

WaterNSW's Operating Licence Review 2022-2024

Response to IPART's Draft Operating Licence





Acknowledgement of Country

WaterNSW acknowledges the Traditional Custodians of the land and water on which we work and recognises the continuing cultural and spiritual connections that Aboriginal and Torres Strait Islander People have to Country. We pay our respects to Elders past and present.

Contents

Acknowledgement of Country	1
Contents	2
1. Introduction	6
1.1 About WaterNSW	6
1.2 Our Operating Licence	6
1.3 End-of-term Licence Review	7
2. Context of the Review	7
2.1 Objectives of the Review	7
2.2 IPART's approach and main focus areas	8
3. Our response to the draft Operating Licence	8
3.1 A principles-based approach	9
Chapter 4 - WaterNSW's Response to the draft Operating Licence	10
4.1 Licence Context – Part 1	10
4.1.1 Clause 2 - Term of this licence	10
4.2 Management Systems – Part 3	11
4.2.1 Clause 8 - Water quality management system (WQMS)	11
4.2.2 Clause 9 - Asset management system (AMS)	12
4.2.3 Clause 10 - Environmental management system (EMS)	13
4.2.4 Clause 11 - Quality management system (QMS)	13
4.3 Performance standards – Part 4	14
4.3.1 Clause 15 – Performance standards tables	14
4.4 Bulk water quality for drinking water suppliers – Part 5	18
4.4.1 Clause 16 – Policy on bulk water quality for drinking water suppliers	18
4.4.2 Clause 17 – Water quality parameters for drinking water suppliers	19
4.4.3 Clause 18 – Early warning system	19
4.4.4 Clause 19 – Summary of service commitments to drinking water suppliers	20
4.4.5 Clause 20 – Water quality monitoring enhancement program	21
4.5 Customer agreements and accounts – Part 6	22

4.5.1	Clause 21 – Customer supply agreements for direct water services	22
4.5.2	Clause 22 – Water allocation accounts	23
4.5.3	Clause 23 – Measuring water supplied, released and extracted	23
4.6	Customer support and complaint management – Part 7	23
4.6.1	Clause 24 – Customer service charter	23
4.6.2	Clause 25 – Consultation with customers and the community	23
4.6.3	Clause 26 – Code of practice on payment difficulties	24
4.6.4	Clause 27 – Family violence policy	25
4.6.5	Clause 28 – Internal complaints handling	26
4.6.6	Clause 29 – Energy and Water Ombudsman NSW (EWON)	26
4.6.7	Clause 30 – Code of conduct with WIC Act licensees	27
4.7	Catchment and river health – Part 8	27
4.7.1	Clause 31 – Catchment management for declared catchment areas	27
4.7.2	Clause 32 – Catchment and river health research	27
4.7.3	Clause 33 – Community education	29
4.8	Water conservation and planning – Part 9	32
4.8.1	Clause 34 – System yield for declared catchment area	32
4.8.2	Clause 35 – Water conservation plan	33
4.8.3	Clause 36 – Climate-related planning and risk management	34
4.8.4	Clause 37 – Greater Sydney drought response plan	34
4.8.5	Clause 38 – Water supply augmentation planning	36
4.8.6	Clause 39 – Long-term capital and operational plan	36
4.8.7	Clause 40 – Water strategies	37
4.9	Data management and access – Part 10	38
4.9.1	Clause 41 – Data management system (DMS)	38
4.9.2	Clause 42 – Water sector information hub	42
4.9.3	Clause 43 – Metering equipment downloads	45
4.10	Government relationships – Part 11	46
4.10.1	Clause 44 – Memorandum of understanding with NSW Health	46
4.10.2	Clause 45 – Memorandum of understanding with the EPA	46
4.10.3	Clause 46 – Roles and responsibilities agreement with the Department, NRAR and WAMC	46
4.10.4	Clause 47 – Cooperation protocol with NRAR	47

4.10.5	Clause 48 – Cooperation protocol with NSW Fisheries	47
4.11	Environment, climate and water quality reporting – Part 12	47
4.11.1	Clause 49 – Environmental performance indicators	47
4.11.2	Clause 50 – Climate-related disclosures	48
4.11.3	Clause 51 – Annual water quality report	49
4.11.4	Clause 52 – Annual catchment health report	50
4.12	Other matters	51
4.12.1	Terminology changes	51

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1. Introduction

WaterNSW welcomes the opportunity to provide feedback for the Independent Pricing and Regulatory Tribunal's (IPART's) *Water NSW Draft Operating Licence* (December 2023). IPART's review of the WaterNSW Operating Licence 2022-2024 provides an opportunity for WaterNSW, as well as other stakeholders, to share their views on WaterNSW's current Operating Licence so that IPART can issue recommendations for the new Operating Licence.

