



Hunter Water Operating Licence Review 2021-22

Response to Issues Paper

15 November 2021



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1 Executive summary

Sydney Water welcomes the opportunity to share our views on the Independent Pricing and Regulatory Tribunal (IPART)'s review of the *Hunter Water Operating Licence 2017-22*.

IPART has taken a comprehensive approach to the review, considering each area of Hunter Water's Operating Licence in its Issues Paper.¹ While we agree it is important to allow stakeholders an opportunity to raise issues, a clause-by-clause approach to Operating Licence reviews can be resource-intensive and serve a limited strategic purpose. Such an approach can mean spending significant time and resources responding to requests for information to inform cost-benefit-analysis on a theoretical change, even where all stakeholders are satisfied with current licence conditions.

As discussed in our submissions to IPART's review of its regulatory framework, we believe that an Operating Licence review by exception would be more efficient, while still delivering value to customers and the community.² Under such an approach, reviews could be targeted to focus on areas of concern or potential gaps, making the best use of available resources. For some areas, such as water quality, there may be little value in reviewing these licence conditions at each review unless stakeholders such as NSW Health raise concerns.

Turning to this submission, we generally support Hunter Water's positions outlined in its response. We also provide comment on some specific licence areas based on our experience.

Key areas in our response include:

- **Water conservation** – this is an important performance area for customers and stakeholders. Our experience has emphasised the need to maintain a robust, diverse baseline program and highlighted some challenges with implementation requirements that focus solely on an economic assessment. We support recent moves by Government to focus on strategic drivers and objectives of a broader water conservation program, in addition to an economic assessment of individual measures.
- **System performance standards** – we support the licence including minimum standards to meet legislative requirements and provide a safety net for customers, rather than attempting to optimise these standards. A broader discussion of customer outcomes, including both customer service and environmental outcomes, can then be undertaken in the context of the price review.
- **Publication of servicing information** – we have had little interest to date in the information we have published to meet our licence requirement in this area. We note that the proposed requirement for Hunter Water may become unnecessary with the publication of Development Servicing Plans, expected to be put on public exhibition in 2022-23.

¹ IPART, [Hunter Water Operating Licence Review Issues Paper](#), September 2021.

² Sydney Water, [Response to Discussion Paper 1 - Lifting performance in the sector](#), June 2021, pp. 17-18.



The rest of this submission is structured to mirror IPART's Issues Paper:

- Section 2 covers performance standards, water conservation and planning
- Section 3 covers customer obligations
- Section 4 covers processes and systems
- Section 5 covers administrative clauses.

We would be happy to provide IPART with clarification or additional information that could be of assistance in their review.



2 Performance standards, water conservation and planning

2.1 Drinking and recycled water quality management

In general, we support licence conditions requiring the maintenance and implementation of drinking and recycled water management systems and the compliance of those systems with any other requirements specified by NSW Health.

Management systems or Water Safety Plans (as they are alternatively known in water industry guidance) are an integral part of ensuring drinking and recycled water safety and are considered best practice water management. In line with the Australian Drinking Water Guidelines (ADWG) and Australian Guidelines for Water Recycling's (AGWR), management systems provide a logical and rigorous approach for managing public health risks, meeting a variety of embedded water standards, and ensuring customer satisfaction with these products.

We do not know of an alternative water quality standard to the ADWG or AGWR that would be more appropriate, or more cost-effective in ensuring the protection of public health, and the environment in the case of AGWR.

2.1.1 Fluoridation Code



We have had mixed experiences with having a separate licence condition requiring compliance with the NSW Code of Practice for Fluoridation of Public Water Utilities Supplies ('Code of Practice').

The main benefit of having the licence condition is that it reiterates our commitment to the fluoridation of the water supply and provides assurance to the public that we are meeting our obligations under the *Fluoridation of Public Water Supplies Act 1957* (NSW).

