

Submission to IPART Hunter Water Operating Licence Review

Draft Report

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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Introduction

PIAC broadly supports the Draft Hunter Water Operating Licence (the Draft).

We commend the progress in quality and transparency of IPART engagement processes demonstrated in the Draft. The Draft clearly presents the input of stakeholders in response to each issue and provides transparent explanation of how input was incorporated or why it was not. While regulatory processes can be difficult to access, ensuring transparent presentation of input and response to it is crucial to demonstrating the value of involvement for stakeholders and the community. The presentation of and response to stakeholder input, and explanation of positions demonstrated in the Draft should be an example adopted across IPART processes.

At various points the Draft discusses the retention of requirements in Hunter Waters' Licence and suggests that requirements may not be necessary because Hunter Waters' performance shows no evidence of an issue. PIAC cautions against this approach. The existence of requirements is likely to be a determining factor in Hunter Waters' good performance. Any removal or reduction in requirements risks introducing new performance issues. Where the requirements relate to aspects of service or performance that have material impact on the community, PIAC regards introducing this risk as unnecessary.

In the remainder of this submission, we highlight areas of particular importance and have identified areas where further amendments are required.

Water Quality Standards

PIAC supports the NSW health position that NSW health endorsed Australian Drinking Water Guidelines (ADWG) and Australian Guidelines for Water Recycling (AGWR) be retained as required minimum standards for water quality. PIAC regards these minimums as 'consumer and community needs' which should be guaranteed and not be subject to trade-offs or willingness to pay assessments. Where the community expresses a definitive preference for higher quality standards and a willingness to pay, this should be allowed.

The Draft states that in the event of inconsistency between requirements specified by NSW health or the ADWG, PIAC agrees that minimums defined by NSW health should be met. However, it would be more appropriate for the highest standard to apply wherever there is inconsistency, to ensure that NSW communities are not subject to lower standards than those elsewhere in the country.

System performance standards for service interruptions

PIAC supports retention of existing service performance standards levels. We agree it would not be appropriate to reduce service levels and further impact customers who may already disproportionately affected. IPART could direct hunter water to consider additional service measures which better identify problem areas and are able to inform programs to address issues for customers and communities who may be impacted by service performance that is below expected minimums.

Expressing system performance standards as a proportion of supplied properties helps ensure a consistent longitudinal measure that can account for growth and other changes in the system. PIAC supports this improvement, in addition to identifying areas of concentrated performance issues. Together these should provide a more accurate picture of the system performance over time and how Hunter water is meeting the needs of all the community.

Water conservation and efficiency

PIAC supports improvements to ensure the total water cycle is subject to an assessment methodology for conservation. Hunter Water's systems from catchment to treatment are large and complex and consistent application of assessments for conservation opportunities could provide significant benefit to the community.

Long term planning

PIAC supports including a requirement to prepare a drought response plan consistent with that of Sydney Water. However, it should be made clear that drought response is not only to conditions of declared drought, but long-term actions taken to avoid or mitigate the impacts of drought. Accordingly, drought response plans should be integrated into long-term planning rather than be stand-alone instruments.

Reporting requirements

PIAC supports the draft recommendation to retain reporting requirements in support of proposed Licence conditions relating to water conservation. We agree these requirements should be updated to require Hunter Water to report annually on how conservation activities relate to Lower Hunter Water planning.

Licence requirements for the Customer Contract

PIAC supports retaining requirements to maintain and update the customer contract and make it accessible to consumers and the community in formats and circumstances that inform and assist people. The proposed requirements set out in box 13 of the Draft are appropriate for this purpose.

Communicating customers' rights under the Customer Contract

PIAC supports draft recommendations 24 and 25 in relation to communication of customers' rights. Draft recommendation 26 should be amended so any method of communication with the community is possible, while also clarifying that communication should not be restricted to 'digital only' formats. PIAC recommends clause 4 in Box 15 of the Draft be amended to read:

'Hunter Water must publish on its website and advertise at least annually in a manner that Hunter Water is satisfied is likely to be *accessible to all members of the public and not limited to digital platforms*'

Consumers

PIAC strongly supports retention of licence conditions extending protections to ‘consumers’ not usually regarded as party to the customer contract. This is an important means of addressing unreasonable disadvantages experienced by residential tenants, and we support the provisions IPART have proposed to extend. Clauses relating to the customer contract, payment difficulty and assistance, restriction and disconnection, customer consultation, and payment information should be added to existing provisions which apply to consumers. The proposed licence conditions outlined in Box 16 of the Draft should proceed and would represent an important step in addressing the disadvantage tenants face in their rights to access essential water services.