This submission provides an opportunity for WaterNSW to formalise a written position and provide advice on the proposed obligations in the draft Operating Licence. More specifically, it is an opportunity for WaterNSW to provide IPART with both technical and operational feedback, including recommendations for amendment to the draft licence where appropriate.

1.1 About WaterNSW

WaterNSW is a State-Owned Corporation (SOC) established under the *Water NSW Act 2014* and is operating under an Operating Licence.

We supply two-thirds of water used in NSW. But we are more than a system operator. We are a catchment protector/manager and water quality experts. We maintain and operate the assets that monitor and supply water to our customers and communities and skilfully manage the system through floods and drought. We administer a comprehensive licensing assessment and approval system for water users.

At WaterNSW our purpose is water, delivered when and where it matters.

1.2 Our Operating Licence

WaterNSW operates under a complex regulatory regime, consisting of legislation, regulation and instruments which sit under those; one of which is an operating licence granted by the Minister and administered by IPART. The Operating Licence authorises WaterNSW to carry out functions listed in the *Water NSW Act 2014* and those conferred functions from the *Water Management Act 2000*, in accordance with terms and conditions in the Licence. WaterNSW can only exercise its functions under the authority of, and in accordance with, one or more operating licence.

The licence also imposes reporting obligations on WaterNSW. Each year, IPART audits and reports on WaterNSW's performance against licence provisions. Penalties can be imposed by IPART for non-compliance.

1.3 End-of-term Licence Review

When an Operating Licence reaches the end of its term, IPART conduct an 'end-of-term' review to assess whether the Licence continues to meet its objectives. IPART use the review as an opportunity to investigate any issues that have arisen during the Licence-term, and which may impact the effectiveness of the Licence.

WaterNSW's 2022-2024 Operating Licence is due to expire on 30 June 2024 and IPART will recommend a new operating licence come into effect on 1 July 2024 for WaterNSW.

This review will inform IPART's recommendations for the new Operating Licence.

2. Context of the Review

2.1 Objectives of the Review

With the current Operating Licence due to expire on 30 June 2024, a new Licence must be issued by 1 July 2024 to permit WaterNSW to continue to exercise its functions under the *Water NSW Act 2014*.

Before the expiry of the Operating Licence, IPART conduct an end-of-term review to investigate and assess any issues which arose during the Licence term that may have impacted its effectiveness. IPART also assess whether the Licence continues to meet the objectives set out in section 1.1 of the Licence:

- a. Provide transparent, auditable terms and conditions for WaterNSW to lawfully undertake its activities in accordance with industry good practice
- b. Recognise the interests of stakeholders within its Area of Operations
- c. Impose the minimum regulatory burden on WaterNSW by avoiding duplication or conflict with other regulatory instruments

The aim is for IPART to determine whether these objectives remain fit for purpose and if the current Licence meets these objectives in a way that imposes the lowest possible cost to

WaterNSW and its customers. IPART also consider whether the Licence objectives align adequately with those in the *Water NSW Act 2014*.

2.2 IPART's approach and main focus areas

IPART applies five key principles when conducting their review of the WaterNSW Licence:

Principle 1. WaterNSW's Licence should authorise the provision of services in accordance with its objectives.

Principle 2. Licence conditions should be clearly expressed and enforceable so that WaterNSW can be held to account when providing authorised services to customers.

Principle 3. Focus on outcomes for WaterNSW customers, the community and environment. IPART will consider how the Licence compliments other regulatory frameworks and tools, and NSW Government policies to achieve the outcomes.

Principle 4. Set minimum requirements and appropriate minimum protections for customers, noting that these should not unnecessarily increase the financial burden on WaterNSW customers and the people of NSW.

Principle 5. Focus on removing redundancy and streamlining current regulation.