The main cost is that we face additional auditing of our fluoridation obligations. As noted by Hunter Water, fluoridation is part of the drinking water management system and can already be audited under the clause to implement and maintain a drinking water management system consistent with ADWG, and to meet requirements of NSW Health (e.g. the 'Code of Practice'). In our experience, this can and does mean that fluoridation is audited under both the drinking water management and the fluoridation code clauses in our Operating Licence, with one finding on fluoridation potentially impacting two clauses.

2.2 System performance standards

We do not have a view on the areas covered by Hunter Water's performance standards for service interruptions, or the specific levels used. These are matters for Hunter Water, their customers and other stakeholders to comment on. In our view, the type or level of performance standards in Hunter Water and Sydney Water's licences do not need to be the same, as there are



geographical differences between us, and our customers may have different views and preferences.

We support Hunter Water's preference for performance standards to reflect a minimum level of performance, rather than an optimal level. As discussed in our response to IPART's Discussion Paper on *Lifting performance in the water sector*,³ we believe that operating licences should reflect minimum performance standards to protect consumers. In our view, this is the intended objective of legislative requirements for operating licence conditions relating to service interruptions. Delivery of service levels above those standards, informed by customers' willingness to pay, should be agreed with customers via the price review, within a broader context that considers a range of outcomes beyond the set of standards in a utility's operating licence. This would allow more explicit consideration of price-quality trade-offs and a more holistic consideration of these trade-offs in the context of the overall bill. This approach seems more consistent with IPART's direction as outlined in its Discussion Paper on *Encouraging innovation in the water sector*, which recommends the introduction of outcome delivery incentives as part of the price review process, as well annual reporting on outcomes that utilities have proposed in their pricing submissions, which have been informed by customers.⁴

System performance standards can be expressed in a number of ways, using proportional (ie a 'percentage of properties supplied') or absolute thresholds (eg number of properties). Our preference is to use proportional thresholds over absolute thresholds, as a proportional approach better accounts for customer growth. We note that previous breaches of our performance standards have been influenced by a small number of large events impacting a significant number of properties. Accordingly, having an adequate amount of headroom is important if absolute thresholds are used.

2.3 Water conservation

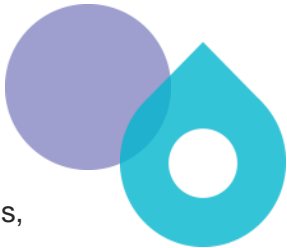

Water conservation is typically an important area for a utility's customers and stakeholders.

In our experience we have found that it is important to consider a wide range of factors, including financials, market demand, legality and drought response plans, when implementing water conservation measures in addition to an economic assessment of measures. It is important to develop a diverse, scalable, and robust baseline water conservation program that supports a wide range of customers. This will support both residential and business customers better prepare for the changing climate, including more extreme and frequent droughts and heatwaves. It also allows for measures to be quickly implemented or increased in drought if needed. It takes significant time to develop new programs and is often not feasible to have water conservation programs 'sitting on the shelf' ready to implement when dam levels drop.

Ongoing investment in research and development (R&D) and data/analytics capability is needed so that the water conservation program continues to improve, grow and adapt. This will build

³ Sydney Water, [Regulating water businesses - Response to Discussion Paper 1 Lifting performance in the sector](#), June 2021, pp. 17-18.

⁴ IPART, [Discussion paper - Encouraging innovation in the water sector](#), August 2021.



knowledge and understanding of water saving potential by exploring new opportunities, innovations, and emerging technologies.

Other factors for consideration include market testing the attractiveness of programs with a diverse cross-section of customers, validating cost and benefit assumptions at scale, exploring different commercial offerings and understanding where initiatives are going to be most effective (ie location / type of customer). It can be challenging to assess R&D and data/analytics initiatives against an economic method such as the Economic Level of Water Conservation (ELWC) when there is uncertainty around water saving potential and market attractiveness. Additionally, there may be programs of work that are not economic to deliver but provide other benefits to the community and therefore should be incorporated as part of the water conservation program regardless (for example, supporting vulnerable customers through hardship). Finally, even though a program may be assessed as economic, there could be other barriers to delivery. Customers may not find the program attractive; it might not be competitive neutral or there could be other delivery models that better stimulate the market for the benefit of the community (that is, initiatives not being delivered by Hunter Water).

