasing water conservation and efficiency and, in the future, by securing more reliable water supplies that include additional rainfall independent sources of water.

### *Water Conservation*

The Department of Planning and Environment - Water (DPE Water) recommends transitioning the existing requirements in the operating licence to requirements for a five-year Water Conservation Plan that:

- considers a range of options, including but not limited to water efficiency, leakage reduction and recycled water
- is consistent with the NSW Water Efficiency Framework
- considers the strategic context provided by the NSW Water Strategy and the Greater Sydney Water Strategy (GSWS)
- demonstrates Sydney Water's contribution to the water conservation targets set in the GSWS and any subsequent Monitoring, Evaluation and Reporting annual reviews
- includes an assessment of proposed programs and projects against the Current Economic Method.

The proposed water conservation program in the Water Conservation Plan should be designed to deliver the water conservation targets in the GSWS. DPE Water notes that meeting these targets will rely on contributions from both Sydney Water and DPE Water. Each agency's roles and responsibilities for this delivery will need to be articulated, agreed and formalised to support effective implementation. It is proposed that roles and responsibilities for agency delivery of programs will be included in the Water Conservation Plan and may be supported by additional agreements between the DPE Water and Sydney Water. The overall outcome we are seeking is to have a detailed document that reflects on the performance of the water conservation program over the previous 12 months and demonstrates use of this data to revise and adapt the forward five-year rolling program.

OPE Water supports the proposed change that would require Sydney Water to report on their contribution to water conservation as part of the Water Conservation Plan. A separate Water Conservation Report is not required if the requirements for the reporting manual for water conservation and planning are met through the Water Conservation Plan.

DPE Water believes that the Water Conservation Plan should be reviewed annually and submitted to an appropriate cross-agency governance forum for oversight and decision-making, to ensure consistency with implementation of the GSWS, and to also ensure that there is support for the revised Water Conservation Plan. Reporting back to this governance forum also enables

consideration of the joint contribution of OPE Water and Sydney Water to the Water Conservation Plan. Ideally, the timing of the Water Conservation Plan would be in alignment with the broader Monitoring, Evaluation and Reporting process undertaken annually for the GSWS. OPE Water views that delivery of the Water Conservation Plan by 1 December each year would support this timeline. These proposed changes to Sydney Water's licence are consistent with changes made in Hunter Water's Operating Licence under its Water Conservation Plan.

OPE Water recommends IPART also make changes to the reporting manual for Sydney Water consistent with those currently in place for Hunter Water, including, but not limited to, reporting on the number of programs, actual program costs, and forecast and actual water savings. We view that these reporting requirements will not create a significant regulatory burden and that their inclusion is in alignment with previous provisions, provides an increase in transparency, and is consistent with the Audit Office Report on Water Conservation in Greater Sydney.

## **NSW Government Water Efficiency Framework**

The NSW Government has released its NSW Government Efficiency Framework, which provides clear steps to design, deliver and review water efficiency programs. Adoption of the Water Efficiency Framework will support a more outcomes-based approach, with the outcomes for water efficiency set at a strategic level. The NSW Government Water Efficiency Framework outlines an approach for economic assessment of water efficiency projects that moves beyond the current Economic Level of Water Conservation (ELWC) approach: it provides utilities flexibility to incorporate analysis of qualitative economic assessments undertaken. The intent of these reforms is to ensure that quantitative assessments continue to occur and form part of the decision-making process but are not the only factor considered when making decisions about water efficiency.

To this end, OPE supports retaining clauses in the operating licence that require Sydney Water to assess water conservation measures using the Current Economic Method, which at this time is ELWC. This assessment should be included in the Water Conservation Plan. OPE Water recognises that there may be some water conservation activities, such as Research and Development and pilot programs, that may be assessed as inefficient but may still be included in the Water Conservation Plan. There is benefit in a holistic program of actions designed to deliver the Greater Sydney Water Strategy (GSWS) targets over time, in alignment with the proposed Water Conservation Plan approach.

OPE Water suggest that Sydney Water should not be required to implement all measures that are assessed as economic. There may be instances where this does not deliver the best overall outcome and that could also lead to economic evaluation of a smaller number of potential programs which is not consistent with the Water Efficiency Framework. Overall, the Water Conservation Report should report on the economic efficiency of programs and demonstrate that they deliver value for money. It should monitor progress against the Current Economic Method ELWC as well as progress towards the GSWS targets. Where specific projects/programs are included in the Water Conservation Plan, but are not necessarily economic as per the method, their inclusion should be justified on the basis of alignment with strategic outcomes.

