

Our Ref: BN24/1398

Ms Carmel Donnelly PSM
Chair
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

By email: mamata_titus@ipart.nsw.gov.au; Christine_allen@ipart.nsw.gov.au

Dear Ms Donnelly *Carmel*

NSW Government submission on the Draft Sydney Water Operating Licence

I am pleased to provide the NSW Government's further submission to the Independent Pricing and Regulatory Tribunal's (IPART) review of the Sydney Water Corporation's operating licence.

The draft licence package, released on 15 December 2023, incorporates many of the changes requested in the NSW Government submission to the Issues Paper, published in October 2023.

Proposed updates to the licence reflect improvements in long-term planning for drought and water security, consistent with the objectives of the NSW Water Strategy and Greater Sydney Water Strategy. The draft licence includes updates to ensure Sydney Water is equipped to perform enhanced functions expected of a modern public utility while carrying out its core objectives to protect public health, the environment and provide value for money. Achieving this balance is critical, particularly with growing cost of living pressures, and additional water management challenges flowing from population growth and climate change. To this end, I acknowledge that IPART has completed a cost benefit analysis on all recommended changes to the licence, and considered its outcomes in draft licence clauses.

Performance Standards and Water Quality

The NSW Government agrees with IPART's proposed approach in retaining the current set of performance standards, including water quality for drinking and recycled water, and asset management. Successive audits have identified this as an area for improvement. The NSW Government considers these standards remain relevant and essential for delivering the service levels customers expect. We reiterate our position in our submission to the Issues Paper, that the condition requiring Sydney Water to comply with the Fluoridation Code should remain in the licence.

Clause	IPART Recommendation	Proposed change and rationale
14	IPART recommends removing the condition in the licence that requires Sydney Water to comply with the NSW	The NSW Government submission requests the condition remain in the licence.

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	Code of Practice for Fluoridation of Public Water Supplies.	NSW Health notes they do not have an annual formal audit program outside of the operating licence and would likely need to establish a duplicated auditing program if removed. NSW Health considers the operating licence to be the most appropriate mechanism to set out key Government requirements of public interest in a succinct and accessible form.
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Climate Change

The NSW Government is pleased to see the draft licence includes recommendations to promote effective management of climate related risks, consistent with the NSW Climate Risk Ready Guide, and that these and related changes are quantified to have significant net benefits of \$7.5 million per annum. Increased transparency on progress to net zero, and an embedded approach to planning for and mitigating against emerging risks, aligns with NSW Government expectations. The *Climate Change (Net Zero Future) Act 2023* signals our commitment to a resilient, net zero future and sets out a clear path to deliver net zero by 2050. The NSW Government also supports the changes to the licence authorisation clause, which aligns with expanded stormwater functions for Sydney Water in Western Sydney, and an approach towards more integrated land use and water planning.

Customer and consumer protections

The NSW Government supports changes in the draft licence which express a commitment to customers and consumers, making clear what their rights are and what payment assistance and other options are available. In recognition of the cost-of-living pressures faced by many NSW residents, the NSW Government has supported Sydney Water to increase its budget for its payment assistance scheme to support increased requests for financial support following increasing prices; approved commencing a pensioner rebate review to ensure there are equitable levels of rebates across the entire state; and, approved the re-introduction of developer charges for water and wastewater infrastructure in Greater Sydney and the Lower Hunter, which will help lower customer bills.

Information sharing with Fire and Rescue NSW and private companies

The draft licence includes updates to specify timelines for key deliverables on water flow and pressure data, required by Fire and Rescue NSW to have an accurate picture of firefighting challenges. The sharing of this data has associated benefits of not only increasing the ability of firefighters to protect lives and property from fire, but also reducing costs for residents and councils, by improving visibility of how land use planning changes interact with fire safety compliance.

Clauses related to competition, and requirements for Sydney Water to negotiate in good faith with competitors, as well as publish certain information publicly, have also been retained. Consideration should be given to make these clauses more fit for purpose and aligned to user needs, and breaches of good faith investigated. The *Water Industry Competition Amendment Act 2021* and the new Water Industry

Competition Regulation are expected to commence this year and will seek to further innovation and enhanced consumer outcomes objectives.

Clause	IPART Recommendation	Proposed change and rationale
29, 31	<p>Include operating licence conditions regulating Sydney Water's relationship with Fire and Rescue NSW (FRNSW), requiring Sydney Water to: use its best endeavours to maintain a MoU with FRNSW, comply with its MoU with FRNSW, provide water pressure, flow rate and other information about all fire hydrants in its water supply network to FRNSW within specified timeframes.</p>	<p>FRNSW support the timeframe proposed by IPART in clause 31, for the provision of 100% of the pressure and flow data for the hydrants within the Sydney Water network. FRNSW assess the timeframe is appropriate considering the work required for Sydney Water to generate the data, and its value.</p> <p>The availability of pressure and flow data has a huge impact on FRNSW's capacity to fulfil its legislated function of extinguishing fires and protecting and saving lives and property in case of fire.</p> <p>FRNSW has completed analysis and mapping of the data received to date (25%), which will be disseminated to the relevant firefighters so that they can make informed decisions in the event of a fire and request appropriate resources. Sydney Water has indicated that areas of concern that FRNSW identify will be assessed and upgraded where economically feasible. The use of data in this way mitigates delays in sourcing adequate water supply in the event of a fire. Potential future uses for the data include targeted fire safety compliance audits and collaboration with local councils and other government agencies regarding land use planning and zoning changes. These activities have the potential to not only improve community safety but also facilitate more efficient expenditure, such as upgrades to mains serving multiple properties, rather than the installation of a tank for each property.</p>

Data and Transparency

The NSW Government supports strengthening data and information sharing clauses and agreements, so that real-time, relevant information is made available wherever possible, driving informed decision making and allowing effective monitoring of compliance with strategies and water sharing plans. Changes are recommended to promote information sharing between Sydney Water and the Department, to assist

with review and implementation of the Greater Sydney Water Strategy and relevant water sharing plans, as well as between Sydney Water and WaterNSW, to drive transparency and compliance across interconnected systems and catchments. These can primarily be actioned through changes to the Data Sharing Agreement, provided for in clause 32 of the draft licence.

