



Hunter Water Operating Licence Review 2021-22

Response to Draft Report

8 April 2022



Sydney
WATER



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1 Executive summary

Sydney Water welcomes the opportunity to share our views on the package of reports released by the Independent Pricing and Regulatory Tribunal (IPART) relating to the draft Hunter Water Corporation (Hunter Water) *Operating Licence 2022-27*.

We are well placed to comment on IPART's draft licence package for Hunter Water, with many of the conditions in Hunter Water's current licence¹ and those being proposed by IPART in this review being conditions we have had experience with in our own Operating Licence.

Overall, we are supportive of IPART's draft licence package for Hunter Water.

IPART has taken a detailed and comprehensive approach, considering each area of Hunter Water's licence. In effect, most of IPART's recommendations and proposed conditions have sought to retain the current Hunter Water licence² and Reporting Manual,³ in key areas such as water quality, performance standards and obligations to customers. They are also largely in line with those outlined in Hunter Water's submissions to IPART's Issues Paper.⁴

As discussed in our response to IPART's *Hunter Water Operating Licence Review 2021-22 Issues Paper*⁵ and our submissions to IPART's review of its regulatory framework,⁶ we believe that an Operating Licence review by exception would be more efficient, while still delivering value to customers and the community. Operating licence reviews could be conducted to focus on areas of greatest value for IPART, stakeholders and customers and make the best use of available resources, rather than potentially revisiting every clause at each review as IPART currently does. This would help to reduce the significant time and resources spent on responding to requests for information to inform cost-benefit-analysis on what are sometimes theoretical changes, especially in areas where all stakeholders are satisfied with current licence conditions or there are no realistic alternatives. We note that in our last review, we received 17 formal requests for information from IPART over a seven-month period, containing over 200 individual questions, as well as ad hoc requests throughout the review. This was in addition to the significant internal preparation work that had occurred prior to the release of IPART's Issues Paper.

We recognise and welcome the efforts of IPART in this review to reduce the regulatory burden on public water utilities, in moving towards exception-based reporting for many areas. We believe that IPART conducting Operating Licence reviews on a 'by exception' basis would further complement these efforts. Equally, we are committed to a more ambitious price review, which focuses on a

¹ Hunter Water, [Operating Licence 2017-22](#), July 2017.



² Hunter Water, [Operating Licence 2017-22](#), July 2017.

³ Hunter Water, [Operating Licence 2017-22 Reporting Manual](#), July 2018.

⁴ Hunter Water, [Response to Hunter Water Operating Licence Review 2021-22 Issues Paper](#), 8 October 2021; Hunter Water, [Supplementary submission - Additional information on system performance standards](#), 1 November 2021.

⁵ Sydney Water, [Response to Hunter Water Operating Licence Review 2021-22 Issues Paper](#), 15 November 2021, p. 4.

⁶ Sydney Water, [Response to Discussion Paper 1 - Lifting performance in the sector](#), 8 June 2021, pp. 17-18; Sydney Water, [Response to Discussion Paper 3 - Encouraging innovation in the water sector](#), 25 October 2021, p. 42.



long-term approach and the exploration of customer outcomes beyond mandatory requirements through engagement.

With respect to this submission, we have expressed our support for many of IPART's recommendations and proposed licence and Reporting Manual conditions and provided comment on some specific licence areas based on our experience. Key areas in our response include:

- **Water quality standards** – We consider IPART's draft recommendation to not include a separate licence condition for fluoridation to be a reasonable and practical approach, given that fluoridation requirements as per the NSW Code of Practice can effectively be captured under the Drinking Water Quality Management System (DWQMS), and licence clauses to meet requirements from NSW Health.
- **System performance standards** – We welcome IPART's proposed recommendation to set 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*,⁷ we believe that operating licences should reflect minimum performance standards to protect consumers, with any performance above those standards agreed with customers via the price review.
- **Water conservation** – Water conservation plays an important role at Sydney Water, as part of a range of measures we use to ensure a resilient and secure water supply for Greater Sydney. To date, 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 moves by Government to transition towards a broader water efficiency framework that considers strategic objectives, key drivers and enablers, in addition to an economic assessment of individual measures.
- **Publication of servicing information** – With the reintroduction of developer charges, a new licence clause requiring the publication of servicing information could be duplicative, for no identifiable benefit. In our experience, concerns about confidentiality (including from actual or potential competitors) further limit the type of information we can disclose.

The rest of this submission is structured to mirror IPART's Draft Report:

- [Section 2](#) covers water quality and system performance standards,
- [Section 3](#) covers water conservation and efficiency, and long-term planning,
- [Section 4](#) covers obligations to customers,
- [Section 5](#) covers processes and systems,
- [Section 6](#) covers administrative clauses.