DPE Water notes that our review of the Current Economic Method may result in refinements over time. DPE Water does not foresee these to be significant and anticipates that they will likely focus on capturing broader costs and benefits.

DPE Water supports conditions in the operating licence that would allow Sydney Water flexibility to modify their economic approach. There should be a role for the Department in reviewing any newly proposed methodology from Sydney Water and this should be subject to OPE Water approval. Equally, any changes proposed to the methodology by DPE Water would be subject to consultation with Sydney Water and IPART before implementation.

### Recommended Changes:

**Amend** the licence to reflect updated requirements in the Greater Sydney Water Strategy for Sydney Water to develop, maintain and implement a 5-year Water Conservation Plan, consistent with the NSW Government Water Efficiency Framework and similar changes made to the Hunter Water Operating Licence during the 2021-22 review. The Water Conservation Plan will articulate roles and responsibilities for DPE and Sydney Water with regard to program delivery and accountability for GSWS implementation.

**Amend** the reporting manual to enhance transparency by requiring reporting on the number of programs, actual program costs, forecast and actual water savings, and other metrics useful for assessing performance against water efficiency targets and conservation outcomes. Inclusion of these reporting requirements is in alignment with previous provisions and those currently in place for Hunter Water.

**Retain** clauses in the operating licence that require Sydney Water to assess water conservation measures using the Current Economic Method, while supporting greater flexibility in how proposals are assessed within the NSW Government Efficiency Framework, including consideration of qualitative economic assessments and broader strategic alignment with the Greater Sydney Water Strategy. DPE Water supports conditions in the operating licence that would allow Sydney Water flexibility to modify their economic approach, subject to DPE Water review and approval of any newly proposed methodology.

## Long Term Water and Drought Response Planning

OPE Water is interested in taking a collaborative approach to long-term planning and recommends, along with the EPA, that Sydney Water should be required to maintain a Long-Term Capital and Operational Plan (LTCOP) in cooperation with WaterNSW. This should be updated and reviewed periodically, with a draft provided to DPE Water for comment and sufficient opportunity to review prior to it being finalised and provided to the Minister.

DPE recommends changes to the Sydney Water Operating Licence to align with clause 2.8 in the current WaterNSW licence, which requires the Long Term Capital and Operational plan (LTCOP) and Drought Response Plan be developed jointly with Sydney Water.



DPE Water agree with IPART that there should also be a requirement for Sydney Water to maintain and implement their actions and obligations under the Greater Sydney Drought Response Plan. Sydney Water should work with WaterNSW to revise the drought response plan annually and submit to DPE Water for review and comment prior to finalisation and DPE Water endorsement.

Delivery of Drought Response Plan, Long term Capital and Operational Plan and other augmentation planning documents are fundamental to the delivery of the GSWS. As such, Sydney Water will need to participate in any reviews led by DPE Water and should engage closely with DPE Water on any Sydney Water led reviews, including provision of relevant documents to DPE Water upon request.

To facilitate this, the operating licence should continue to require a data sharing agreement between Sydney Water and DPE to assist with the implementation and review of the State policy objectives in the NSW Water Strategy, the GSWS and Water Sharing Plan.

## Supply Augmentation Planning

The Ministerial Direction issued to Sydney Water and WaterNSW on 22 January 2021 transferred the supply augmentation planning function to Sydney Water and created the requirement for a MoU. DPE notes the current intention is for the planning function to continue to be led by Sydney Water, with the asset related inputs to be provided and outcomes to be implemented by Sydney Water and WaterNSW based on their respective responsibilities under their Acts and Operating Licences. For example, Sydney Water would lead the overall planning, as well as asset planning for water treatment, distribution and Rainfall Independent Supplies (RFIS) in consultation with WaterNSW. On the other hand, given that WaterNSW manages and operates dams within the Sydney catchment as well as being responsible for protecting the health of Sydney's drinking water catchments, WaterNSW is expected to implement augmentation outcomes - including asset planning - for their assets, in consultation with Sydney Water. Coordinated planning and cooperation between WaterNSW and Sydney Water is necessary to support effective augmentation planning and drought response planning, and is also necessary to implement actions in the Greater Sydney Water Strategy. The Operating Licences for both SOCs must give clear direction to both Boards as to the expectations of the NSW Government that Sydney Water and Water NSW will ensure that the operational state and the planned future state of their assets will reasonably meet the supply demands of Greater Sydney.