3. Our response to the draft Operating Licence

WaterNSW's response follows the structure of the draft Operating Licence. We adopted an approach in which we respond in chronological order to each of the proposed clauses. We start by stating our overarching position, and we then provide reasoning and justification for our position. We have, however, refrained from providing suggested wording and from redrafting the actual wording of the requirement, except where it is a relatively simple and straightforward suggestion. We welcome the opportunity to provide further input to the precise wording of clauses following IPART's review and assessment of all stakeholder submissions to this Review. We also note in our response, that some of the proposed obligations may be premature in relation to current NSW Government policy. WaterNSW seek further clarification and guidance in this regard.

3.1 A principles-based approach

WaterNSW adopts a principle-based response in accordance with the *NSW Government Guide to Better Regulation*. Current NSW Government policy requires the Better Regulation principles be used in the design and development of regulatory proposals.

WaterNSW's application of the Better Regulation principles is consistent with the objectives of our Operating Licence, as well as a best practice approach to policy and regulatory development in NSW.

NSW Government Guide to Better Regulation – Seven Better regulation principles:

Principle 1. The need for government action should be established.

Government action should only occur if it is in the public interest, that is, where the benefits outweigh the costs.

Principle 2. The objective of government action should be clear.

Principle 3. The impact of government action should be properly understood, by considered costs and benefits (using all available data) of a range of options, including non-regulatory options.

Principle 4. Government action should be effective and proportional.

Principle 5. Consultation with business, and the community, should inform regulatory development.

Principle 6. The simplification, repeal, reform, modernisation or consolidation of existing regulation should be considered.

Principle 7. Regulation should be periodically reviewed, and if necessary reformed, to ensure its continued efficiency and effectiveness.

WaterNSW understands the application of the Better Regulation principles to mean that NSW Government agencies will discuss and consult on policy decisions and make those policy decisions prior to the review of an Operating Licence and not as part of the Operating Licence Review. This approach also facilitates an opportunity for any necessary legislative reform before amendments or changes are considered for the Operating Licence.

WaterNSW also notes the Better Regulation principles require consideration of the cost implications of any proposed amendments to the Operating Licence and the funding source

for those costs. Any amendments to the Operating Licence should not be made that do not have adequate funding to support their implementation. These costs should also be outweighed by the benefits of the amendments.

WaterNSW sees this Review as an opportunity to align our Operating Licence with our current strategic direction. It is also an opportunity to look for the areas for change or improvement to ensure a best practice approach, currency of standards, and to ensure ongoing improvement to the Operating Licence. Nonetheless, it is important that cost implications for WaterNSW customers forms part of the balancing exercise. Given the limited timeframe WaterNSW had to respond to the draft Operating Licence, we were unable to consult with our customers on the proposed obligations. This means WaterNSW has not been able to provide customers with an understanding of the costs associated with the proposed positions. This is particularly pertinent where the recommended changes do not form part of current government policy.

Chapter 4 - WaterNSW's Response to the draft Operating Licence

4.1 Licence Context – Part 1

4.1.1 Clause 2 - Term of this licence

Oppose, and recommend a four-year term

WaterNSW has not raised the issue of the licence term previously in this review, as we typically support the use of maximum terms (five years) being adopted in each new Operating Licence. However, we note that the term proposed in WaterNSW's draft Operating Licence (five years) is not consistent with that proposed for Sydney Water of four years.

A term of four years for the next Operating Licence would establish a two-year gap between the Operating Licence and regulated pricing reviews, which is more aligned with the time needed to robustly forecast costs required for any changes in Operating Licence requirements (assuming that the timing of the price determinations is not adjusted due to other factors) and to consult with our customers/stakeholders on options and their costs to

ensure the best value proposition option is chosen where there is flexibility in how to meet certain obligations.

A four-year term for the next Operating Licence would also allow for the next reviews of WaterNSW and Sydney Water's licences to remain in parallel, which allows for simultaneous consideration of issues and licence conditions where there is joint responsibility, interaction between the two utilities or mirror obligations.

Accordingly, we support the adoption of a four- year term for WaterNSW's next Operating Licence, with the expectation to revert to a five-year term from the following licence. This would maintain a two-year gap between the Operating Licence reviews and price determinations.

If this change is considered by IPART, we would welcome further discussions on how the adoption of a four-year term would impact any proposed obligations in the draft licence that have a delivery date beyond June 2028.

