



8 March 2024

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Response to WaterNSW Operating Licence Review 2023-2024 Draft Operating Licence and Discussion Paper

Dear Maria,

Thank you for the opportunity to provide a response to IPART's Draft Operating Licence and Discussion Paper outlining its draft licence recommendations for the end-of-term review of Water NSW's *Operating Licence 2022-2024*. We submit this letter as our formal response.

We support IPART's review approach and agree that the licence should be fit-for-purpose and provide net benefits to WaterNSW's customers and the people of NSW. We also support IPART's guiding principles of protecting customers, the community and the environment, ensuring clarity and enforceability in licence conditions, focussing on outcomes, setting minimum requirements and, where possible, removing redundancy in the licence.

IPART has set out 62 draft recommendations in its Discussion Paper. We have not provided a response to each recommendation. Instead, we provide comments on some specific licence areas of interest to Sydney Water below.

Water quality and other organisational management systems

Under the *Water NSW Act 2014* (NSW), WaterNSW is required to undertake key functions which protect and enhance the quality and quantity of water in the declared catchment areas. The management of water quality across catchments and storages by WaterNSW is critical to Sydney Water's outcomes and has impacts on our supply of drinking water to our customers, especially in relation to water supply and quality performance measures. There is a need to ensure that WaterNSW's management systems align with Sydney Water's water quality management system and adopts a true system-wide perspective in an efficient manner.

In general, we support IPART's proposed licence requirements for WaterNSW to maintain and undertake activities in accordance with a suitable Water Quality Management System (WQMS) and to comply with it. Having such a clause in WaterNSW's Operating Licence ensures that WaterNSW is managing its components of the water supply system consistent with the Australian Drinking Water Guidelines (ADWG), which is a foundational requirement for drinking water safety. It also aligns with a similar requirement in Sydney Water's Operating Licence.

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In addition to these requirements, we consider there should be unambiguous requirements for WaterNSW's water quality management system to adopt a true system-wide perspective but clearly articulating each party's role.

As such, we would like to propose that IPART include an explanatory note reflecting WaterNSW's role in Greater Sydney that "Water NSW should have adequate systems and processes in place to manage raw water quality in declared catchments in accordance with the water quality management system as agreed with its water supply customers".

With respect to other organisational management systems, we continue to support and consider that there is value in WaterNSW continuing to maintain an asset management system (AMS) consistent with ISO55001.

Performance standards

We support IPART's outcomes-focussed approach to set minimum levels of service in the operating licence to meet legislative requirements and provide a safety net for customers. We further agree with IPART that specifying performance standards in the licence should not prevent utilities from providing a greater level of service if this aligns with customers' preferences. We consider that performance above these standards should be informed by customer preferences and occur through the price review.

In particular, we support IPART's proposed requirement for a water quality performance target to be included in WaterNSW's Operating Licence and to be integrated with the requirements of Sydney Water's water quality management system. In doing so, this will reduce duplication and ensure alignment with respect to NSW Health and customer requirements, and will also align with technical and commercial requirements downstream as part of a total water quality management system.

More broadly, we consider that WaterNSW should work collaboratively with Sydney Water to ensure it is actively supporting Sydney Water's minimum services standards for water continuity and making available the best available raw water quality, as part of a system-wide approach.

We do not have any concerns with the inclusion of the delivery standards or service interruption requirements.

Customer supply agreements for direct water services

The Draft WaterNSW Operating Licence has removed all references to the Raw Water Supply Agreement ('RWSA') with Sydney Water. The RWSA is required by section 25 of the Water NSW Act, and covers matter such as water quality standards, water continuity and the maintenance of adequate reserves of water. Under clause 3.2.1 of the *WaterNSW Operating Licence 2022-2024*, WaterNSW must supply water in accordance with the RWSA.

In the spirit of simplifying the Licence and removing regulatory duplication, IPART has removed any reference to the RWSA in the Draft Operating Licence, to be replaced with a broader requirement for WaterNSW to achieve 100% compliance with its WQMS. A critical part of maintaining water quality is managing water supply efficiently. We have some concerns that removing the RWSA from the scope of licence monitoring and auditing by IPART may reduce transparency for all stakeholders and drive conflict between the need for efficient water supply and compliance with water quality management system. Given the

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critical role of WaterNSW in the wider drinking water system for Sydney, the Blue Mountains and the Illawarra, we consider that compliance with the RWSA should be included in the scope of reporting under clause 14 of the Draft WaterNSW Operating Licence.

We further note that Water NSW is not obliged by the Draft Operating Licence to consult with Sydney Water regarding changes to the WQMS. In that context, we strongly support the proposed requirements for customer consultation under clause 25 of the Draft Operating Licence, including specific reference to engagement with public water utilities and NSW Government departments and agencies. We consider clause 25 (or, indeed, clause 8) could be strengthened by 'closing the loop', with a clear requirement to ensure that customer and community feedback is considered by WaterNSW when reviewing its WQMS.