This overrides the previous ministerial direction currently published and gives effect to planning responsibilities as outlined in the Greater Sydney Water Strategy.

DPE Water supports the use of MOUs between parties to create clear and transparent roles, responsibilities and expectations that assist with the delivery of services. Though not a party to the agreement, we support an MOU if it aids in delivering these outcomes. Where there are any relevant regulatory arrangements, these should also be included in the MoU between the Water Administration Ministerial Council (WAMC) and Sydney Water.

## Operation of the Sydney Desalination Plant

A Decision Framework was developed and is in place between Sydney Water and DPE Water in consultation with the Sydney Desalination Plant (SDP). The purpose of the Decision Framework is to provide a clear and in-depth framework for production ordering from SDP. It is the intent of the

document to demonstrate that the decision-making process will lead to making production requests to SDP that are aligned with the objectives and direction set in the GSWS, while balancing costs and risks efficiently for customers. The operation of SOP in accordance with the Decision Framework and the licence requirement to meet an annual production request should adequately protect customer interests and DPE Water is of the view that no further licence obligation is warranted.

If in the future there is a view from any of the parties that the Decision Framework is not achieving its intended outcome, either Sydney Water, DPE Water or SDP can propose modifications that will need to be agreed between DPE and Sydney Water and follow consultation with SDP.

### Recommended Changes:

**Amend** and update the long-term planning clauses in the Sydney Water Operating Licence (cl. 3.2) to align with the long-term planning clauses in the WaterNSW Operating Licence (cl. 2.8). These clauses outline that the development of the long-term capital and operational plan and the drought response plan are to be undertaken jointly by WaterNSW and Sydney Water and should be consistent. Actions in the Greater Sydney Water Strategy (Action 2.4, Action 2.5) similarly assign primary responsibility to both Sydney Water and WaterNSW for implementation of long term planning and water supply augmentation.

**Amend** the relevant clauses to clarify that Sydney Water will lead the systems based supply augmentation planning for Greater Sydney in consultation with WaterNSW, with WaterNSW responsible for implementing outcomes relating to its assets.

**Consider** how the licence can facilitate better collaboration and informed decision making in long term planning, by requiring a draft is provided to OPE Water for comment and sufficient opportunity to review, prior to it being finalised and provided to the Minister.

## Climate Change

The Office of Energy and Climate Change (OECC) and the Department of Planning and Environment support including an explicit reference to climate change in the licence objectives as it would remove any doubt on the need for Sydney Water to incorporate appropriate climate change mitigation and adaptation measures into its operations. Such a change is consistent with the principal objectives in the *Sydney Water Act 1994* to protect public health and the environment, and be a successful business, including by having regard to the interest of the community. It also reflects shared commitments Sydney Water and DPE Water have through joint actions in the GSWS to transition water services in Sydney towards a circular economy model, to support delivery of the NSW Government's net zero emissions targets (Action 3.4).

The Statement of Expectations (SoE) issued to Sydney Water in 2022 further conveys that Sydney Water is expected to operate its business in a way consistent with the NSW Government's Net Zero 2050 plan. The NSW Government intends to legislate the State's targets to reach net zero emissions

by 2050 and reduce emissions by 50 per cent by 2030 compared to 2005 levels, to increase accountability and encourage wider government action. The NSW Government will also create a Net Zero Commission to monitor and report on progress towards its emissions reduction targets. Other roles the Commission will play include reviewing existing climate change plans and policies and making recommendations for further action and advising on emerging opportunities for jobs and investment.

Sydney Water has set its own more ambitious targets, to achieve net zero emissions across its business by 2030 and across its supply chain by 2040.

OECC notes Sydney Water reported total scope 1 and 2 emissions of 353,603 tonnes of carbon dioxide equivalent for the 2021-22 financial year. Sydney Water is required to annually report its emissions under the National Greenhouse and Energy Reporting Scheme (NGERS) due to the significance of these emissions.<sup>1</sup> The Environment Protection Authority (EPA) is also considering emissions reporting for specific Sydney Water facilities under its Climate Action Plan. IPART note in their Issues Paper that there still remain gaps in reporting, particularly that Sydney Water does not publish its progress towards achieving net zero.