4.2 Management Systems – Part 3

4.2.1 Clause 8 - Water quality management system (WQMS)

Support in-principle, with amendments

WaterNSW supports in-principle the requirement to maintain a Water Quality Management System (WQMS), but we propose amendments to the draft clause.

WaterNSW recommends that IPART provide clarification on the requirement that WaterNSW maintain a WQMS for “non-declared catchment areas (not including areas with services already regulated by the *Public Health Act 2010*)” – clause 8(1)(b)(iii). The water that WaterNSW supplies for drinking water purposes in the non-declared catchments is either within the Fish River Water Supply Scheme or water that is already regulated under section 25 of the *Public Health Act*. This means that WaterNSW already has the relevant quality assurance programs (QAP) in place, in accordance with the provisions of the Public Health Act. As drafted, clause 8(1)(b)(iii) is confusing and appears to be either regulatory

duplication (and therefore redundant) or inconsistent with our existing obligations under the Public Health Act.

WaterNSW also seeks clarification from IPART regarding clause 8(3)(a). As it is currently drafted, it would imply that all water released by WaterNSW must be done so in accordance with the WQMS. This is not appropriate, as it would include the "capture, store, release" water, as defined under the current Operating Licence and this should not be part of the WQMS.

Lastly, in relation to clause (2), WaterNSW currently notifies NSW Health and IPART of any significant changes made twice a year at roughly six-monthly intervals, as per the reporting manual. The significant changes are notified and reported in the Significant Changes Report (April) and the Annual WQMS Report (September) each year. We seek clarification on "*promptly*", and the expectation and timeframe applied to this. Additional notification beyond what WaterNSW already reports appears excessive, as any significant changes to the WQMS NSW Health are consulted, and advice sought through our quarterly interagency Joint Operational Group meetings.

4.2.2 Clause 9 - Asset management system (AMS)

Support in-principle, with amendments

WaterNSW support in-principle the requirement to maintain an Asset Management System (AMS) that is consistent with ISO 550001, but we propose amendments to the draft clause.

Under the current wording of clause 9(1)(a), WaterNSW is required to maintain an AMS that is consistent with ISO 550001:2024 from 1 July 2027. However, ISO550001:2024 has not yet been published, nor has a date been set for publication. This means the publication of the new ISO standard can be expected anytime up until 31 December 2024 and it is possible that it could be later than that.

Given that the new standard is not yet known, nor the date at which it will be established, WaterNSW suggests the clause be amended to allow for a three-year transition period from the date of the new ISO publication, rather than specifying a particular date in the Licence. This would permit a more realistic timeframe to transition to the newer standard. It would also avoid the need for WaterNSW to seek IPART approval to continue to maintain compliance against the 2014 standard if publication of the next version is late or delayed. Specifying a

particular date by which compliance is expected in the Operating Licence may not provide WaterNSW with a reasonable timeframe to transition between standards.

WaterNSW also considers that clause 9(2), which requires the AMS to be consistent with the design criteria, should be amended or removed. WaterNSW advises that meeting the design criteria is an objective of the AMS, i.e. an intended outcome of the implementation of the AMS. The intent of the AMS is not to be consistent with the design criteria per se.

4.2.3 Clause 10 - Environmental management system (EMS)

Support

WaterNSW support the requirement to maintain an environmental management system as per clause 10.

4.2.4 Clause 11 - Quality management system (QMS)

Oppose

WaterNSW oppose the requirement to develop and maintain an organisation wide Quality Management System (QMS) that is consistent with AS/NZS ISO 9001:2016.

Under the current wording of clause 11(1), WaterNSW is required to have an AS/NZSISO 9001:2016 QMS from 1 July 2026. This would impose a new obligation on WaterNSW to develop and implement a QMS across the whole organisation. The requirement to have an organisation wide QMS would result in additional costs that we consider outweigh the potential benefits to our organisation or customers. WaterNSW advises that we already have a QMS in place for the critical parts of the business where there is a regulatory requirement, a business need to do so and/or the benefits of a QMS outweigh the costs. This includes a QMS aligned to ISO 9001 for the Dam Safety Management System (which is required by the Dams Safety Regulation 2019) and for the Water Monitoring Quality Management System (which is as agreed under the Roles and Responsibilities Agreement with DCCEE and NRAR). This is in addition to other management systems that are aligned with relevant standards such as the Asset Management System (aligned with ISO 55001), Environmental Management System (aligned with ISO 14001), Work Health and Safety (aligned with ISO 45001), Water Quality Management System (aligned with ADWG) and Cybersecurity (aligned with Essential 8, and

AESCF). The various elements of the management systems named above are generally similar to the elements within ISO 9001. WaterNSW adopts a consistent approach with the documentation of our management systems, health checks and audits and reviews of the management systems.