Water planning

Long-term water planning is critical to ensuring that Sydney Water can provide a resilient and reliable water supply for our customers and requires us to work closely, collaborate and cooperate with the NSW Government and many other agencies, including WaterNSW. Given the collaboration and cooperation involved between different agencies in water planning, it is important to ensure that Sydney Water and WaterNSW's licence requirements are consistent and aligned, where relevant.

For our own Operating Licence review, we have sought several changes to IPART's proposed licence requirements that deal with aspects of water planning where WaterNSW has a continuing role in providing information and advice and/or where they may be affected by proposed system changes.¹

For the Greater Sydney Drought Response Plan (GSDRP), we have, for example, proposed to remove clauses for Sydney Water and WaterNSW to submit separate plans, and to simplify requirements regarding Sydney Water and WaterNSW's consultation with the Department to reduce prescription. We consider that these changes better reflect the objectives and intent of the GSDRP and focus on outcomes, without overcomplicating the annual review process that has already been established and has been occurring organically for some time.

For our Long-Term Capital and Operational Plan (LTCOP), we have sought changes to clarify the requirements of our LTCOP to better reflect its objectives and outcomes, and to simplify requirements regarding consultation with WaterNSW and Department regarding plan updates.

In water supply augmentation planning, we have proposed flexibility to recognise other agreements that may supersede our MoU with WaterNSW in the future, noting that the MoU was intended to be a temporary arrangement. We have also proposed changes to not limit information about water supply planning being only used for 'strategic business cases', and to remove unnecessarily prescriptive requirements for Board approval for updated plans.

We have worked in collaboration with WaterNSW to develop a number of these proposed changes and to ensure consistency across both Sydney Water and WaterNSW's Operating Licence clauses. As we move towards finalising both licences for the upcoming licence term,

¹ Sydney Water (2024) *Sydney Water Operating Licence Review 2023-24 – Response to IPART's Draft Operating Licence Package*, 8 March.

it will be important to ensure that the roles and responsibilities are clear and appropriately reflected in the respective licences of each organisation and that any requirements are consistent and aligned, where relevant.

Climate risk readiness

With climate change increasing the frequency and severity of extreme events, like droughts, bushfires and floods, and placing more infrastructure systems (including water, power, road access, supply chain) at risk of damage or failure, many utilities are working to understand their role in proactively addressing climate change and increasing resilience to respond to future unknowns.

The Operating Licence is one regulatory tool, which can help utilities navigate the challenges of climate change and resilience and potentially empower them to further their commitment to action and improve customer outcomes. When introducing any new operating licence requirements, we consider that it is important to ensure that these requirements are clear, focussed on outcomes, rather than prescription, provide flexibility, and not duplicative of other regulatory requirements.

We are generally supportive of IPART's proposed licence changes for our own operating licence² but agree with WaterNSW that there may be potential risks of regulatory duplication. For our own Operating Licence, for example, IPART has proposed a new operating licence condition requiring Sydney Water to publish annual climate-related disclosures consistent with the International Financial Reporting Standard (IFRS) S2. We recognise IPART's proposed requirement for sustainability disclosures as a stop gap measure, only if mandated sustainability reporting is not separately introduced.

At the same time, NSW Treasury has advised us that they will require Sydney Water to make mandatory climate-related disclosures from FY24/25. The NSW Treasury will adopt the Australian Accounting Standards Board (AASB) Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information for GSF agency reporting and disclosure. We consider that further clarity from IPART on whether it will treat IFRS sustainability standards S1 and S2 requirements as equivalent to their Australian counterparts and the organisation responsible for auditing our disclosures will help to reduce the risk of regulatory duplication. Similarly, we have sought clarity from IPART on its proposed reporting requirements on progress towards achieving net zero, noting we have other existing reporting requirements in this area and there may be duplication and additional regulatory burden to comply with IPART's requirements.

Data and information services

We understand that IPART's proposed clauses for the 'water sector information hub' would effectively make WaterNSW the lead and central repository for, potentially, all water data of relevance to departments and agencies in NSW Government. We seek clarity on whether "water sector information" and "water data relevant to departments and agencies across the NSW Government" includes Sydney Water and the extent to which we may be required to submit and maintain data.

² Sydney Water (2024) *Sydney Water Operating Licence Review 2023-24 – Response to IPART's Draft Operating Licence Package*, 8 March.

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In previous interactions with stakeholders we have noted that some of our data may be subject to privacy restrictions because, depending on the granularity of information required, the identify or location of specific customers could be derived from the raw data.

In the absence of further information regarding the scope of the water sector information hub, and whether we can even release this information, it is challenging to comment on the likely costs and benefits. That said, we note that WaterNSW already has some obligations to share information with us, suggesting that the incremental benefit of a water sector information hub may be quite low from our perspective.

We look forward to reading the views of WaterNSW's customers and stakeholders in their submissions to IPART's review. If you would like to discuss these matters further, please contact Michael English, Competition & Licensing Manager at

[REDACTED]

Yours sincerely,

[REDACTED]

Monika Moutos
Head of Economics & Regulation