OPE Water and the OECC support an additional requirement being added to the operating licence reporting manual for Sydney Water to report on its progress to net zero, to aid transparency and accountability, while avoiding duplication in reporting required under other frameworks. OPE Water would like to streamline climate related reporting where possible, by improving consistency in the information gathered and increasing insights captured from the reporting.

DPE Water agrees that a climate change risk management process should be consistent with the NSW Climate Risk Ready Guide, which outlines the NSW Government's approach to best practice climate change risk management, and is informed by principles set out in the NSW Climate Change Adaptation Strategy (2022). Priority 4 under the NSW Climate Change Adaptation Strategy includes a range of actions in line with these principles, designed to embed climate change adaptation in NSW Government decision making. Action 14 requires all NSW Government agencies to identify their own climate change risks in alignment with the Climate Risk Ready NSW Guide and climate change projections by the end of 2023. This strategy action is intended to embed a consistent approach across NSW Government and is underpinned by knowledge that organisations that apply existing risk management frameworks to analyse climate change risks are better equipped to manage those risks. The requirement also responds to the September 2021 Audit Office report *Managing climate risks to assets and services*. The report found that agencies with significant assets and services have not conducted climate risk assessments and that most agencies did not have plans to adapt to climate risks. The Audit Office includes state-owned corporations in its definition of agency.

Sydney Water has been a leader in the assessment of climate change on its existing assets with the early development of the AdaptWater tool. The expansion of this tool by Government (including the Greater Cities Commission) to the Cross-Dependency Initiative (XDI tool) is enabling the determination of high risk areas to climate change across the whole region, including critical

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<sup>1</sup> Thresholds for NGERS reporting are either at the facility or corporate group level and are based on scope 1 and 2 emissions; production of energy or consumption of energy, refer [NGERS website - Key steps in reporting your obligations](#).

infrastructure, built environment, property and people. This work will enable Sydney Water to consider cross-dependency risks to key critical infrastructure, impacts of extreme weather on heat stress and human health impacts, and their role in the implementation of recommendations that will increase resilience across Sydney Water's area of operations.

OECC notes the upcoming requirements for Sydney Water to report on climate-related risks in its annual reporting in alignment with the Taskforce on Climate-related Financial Disclosures (TCFD) recommendations under the *Government Sector Finance Act 2018*. OECC also notes that Sydney Water is yet to develop/identify metrics to measure and manage priority climate risks.

OPE supports IPART auditing Sydney Water's compliance and providing assurance that climate-related risks are being identified, prioritised and managed. IPART and the community should also have visibility of how Sydney Water's climate change maturity is improving over time.

More broadly, the EPA notes the licence should not be a barrier to greater integrated land use planning required to support green infrastructure and build resilience to climate change impacts.

#### Recommended Changes:

**Amend** the objectives clause of the licence to explicitly refer to climate change to highlight the need for Sydney Water to incorporate appropriate climate change mitigation and adaptation measures into its operations.

**Amend** the reporting manual to require Sydney Water report its progress to Net Zero.

**Amend** the operating licence to require Sydney Water establish a climate risk management process that addresses climate related risks specifically, including identifying priority risks, adaptation and mitigation actions, as part of a broader program to grow Sydney Water's climate change maturity. The climate change risk management process should be consistent with the NSW Climate Risk Ready Guide, aligned with principles in the NSW Climate Change Adaptation Strategy and informed by guidance as it is updated via the Government's AdaptNSW program.

## Integrated water cycle management

Consistent with priority 3 in the GSWS ('our city is green and liveable'), the SoE sets out that the Government expects Sydney Water to contribute to the delivery of thriving and liveable communities within Greater Sydney, through the better integration of land use planning and waterway health and resource management and integrating water cycle management where appropriate.

On 25 March 2022, the NSW Government announced the appointment of Sydney Water as the trunk drainage authority for stormwater in the Western Sydney Aerotropolis, including the Mamre Road Precinct. As a result, Sydney Water are now responsible for managing stormwater in the Aerotropolis and the Mamre Road Precinct. In managing stormwater in these precincts, Sydney

Water is required to meet performance criteria related to water cycle management including waterway health targets and objectives as set out in the relevant environmental planning instruments (EPIs) including:

- the Aerotropolis Precinct Plan,
- the Aerotropolis Development Control Plan and
- the Mamre Road Development Control Plan.