In addition, an Operating Licence obligation to have a QMS that is aligned with ISO 9001 goes beyond the joint recommendation made by NSW Government agencies as part of their regulatory review under section 10 of the *Water Management Act*. In that review, the recommendation was that DCCEEW, NRAR and WaterNSW should have a Quality Management Framework that ensures our activities are effective in giving effect to the principles of the *Water Management Act 2000*. We have committed to developing a Quality Management Framework by the end of 2024.

Therefore, WaterNSW consider that we are sufficiently regulated in relation to quality management within our organisation and do not need additional regulation prescribed in the Operating Licence.

Finally, WaterNSW considers that, unless there is a clear justification, there should be consistency between the water utilities. In that regard, we note that Sydney Water do not have a QMS requirement in either their current, or their new draft Operating Licence. Meanwhile, Hunter Water has a QMS requirement in their Operating Licence. Having said that, WaterNSW acknowledge that this requirement was included at Hunter Water's request because they considered there was a business need and the benefits outweighed the costs for their organisation.

If a QMS obligation remains in our Operating Licence, then WaterNSW requests clarification on which parts of our business IPART considers a QMS is warranted, noting that (as indicated above), we already have a QMS in place for our hydrometrics and dams safety aspects.

4.3 Performance standards – Part 4

4.3.1 Clause 15 – Performance standards tables

Support in-principle, with amendments

WaterNSW support in-principle the inclusion of performance standards within the Operating Licence but proposes amendments to clause 15.

The *Water NSW Act 2014* (Water NSW Act) requires the Operating Licence to include performance standards in relation to water delivery, water quality and service interruptions. However, significant change has been made to the performance standards in the draft Operating Licence.

There is a definitional issue which we have expanded on in the final section of this document, 'Other Matters'. In short, this definitional issue appears to apply the performance standards to functions that it should not.

WaterNSW offers several recommended amendments which are listed below. These are based on the premise that the "direct water supply services" performance standards are intended to apply to "water Supplied" and the "water release services" performance standards are intended to apply to "Capture Store Release water".

WaterNSW is currently developing alternative performance standards that we consider to be more aligned with the intended outcomes being sought by IPART. We would welcome the opportunity to discuss these alternative performance standards in detail and for potential inclusion in the Operating Licence. In the interim, we offer the following commentary on the proposed performance standards:

o **D-WQ-1 – Bulk water quality supplied complies with WQMS.**

WaterNSW suggests removing the requirement for *"100% compliance with the water quality management system maintained under clause 8 for all bulk water supplied"* as WaterNSW must already *"comply with the Water Quality Management System"* under clause 8. One of these two clauses is redundant.

o **R-WQ-1 – Bulk water released water quality standard.**

It is not current practice nor is it feasible for WaterNSW to meet a performance standard that requires all bulk water releases to be consistent with the requirements under section 25 of the *Public Health Act* nor the Australian Drinking Water Guidelines. If WaterNSW needs to meet the requirements under the ADWG, the role of WaterNSW would change from store and release, that considers, in relation to water quality, algal risk and cold-water pollution to managing source water for the protection of public health in relation to direct water supply services. This would require a much broader role and resources, including the development

and implementation of a WQMS in consultation with NSW Health. WaterNSW seeks clarity from IPART on what the intent of the provision is.

WaterNSW suggests that a water quality standard in relation to rural water systems is not appropriate at this point in time and is not explicitly required by the Act. This requirement is met by the existence of D-WQ-1, because the Act obligation does not explicitly require a standard be developed for both "water supplied" and "water captured, stored and released". The requirement of clause 12(2) of the WaterNSW Act applies to the Operating Licence generally that "authorises WaterNSW to capture, store, release or supply water". So a water quality standard that applies to either one of these two functions would meet the requirements of the Act.