Water conservation, long term planning and water efficiency

Water conservation, long term planning and water efficiency play a critical role in building our resilience to future drought, flood and increasing population pressures. They form central elements of the Greater Sydney Water Strategy, NSW Water Strategy and Greater Metropolitan Region water sharing plans. The NSW Government supports updates to the draft licence to reflect this and suggests further changes to facilitate a higher degree of collaboration alongside an adaptive planning approach to be taken by Sydney Water, the NSW Government and WaterNSW.

Clause	IPART Recommendation	Proposed change and rationale
13.2 (1) (a)	Sydney Water must cooperate with WaterNSW to jointly review the Greater Sydney drought response plan each year.	The NSW Government recommends Sydney Water cooperate with Water NSW and the Department of Climate Change, Energy, the Environment and Water (DCCEEW) to jointly review the Greater Sydney drought response plan each calendar year. The intent of suggesting this change is to ensure DCCEEW has opportunity to collaborate with Sydney Water on the review of the Drought Response Plan. It covers areas of drought governance that are critical for the Department.
13.2 (1)(b)	Sydney Water must submit an updated DRP and report to the Minister explaining key outcomes and changes, by 30 November each year	DCCEEW requests clause 13.2(1)(b) is amended to refer to the DRP being provided to the Department ahead of it being provided to the Minister. DCCEEW seeks collaborative involvement in the development of the Drought Response Plan (DRP), and prefers that a final copy be provided to the Department ahead of the Minister. The Department would then be able to advise the Minister on the content. These requested changes are intended to support the Department in its oversight role in long-term policy, strategy and planning.
13.2 (1) (c)	Sydney Water must make the updated plan Publicly Available within 10 business days of submitting it to the Minister.	DCCEEW recommends the plan be publicly available within 30 days of submitting it to the department . There is an internal, detailed version of the DRP in addition to a more condensed public version. DCCEEW's

		view is that the detailed version will not be available publicly online as it contains operational details on critical infrastructure. This is consistent with the approach for Hunter Water.
13.2 (5)	Sydney Water must implement actions in the DRP	The NSW Government recognises that each drought may be different and as such implementation of this clauses needs to provide a degree of adaptability, and to ensure that the actions taken are in-line with the drought governance arrangements.
13.6	IPART has included new clauses that give guidance on content to be included in the Long Term Capital and Operational Plan (LTCOP).	<p>DCCEEWS suggests that some additional content be included to provide clarity on the purpose and breadth of the LTCOP. The LTCOP identifies possible investments for drinking water, wastewater, recycled water, and stormwater needed over the long-term to meet Sydney Water's performance and service standards, strategic outcomes, and customer expectations. It details investments across all products and services to meet outcomes for growth, renewal, resilience and reliability, waterway and environmental health, asset management, public health and climate change.</p> <p>a) We support that the LTCOP must consider the strategic context of the GSWS (13(6)(a)) (b) We recommend clause 13(6)(b) be broadened beyond supply augmentation (to consider renewals and maintenance required as well). (c) We have no concerns with clause 13.6(c). While clause 13.6(d) and (e) are a key part of the LTCOP. The LTCOP presents options for investment that are beyond supply augmentation and include investment for climate resilience and compliance with regulatory standards.</p>
13.6	Sydney Water must review and update its long-term capital and operational plan and submit a copy of the updated plan, along with a report explaining the outcome of the review and any changes, to the Minister:	DCCEEWS support these requirements related to the LTCOP and see value in the flexibility around the review to enable Sydney Water to do this when it is appropriate for them to support pricing

	(a) at least once between 1 July 2024 and 30 June 2028, and (b) on request by the Minister with any additional review to be completed within the timeframe requested by the Minister.	determination or in response to other factors.
13.6	Clause 13.6(3) outlines consultation processes for reviewing, developing and submitting the LTCOP.	We are supportive of clauses 13(6)(a) and (b). We do not see that clause 13.6(c) provides additional value. In our view it is not necessary for the Operating Licence to prescribe Sydney Water Board approval (clause 13.6(3) (d).

Changes to the water efficiency and water conservation clauses, to promote transparency and accountability in reporting water saved, so that we can better assess the effectiveness of programs and target investments to maximise impact. This includes clarifications to the licence and reporting manual.

Clause	Recommendation	Proposed change and rationale
12.1(c)	IPART recommends Sydney Water must maintain a 5 year conservation plan, that demonstrates how Sydney Water contributes to water conservation goals set in the NSW Water Efficiency Framework and Greater Sydney Water Strategy	The NSW Government supports the new requirements for the Water Conservation Plan, to be consistent with the NSW Water Efficiency Framework, and demonstrate how it contributes to water conservation goals set in the Greater Sydney Water Strategy. We recommend additions to the reporting manual to provide more clarity on water saved at program level, and to be consistent with requirements in the Hunter Water reporting manual.

Thank you for the opportunity to raise these matters. Should you have any further questions regarding this submission, please contact [redacted]

[redacted] I look forward to receiving your final recommended licence package.

Yours sincerely,

[redacted signature block]

*Thanks for your consideration.
R.*

Rose Jackson MLC

Minister for Water, Minister for Housing, Minister for Homelessness
Minister for Mental Health, Minister for Youth, Minister for the North Coast

Date: 22.3.24