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

⁷ Sydney Water, [Response to Discussion Paper 1 - Lifting performance in the sector](#), 8 June 2021, pp. 17-18.



2 Water quality and system performance standards

2.1 Water quality standards

2.1.1 Drinking water and recycled water

In general, we support licence conditions requiring the implementation and maintenance of drinking and recycled water management systems, in line with the Australian Drinking Water Guidelines (ADWG) and Australian Guidelines for Recycled Water (AGWR). Water quality management systems consistent with ADWG and AGWR provide a robust and supported framework for the effective management of public health risks.

We also support the compliance of these systems with any other health-based requirements specified by NSW Health. We consider IPART's proposed amendment of this requirement in Hunter Water's Operating Licence to be sufficient to clarify that any NSW Health requirements are additional to, and not a substitute for, the ADWG and AGWR.

We are further supportive of IPART's draft recommendation to move from annual reporting towards exception-based reporting for water quality reporting requirements.

2.1.2 Fluoridation

As noted in our response to IPART's *Hunter Water Operating Licence Review 2021-22 Issues Paper*,⁸ 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'). While having a separate licence condition can help to reiterate to the public a utility's commitment to fluoridating the water supply, it can lead to the duplication of existing requirements and additional auditing.

Given that fluoridation requirements as per the NSW Code of Practice can effectively be captured under the Drinking Water Quality Management System (DWQMS), and licence clauses to meet health-based requirements from NSW Health, we believe that IPART's draft recommendation to not include a separate licence condition for fluoridation in Hunter Water's Operating Licence to be a reasonable and practical approach.

⁸ Sydney Water, [Response to Hunter Water Operating Licence Review 2021-22 Issues Paper](#), 15 November 2021, p. 4.



2.2 System performance standards for service interruptions

As detailed in our response to IPART's *Hunter Water Operating Licence Review 2021-22 Issues Paper*,⁹ we consider Hunter Water's performance standards for service interruptions, and the specific levels used matters for Hunter Water, their customers and other stakeholders.

We support performance standards reflecting 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*,¹⁰ 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.

We also support the use of proportional thresholds over absolute thresholds, as a proportional approach better accounts for customer growth.

We also recognise the efforts of IPART to reduce the regulatory reporting burden on public water utilities and we support the reporting manual changes to move from annual reporting towards exception-based reporting for systems performance standards reporting requirements.

⁹ Sydney Water, [Response to Hunter Water Operating Licence Review 2021-22 Issues Paper](#), 15 November 2021, p. 4.

¹⁰ Sydney Water, [Response to Discussion Paper 1 - Lifting performance in the sector](#), 8 June 2021, pp. 17-18.



3 Water conservation and efficiency, and long-term planning

3.1 Water conservation and efficiency

Water conservation plays an important role at Sydney Water, as part of a range of measures we use to ensure a resilient and secure water supply for Greater Sydney.

As discussed in our response to IPART's *Hunter Water Operating Licence Review 2021-22 Issues Paper*,¹¹ we believe 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.

At the IPART Public Hearing for the Hunter Water Operating Licence Review held on 22 March 2022,¹² we sought clarification on the impact of the Department of Planning and Environment's (DPE) new, broader economic water efficiency assessment approach (including requirements to develop a 5-year Water Efficiency Plan) on compliance with other licence obligations to deliver a water conservation program based on an economic approach. We note that the draft *Hunter Water Operating Licence 2022-27* clarifies that such obligations to maintain and implement a water conservation program based on an economic approach will cease upon the submission of the 5-year Water Efficiency Plan.¹³

3.2 Long-term planning

We are supportive of licence requirements to participate in urban water planning processes, including the preparation of an Emergency Drought Response Plan.

We note that our current *Sydney Water Operating Licence 2019-23* includes a requirement to develop an emergency drought response plan.¹⁴ The requirement was introduced in response to broader climate change concerns and to ensure water supply resilience. The requirement is also in line with Priority 2 of the current draft *Greater Sydney Water Strategy (GSWS)*,¹⁵ which aims to ensure "our water systems are sustainable for the long term and resilient to extreme events".

¹¹ Sydney Water, [Response to Hunter Water Operating Licence Review 2021-22 Issues Paper](#), 15 November 2021, p. 5.

¹² IPART, Public Hearing for Review of Hunter Water Operating Licence, online, 22 March 2022.

¹³ IPART, [Hunter Water Draft Operating Licence 2022-27](#), 25 February 2022. See: Clauses 13 and 14, especially clause 13(1).

¹⁴ Sydney Water, [Operating Licence 2019-23](#), November 2019. See: Clause 3.2.