Obligation to make services available to properties

PIAC supports retaining requirements for Hunter Water to make services available to properties in its area of operations, on request. We understand there are no current issues with Hunter Waters performance in this matter but note that an absence of issues cannot be regarded as evidence the requirement is not needed. This clause is one of many examples where the absence of issues is likely to be a direct result of the requirement in Hunter Waters Licence.

Payment assistance options

PIAC supports recommendation 30 in the Draft regarding communication of assistance options and actions for non-payment. IPART should consider an addition to clause 2 in Box 18 of the Draft to ensure Hunter Water develops systems to directly provide this information to residential tenants. This could be achieved by an additional requirement to annually provide this information to all connected properties, and support provision of this information through tenant agents or through the rental bond board at the time of bond lodgement.

Family violence policy

PIAC supports the inclusion of a new licence requirement to develop, implement and communicate a family violence policy. IPART should consider an addition to clause 3 of Box 19 in the Draft, to ensure Hunter Water develops systems to directly provide this information to rental tenants. This could be achieved by an additional requirement to annually provide this information to all connected properties, and support provision of this information through tenant agents or through the rental bond board at the time of bond lodgement.

External dispute resolution

PIAC supports retention of requirements for Hunter Water to be a member of an approved external dispute resolution scheme, and to communicate information regarding this membership to consumers and the community. PIAC strongly recommends Hunter Water remain a member of the Energy and Water Ombudsman, which has a demonstrated record of high-quality performance in external dispute resolution in essential services.

Consulting with customers.

PIAC supports licence conditions embedding the centrality of consumer and community engagement in the decision-making processes of Hunter Water. We understand the intent to focus on required principles of good engagement and demonstration of outcomes of engagement and agree this is not necessarily best achieved by prescribing specific engagement methods. We reiterate our recommendation that a Community Advisory Group (CAG) or equivalent body continue to be specified as a required aspect of engagement. We do not consider this is unduly restrictive, and it provides scope for Hunter Water to develop a range of other consultation mechanisms in addition to its CAG. The CAG provides a vehicle for oversight of other engagement undertaken by Hunter Water, and an ongoing opportunity for community voices to shape that engagement.

Related to the format of engagement is the issue of how engagement is framed. PIAC recommends Hunter Water's licence requirements refer to consultation with consumers and the community, rather than customers. The customer relationship is just part of the wider relationships Hunter Water has with the people they serve. Hunter Water's services, investments and decisions impact all people in their community in a range of intersecting ways. Requiring Hunter Water to undertake consultation and engagement with consumers and the community in their area of operation would be more accurate representation of their responsibility.

PIAC strongly supports the proposed addition of a clause requiring Hunter Water to improve its direct relationships with consumers such as residential tenants. We understand that more effective relationships with tenants will take time and potentially involve changes to systems and processes. But incorporating this requirement into Hunter Waters licence now will help ensure this work commences and is given due consideration and resources.

PIAC recommends the clauses outlined in Box 22 of the Draft be amended so that:

Hunter Water must undertake *consumer and community* engagement that is *meaningful*, relevant, representative, proportionate, objective, clearly communicated and accurate to:

(a) understand *community and consumer needs, interests and preferences*, and willingness to pay for service levels *beyond required minimums*.

(b) understand how its systems and processes can better support more effective, direct relationships with consumers including residential tenants

(c) Obtain advice and perspectives on the customer contract, and

(d) obtain advice on such other key issues relating to Hunter Waters planning and operations under this Licence *which impact on consumers and the community in Hunter Water's areas of operation*.

Licence objectives

PIAC agrees with IPART's perspective on the importance of the stated objectives for Hunter Water's operating licence and strongly supports the proposed objectives outlined in Box 37 of the

Draft. IPART has clearly considered the input of stakeholders and reflected recommendations made by PIAC, DPE and Hunter Water. This response is a demonstration of well-executed engagement, with transparent presentation, consideration, and response to input. IPART is to be commended for this approach which should serve as an example to be followed in all regulatory processes undertaken by IPART.

Further consultation

PIAC welcomes the opportunity to meet with IPART and Hunter Water to further discuss any aspects of the Draft.