If however, as the ADWG and *Public Health Act* do not apply, and IPART considers that the *Water NSW Act* establishes an obligation to have performance standards for both water supplied and CSR water, then we suggest a performance indicator related to the monitoring and subsequent notification of water quality to relevant customers is more appropriate, especially considering the proposed obligations to have a water quality monitoring enhancement program and an early warning system to specific customers relating to water quality notifications, as outlined in Clauses 18(3)(c) and (d). WaterNSW recommends working with IPART to develop a suitable performance standard in this regard.

o D-WD-1 – Timely delivery of scheduled water orders for "direct water supply services".

The current wording of the standard is that "*100% of the volume of water scheduled to be supplied to customers is supplied on time.*" We suggest adding "unless as otherwise agreed to by the customer". This allows for a better interpretation of what "on time" means and an allowance for rescheduling by agreement with the customer. Also, the current wording is at odds with how water is supplied to customers that fall under direct water supply services. For these customers, there is no scheduling or ordering of water. The water is 'taken' by the customer when they need it.

o R-WD-1 – Timely notification of non-complying water orders for "water release services".

We are supportive of the change to a percentage as opposed to a single value. However, we suggest changing it from "*95% of customers*" to "*95% of orders*". We also recommend including "*of WaterNSW becoming aware it is a non-complying water order*" at the end of the sentence.

o **R-WD-2 – Timely release of scheduled water orders for “water release services”.**

The word “released” and how it is defined is unclear. WaterNSW seeks clarification regarding this terminology and suggests the standard could be reworded to say the water delivered or available for “take” within one day of the order.

Furthermore, this standard needs to allow for a change of order made by the customer, which effectively changes the scheduled day of release and a change that is customer driven should not result in a lack of compliance against this performance standard.

o **R-WD-3 – Timely release of rescheduled water orders for “water release services”.**

Please see the above comments for R-WD-2.

o **D-SI-1 – Timely notification of cease to pump orders for direct water supply customers.**

The indicator is “*Timely notification of cease to pump orders for direct water supply customers.*”

We request that this standard be redefined. Firstly, the concept of “cease-to-pump” within the “water Supplied” context is not a commonly used terminology. We understand this standard is related to planned service interruptions in the “water supplied” context and therefore should be reworded appropriately.

o **R-SI-1 – Rescheduling of water orders.**

We suggest removing the performance standard for rescheduling of water orders, “*Less than 1% of water orders are rescheduled at Water NSW’s initiative.*” This performance standard is adequately covered by the “Water Delivery” performance standards.

o **R-SI-2 – Rescheduling of water orders.**

We suggest modifying this standard to it being within “as soon as reasonably practicable after WaterNSW becomes aware of an unplanned service interruption” and, consistent with current proposed drafting of R-SI-3, “no less than 7 days in advance of a planned service interruption”.

o **R-SI-3 – Rescheduling of water orders.**

Consistent with our suggested modification to R-SI-2, this standard should require notification to affected customers as soon as reasonably practicable after we become aware of an unplanned service interruption or no less than 7 days prior to a planned service interruption.

o **FR-WQ-1 – Drinking water quality supplied complies with WQMS**

WaterNSW suggests removing the requirement for “100% compliance with the water quality management system maintained under clause 8 for all drinking water supplied” as WaterNSW must already “comply with the Water Quality Management System” under clause 8. One of these two clauses is redundant.

o **T-AP-1 to T-AP- 3 – Temporary trades**

No comment.

o **T-AP-4 – Timely rectification of non-complying trades**

We suggest that “95% of customers” should be changed to “95% of trades”, that “order” should be changed to “application”, and lastly, we recommend adding “after WaterNSW become aware that it is a non-complying trade application”.

4.4 Bulk water quality for drinking water suppliers – Part 5

4.4.1 Clause 16 – Policy on bulk water quality for drinking water suppliers

Support in-principle, subject to clarification

WaterNSW support in principle the requirement for a high-level policy on bulk water quality for drinking water suppliers but recommend IPART liaise with WaterNSW to better define and delineate WaterNSW's role under the policy and acknowledges that WaterNSW only has limited influence over some aspects of water quality. WaterNSW also recommend that IPART engage in further discussions with WaterNSW around any implementation requirements under the policy.