We note that the Department of Planning, Industry and the Environment (DPIE) have recently conducted a review of the ELWC and are planning to roll out a Water Efficiency Framework across NSW. It is important that Hunter Water's licence obligations in this area are aligned with broader Government policy, any potential changes to the ELWC methodology and the proposed Water Efficiency Framework. However, it is important that utilities be given autonomy and the responsibility to develop their own water conservation strategies and programs, rather than having specific directions or actions prescribed by Government policy.

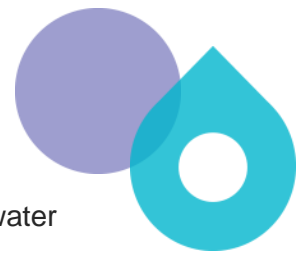
We also support Hunter Water's comments regarding funding challenges. Currently, there is a disconnect between our funding for water conservation included in our price determination (baseline vs drought, triggered at 60% dam levels) and our Operating Licence requirement to implement all measures that are assessed as economic.

2.4 Water planning

Effective water planning is critical to ensuring there is a sustainable source of water supply for customers over the future, and the participation of public utilities is an important input to urban water planning processes. Accordingly, where water planning conditions are added to an operating licence, there is value in aligning those conditions with the current urban water policy direction and processes in a utility's broader operating environment.

However, it is also important to consider the practicality of auditing licence conditions in this area. For example, it may be difficult to audit licence conditions relating to Integrated Water Cycle Management (IWCM) and objectively assess the degree to which it has been implemented as a principle in a utility's water planning processes.

We also note that there are differences between Hunter Water and Sydney Water in terms of our structure and operating environment. As a vertically integrated utility, Hunter Water may not need licence conditions relating to cross-organisational planning, to 'join up' planning between different



agencies responsible for different elements of the water supply chain. As such, our water planning obligations and any included for Hunter Water may differ.





3 Obligations to customers

3.1 Protecting customers' rights

3.1.1 Customer billing

Complaints provide valuable insights and are an important internal reporting mechanism that can drive improvement opportunities. However, reporting of billing complaints numbers, without context, can be flawed and is not an effective indicator of declining performance or customer satisfaction. It can deter organisations from actively seeking important feedback from their customers. Hunter Water's complaint information is appropriately reported in their Annual Report where there is an opportunity to provide relevant context and analysis.

3.1.2 Customer rights

We support licence conditions to protect customer rights, including requiring utilities to remain a member of an external dispute resolution scheme. We understand that this is an important protection measure for customers. However, the current prescriptive approach (nominating a single service) does not enable the utility to seek services from a relevant dispute resolution scheme based on the value that service delivers to our entire customer base. An ability to select a service which delivers the best value for customers contributes to overall cost efficiencies and helps keep customer pricing affordable. For example, a system where fees are based on the number of complaints that are managed by the dispute resolution scheme would also help reward customer service improvements made by the utility, creating an overall benefit for customers.

3.1.3 Customer rebates under the Customer Contract

The type and level of rebates in the Customer Contract are matters for Hunter Water, its customers and other stakeholders to comment on.

We note that there is a large range of variability across Australian utilities on the extent of level of rebates provided, and do not consider there needs to be consistency in this area between Sydney Water and Hunter Water.

3.2 Consulting with customers

We support a non-prescriptive approach to customer engagement obligations and the proposed broadening of Hunter Water's requirements to allow for other consultation methods beyond its customer council. This revision may be superseded by IPART's proposed changes to how it regulates water businesses, as ongoing and meaningful engagement is implicit in IPART's proposed 3Cs framework to assess utility pricing proposals: Customer focus, Cost efficiency and Credibility.⁵

⁵ IPART, [Discussion paper - Encouraging innovation in the water sector](#), August 2021, pp. 2-11.