It is critical that the operating licence authorises Sydney Water to manage stormwater to meet the relevant performance criteria, targets and objectives within the relevant EPIs. As trunk drainage authority for stormwater in the Aerotropolis, Sydney Water will have the largest contribution in meeting the performance criteria set out in the relevant EPIs. As such, OPE-Water supports including reporting requirements on Sydney Water to report against meeting the performance criteria including waterway health objectives and targets set out in the relevant EPIs.

It should also be noted that that the EPIs require naturalised trunk drainage, retention, or rehabilitation of trunk drainage paths as natural waterways, including vegetated riparian zones. Furthermore, it is foreseen that some trunk drainage paths and associated assets will fall within private land and therefore in private ownership. Sydney Water may be required to enter private property to undertake maintenance of trunk infrastructure located in private property.

Clause 2 of the licence (licence authorisation) clarifies the provision, management, and maintenance of Stormwater Drainage Systems (and services for providing stormwater drainage systems may include stormwater quality management and other measures as necessary to manage impacts of stormwater on waterway health).

While Clause 2.1.3 is mostly appropriate and can be applied to the Aerotropolis, there are a few things that should be considered - namely that in South Creek there are many natural watercourses, as compared to concrete infrastructure in existing drainage catchments in Eastern Sydney. Sydney Water is taking on a role to manage catchment wide stormwater via their IWCM plans. This is different to drainage catchments where they are not required to meet waterway health targets at a catchment level.

### Recommended Changes:

**Amend** the licence authorisation Chapter (Chapter 2) to require Sydney Water to manage waterways in declared catchments, by adding the additional suggested clause:

*For Declared Catchments in the South Creek Catchment, Sydney Water is required to:*

- *provide an assessment of catchment performance against the performance criteria and waterway health targets established for the catchment in relevant Environmental Planning Instruments*
- *retain or rehabilitate natural waterways, including vegetated riparian zones as per the Guidelines for Controlled activities on waterfront land - riparian corridors, all creeks with a catchment larger than 15 hectares as necessary to efficiently support meeting performance criteria and waterway health targets established for the catchment in relevant Environmental Planning Instruments*
- *Provide other infrastructure as required to efficiently support the delivery of waterway health targets, objectives and performance criteria established for the catchment in relevant Environmental Planning Instruments.*

The suggested changes are intended to ensure Sydney Water has the appropriate powers to perform the enhanced role required to implement actions under priority 3 of the GSWS.

## Customers and Stakeholders

### MoU with Fire and Rescue NSW

Fire and Rescue NSW (FRNSW) currently have a MoU with Sydney Water Corporation under the operating licence (Clause 7.2). FRNSW considers the MoU mostly effective in fulfilling its function to facilitate cooperative relationships between FRNSW and Sydney Water but suggests two changes to further enhance its effectiveness.

The first is that Clause 7.2.4 b) ii) be amended to specify the timelines within which Sydney Water's network performance data, regarding water availability for firefighting for the full network, be provided to FRNSW. This data is vital for FRNSW to be able to strategically place firefighting resources and deliver an appropriate weight of response to incidents. This information also assists FRNSW in understanding the effectiveness of the fire safety system when reviewing designs of proposed buildings.

FRNSW requests the data be provided progressively throughout and in full by the end of the licence period, for the licence commencing 2024. Since the requirement to establish an MoU with FRNSW was included in the 2015 operating licence, Sydney Water has provided data for 25% of its network. FRNSW is of the view the proposed deadline is reasonable to include given the work already completed, and Sydney Water's own assessment of the time it would likely take.

The second change FRNSW suggests to the operating licence is that it require Sydney Water to provide open access to network performance data. At present, stakeholders are largely unaware of the fire performance of Sydney Water's water mains. Compounding this issue is the fact Sydney Water has no obligation to provide a minimum fire flow, even though the relevant Australian Standard for hydrant systems requires that performance must be met by developers and property owners for relevant buildings. Given the capacity of water mains to provide water for firefighting has significant cost implications for developers and property owners, providing open access to the data can help stakeholders make informed decisions and avoid unnecessary extra costs, or ensure they are distributed more fairly.

### **Recommended Changes:**

**Amend** Clause 7.2.4 b) ii) to specify the timelines within which Sydney Water's network performance data, regarding water availability for firefighting for the full network, be provided to FRNSW. FRNSW requests the data be provided progressively throughout and in full by the end of the licence period, for the licence commencing 2024.