¹⁵ NSW Department of Planning and Environment, [Draft Greater Sydney Water Strategy - Water for a resilient Sydney](#), September 2021.



4 Obligations to customers

4.1 Protecting customers' rights

The current *Hunter Water Operating Licence 2017-22* includes a Customer Contract (in Schedule B) as well as the following requirements for protecting customers' rights:

- make services available to properties in its area of operations (clause 1.5.1)
- have policies in place for payment difficulties, including payment assistance and non-payment options (clause 5.3)
- have internal complaints handling procedures (clause 5.5)
- facilitate external dispute resolution (clause 5.6)
- provide information to customers and the general public (clause 5.7).¹⁶

4.1.1 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.

We support the flexibility extended to allow the option of membership of the Energy and Water Ombudsman NSW (EWON) or another external dispute resolution scheme approved by IPART. An ability to select a service, which delivers the best value for customers, contributes to overall cost efficiencies and helps keep customer pricing affordable.

4.1.2 Communicating customers' rights under the Customer Contract

The current *Hunter Water Operating Licence 2017-22*¹⁷ requires Hunter Water to publish a copy of the Customer Contract on its website for easy accessibility to any person, free of charge and provide an explanation to customers about their rights under the Customer Contract annually with their bills.



We support retaining conditions around the publishing and timely communication of information to customer including the following:

- Customer Contract
- Assistance options for payment difficulties and actions for non-payment
- internal complaints handling procedure
- access to an external dispute resolution scheme

We do however query the requirement to 'update information provided to customer within 60 days of any variations taking effect'. Whilst we agree with the position requiring the update on Hunter

¹⁶ Hunter Water, [Operating Licence 2017-22](#), July 2017.

¹⁷ Hunter Water, [Operating Licence 2017-22](#), July 2017.



Waters website, requiring a special mailout of changes that may not be aligned to the billing cycle would prove both costly and result in unnecessary administrative burden. Perhaps consideration could be given to stating with your 'next account' rather than 60 days.

4.2 Consulting with customers

In general, we support a non-prescriptive approach to customer engagement obligations and flexibility for utilities in the means of customer consultation to understand customer views, priorities and needs.

To this end, we consider IPART's draft licence requirements to allow Hunter Water to undertake customer consultation in any manner that Hunter Water considers effective to be reasonable.



5 Process and Systems

5.1 Organisational management systems

We consider IPART's proposed licence and reporting manual requirements regarding management systems are a matter for Hunter Water to comment on.

While Sydney Water supports a management system approach, we do not currently have these requirements in our Operating Licence or Reporting Manual and we do not see the benefit of the inclusion of such requirements for Sydney Water.

5.2 Stakeholder cooperation

We consider IPART's proposed licence requirements regarding Hunter Water's MOUs with different organisations and the content of those MOUs are a matter for Hunter Water to comment on.

Insofar as such licence requirements are maintained or introduced, we believe they 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.

5.3 Engaging with competitors

In general, we are supportive of licence conditions regarding making services available to *Water Industry Competition Act 2006* (NSW) ('WIC Act') licensees, such as using best endeavours when establishing a code of conduct, and negotiating in 'good faith' with licensees.

We also acknowledge that information regarding our intention to provide infrastructure to service growth could be of value to actual or potential competitors. However, to date we have had very little interest from actual or potential competitors regarding the servicing information that has been made available on our website, which was a requirement of our current Operating Licence.

The requirement to publish servicing information was introduced in the last Sydney Water licence before the Government's decision to accept the reintroduction of developer charges. Sydney Water considers that the procedural requirements in IPART's developer charge determination should be sufficient to ensure relevant servicing information is in the public domain. A new licence clause would therefore be duplicative, for no identifiable benefit, and we therefore do not support the inclusion of a new requirement in the Hunter Water Operating Licence. However, we would be prepared to support a new condition if it were paired with a flexible approach that recognizes compliance can be achieved by following the procedural requirements of IPART's developer charges determination.

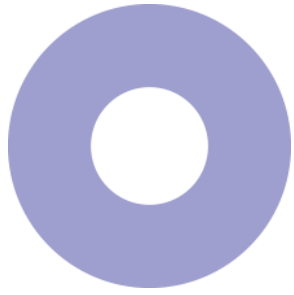
In Sydney Water's experience, concerns about confidentiality (including from actual or potential competitors) also limit the type of information we can disclose. This severely constrains the usefulness of the report, and it is questionable whether it provides any benefit.



6 Administrative clauses

6.1 Licence objectives, pricing, performance monitoring and reporting, and other parts of the licence

We consider IPART's proposed changes to Hunter Water's licence objectives, pricing, performance monitoring and reporting and other parts of the licence are a matter for Hunter Water to comment on.



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