4 Processes and systems

4.1 Organisational management systems

We consider the costs and benefits of IPART's proposed changes to licence obligations regarding management systems are a matter for Hunter Water to comment on.

If the conditions are retained, we support Hunter Water's preference for the licence to refer to the international or ISO version of the standards, rather than the Australian version. Currently, our certifications for our Asset Management System, Quality Management System and Environmental Management System are also done against the international versions of the standards.

As noted in Hunter Water's submission, in practice, the content in the international and Australian versions are identical so this will not lead to any difference in outcomes. In fact, there usually is a lag between the ISO and Australian versions of the same standard, so using the Australian version of the standard could mean that we are late in adopting best practice.

4.2 Stakeholder cooperation

4.2.1 Cooperating with agencies

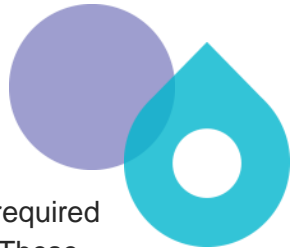

Whether it would be helpful for the Rural Fire Services (RFS) to be involved in the MOU with Fire and Rescue NSW (FRNSW) is a matter for Hunter Water to comment on, as this depends on their operational context. However, we would not see value in this for our own context, as there are not necessarily common issues between these organisations. Our MOU with FRNSW already allows for the RFS to be included in engagement on relevant matters, where appropriate and where agreed by both Sydney Water and FRNSW. We also have established programs in place that are more relevant to the RFS, for example, to undertake hydrant inspections before bushfire season.

Any licence requirement regarding cooperation with third parties should only be applied to the utility at a 'best endeavours' level. This ensures that the utility's compliance is measured only on aspects within its control.

4.3 Engaging with private water utilities

Since new conditions were placed in our licence regarding making services available to *Water Industry Competition Act 2006* (NSW) ('WIC Act') licensees, negotiating with WIC Act licensees and 'potential competitors' in good faith or cooperating with WIC Act licensees seeking to establish a code of conduct, we have had no requests for new agreements or codes of conduct. We were contacted by one licensee seeking to update their code of conduct following an audit recommendation made as a result of their annual operational audit.

We have also had little interest in the publication of servicing information to meet new requirements in our Operating Licence. To date, this information has only been accessed by one interstate government agency. We note that a licence condition to publish servicing information



could be unnecessary and / or duplicative in the future, as public utilities will also be required to publish development servicing plans with the reintroduction of developer charges. These plans would include very similar information, and, as suggested by Hunter Water, any major deviations could be noted in our annual Growth Servicing Plan. Under current timeframes, we expect to publicly exhibit draft Development Servicing Plans for water, wastewater and stormwater services in 2022-23. They would then be reviewed and updated every five years. If a private utility needs more up-to-date information during that time, they could request this from the public utility.

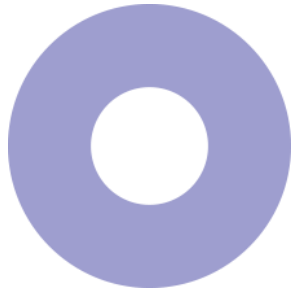
Regarding reporting on matters such as agreements established with WIC Act licenses and the time taken to respond to information requests, these areas can often raise confidentiality concerns. In practice, many discussions are confidential and/or commercially sensitive. If included, we suggest this requirement be limited in scope to matters that can be measured relatively objectively, without revealing any confidential or commercially sensitive information.



5 Administrative clauses

5.1 Licence objectives

Our only comment on administrative clauses is that any change to Hunter Water's Operating Licence objectives should be consistent with the principal objectives of the *Hunter Water Act 1991* (NSW), given the Act is the enabling instrument for the licence.



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