**Amend** Clause 7.2 to require Sydney Water provide open access to network performance data, to assist more coordinated and integrated planning and inform decision making by developers, property owners, local councils and other stakeholders.

**Add** to the requirement to maintain a MoU with Health, the requirement to comply with that Mou.

### ***MoU with the Water Administration Ministerial Corporation (WAMC)***

Sydney Water is also required to maintain a MoU with WAMC, for the purposes of recognising the role of WAMC in regulating water access, use and management and Sydney Water's right to use water vested in WAMC. The MoU is currently being revised and updated to give better effect to its purpose.

### ***MoU with Health***

NSW Health supports retaining the obligation to require a Memorandum of Understanding (MoU) with NSW Health and the addition of a requirement to comply with the MOU. As the MoU is a requirement of the Operating Licence, NSW Health considers that complying with the MoU is already implied but supports the inclusion for clarity. The MoU outlines the basis for the cooperative relationship between the organisations and has been revised as required over time. The MoU review is aligned to the Operating Licence review which provides an opportunity to revise any relevant clauses.

### ***MoU with the EPA***

The EPA acknowledges the required MoU is maintained and functional.

## Community

Sydney Water's customers are at the centre of the Operating Licence. In line with the SoE, Sydney Water is looking to prioritise investments and services through meaningful engagement with customers and stakeholders to service key areas of population growth (to support the NSW Government's objectives to fast track social and affordable housing) and minimise pressure on customer bills, while enhancing resilience to climate change.

The Issues Paper notes that while almost one third of NSW residents rent their home, the customer contract only exists between Sydney Water and landlords, and many of the benefits (such as rebates and bill relief measures) are not available to tenants or must be accessed indirectly through landlords. The Issues Paper identifies this can create barriers for tenants in accessing payment assistance options if it means disclosure of their financial situation to their landlord, which may put their tenancy at risk. We support changes to the operating licence which mitigate these risks by facilitating easier access for tenants. The NSW Government also recognises many vulnerable households or those experiencing financial difficulties are renters, and supports extending greater bill relief measures to vulnerable households and tenants.

OPE Water supports actions Sydney Water is taking to improve the access to information it makes available to all its customers through various avenues, including those it may not have a direct relationship with. Sydney Water should consider the diversity of its customers when considering the format and avenue to make information available, in line with NSW Government strategies such as the Department of Customer Service's Aboriginal Customer Engagement Strategy, which seeks to ensure Aboriginal customers receive services and support in culturally safe and respectful ways.

While Sydney Water does not have the same educative role specified in its licence that WaterNSW does, community engagement on water conservation and efficiency could also contribute to easing cost of living pressures for customers. For example, providing information about leaks, their impacts on bills and how to fix them in a variety of languages. More broadly, the NSW Government is proactively supporting water utilities to diversify sources of water including desalination, stormwater harvesting and recycling (Action 6.7, State Water Strategy, Priority 2 GSWS), and engage with local communities to understand preferences for additional water supplies, to ensure our water systems are sustainable and affordable for the long term and resilient to extreme events.

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## Competition and Transparency

OPE Water agree with IPART that the operating licence should continue to require a data sharing agreement between Sydney Water and OPE to assist with the review of the Greater Sydney Water Strategy.

More broadly, OPE Water supports information sharing arrangements that allow data to be published, following consultation with utilities, aligned with principles in the NSW Government Open Data Policy and the Chief Data Scientist and Engineer's 'Review of water related data collections, data infrastructure and capabilities' (July 2020).



With the re-introduction of developer charges, Sydney Water will publish information on developer service plans (DSPs) and review them every five years. OPE Water support retaining the requirements for Sydney Water to publish servicing information until industry feedback is received confirming there are no gaps in the information required.

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## Next Steps

The NSW Government appreciates the opportunity to respond to the Issues Paper. The recommended changes canvassed in this submission are intended to strengthen the effectiveness of the operating licence as a regulatory tool enabling Sydney Water to deliver key outcomes for its customers, by ensuring there is adequate long-term planning to support future population growth and housing supply; climate change resilience and adaptation are prioritised; and, ensuring investments are efficient and minimise cost of living pressures. The NSW Government looks forward to IPART's release of the draft operating licence and customer contract.