Overall, greater clarity is needed on WaterNSW's role under the policy. In particular, the requirement that WaterNSW improve the quality of water supplied, as well the requirement that WaterNSW identify and reduce hazards to end users. The cost of these additional obligations, including the costs associated with increased water quality monitoring, must form part of IPART's considerations when including them as part WaterNSW's obligations under the Operating Licence. In addition, WaterNSW note that it is unclear whether the

obligations are limited to customer supply agreements or to CSR customers. Further clarity is needed to ensure the policy application is limited to the intended scope and purpose of clause 16.

4.4.2 Clause 17 – Water quality parameters for drinking water suppliers

Oppose

WaterNSW oppose clause 17 on the basis that it is duplicative with clause 16(b)(i).

If clause 17 is retained, WaterNSW require further clarification from IPART to determine the point at which the water quality parameters would be determined – i.e. at the dam or at the point the drinking water is extracted? While WaterNSW generally support a better understanding of customer needs and their preferred ranges for water quality, WaterNSW is concerned that clause 17 could result in the creation of expectations for managing the quality of certain parameters that WaterNSW is unable to cost effectively monitor and/or meet the expectations of water quality expectations relative to these parameters. As it is currently drafted, clause 17 implies that WaterNSW can manage and control the quality of water quality supplied when in fact, many contributing factors affect water quality downstream of a release point. The cost implications associated with higher water quality standards for certain parameters would be significant and thus, require further consideration from IPART. In this regard, it is important to clearly delineate between water quality management and water quality monitoring.

4.4.3 Clause 18 – Early warning system

Support in-principle, with amendments

WaterNSW support in-principle the inclusion of a provision of an early warning system, but we propose amendments to the draft clause.

WaterNSW note the current drafting of clause 19(3)(a)(iii) would require WaterNSW to maintain an early warning system that provides advance notifications for predicted downstream water heights at gauging stations where there is actual significant dam releases or overflow or predicted significant dam releases or overflow. However, the BoM already has a legislative obligation to fulfil this function under the *Meteorology Act 1955* (Cth). The BoM

already has an official mandate to issue flood warnings, not WaterNSW. For this reason, WaterNSW recommends that the obligation in paragraph (3)(a)(iii) be removed.

WaterNSW also seek clarity on lines (b), (c) and (d) in paragraph (3), which all form part of actively managing source water. The inclusion of these provisions would require the identification of triggers, the development and implementation of monitoring programs and that consideration be given to ongoing management. Some of these features are being trialled, but WaterNSW considers it is premature to include them in the upcoming Operating Licence because further investigation is required as to their feasibility. As such, further clarification is required from IPART in relation to the requirements listed in paragraphs (3)(b)-(d).

Finally, WaterNSW recommend the notification requirement in paragraph (4) be amended from "as soon as possible" to "as soon as reasonably practicable". The difference being that "as soon as reasonably practicable" means as soon as both possible and practicable, thereby considering all the facts and circumstances of the individual case or situation. As soon as is reasonably practicable is the legal requirement that is ordinarily used in both work, health and safety law as well as under emergency management principles. Dam Safety legislation also uses "reasonably practicable" as part of its risk management framework, with risks managed to a level that is "as low as is reasonably practicable" or "so far as is reasonably practicable", as is the case for NSW. Similarly, advance notification should follow the principles of "as soon as reasonably practicable" in the given circumstances.

4.4.4 Clause 19 – Summary of service commitments to drinking water suppliers

Support in-principle, subject to clarification

WaterNSW support the inclusion of clause 19 and the summary of service commitments to drinking water suppliers, conditional on it being consistent with the provisions relating to the water quality monitoring enhancement program and the early warning system. The ongoing funding to deliver these service commitments also needs to be identified and secured.

4.4.5 Clause 20 – Water quality monitoring enhancement program

Support in principle, subject to confirmation by Government including funding arrangements

In principle, WaterNSW supports undertaking a broader role in the improved coordination and management of water quality monitoring for local water utilities that we deliver water to, as proposed in clause 20 of the draft Operating Licence.

WaterNSW has previously completed a series of pilots with LWU's and is currently conducting a two-year program as part of the Town Water Risk Reduction Program (TWRRP) Stage 2, which is being funded by Government and due for completion by June 2025. We have currently received \$10 million in funding for this program, which covers both improved source water management and dam safety streams.

The proposed obligations in clause 20 effectively appear to be an extension of this program. We consider that the program is on track and progressing well and therefore we support the proposed new provision in the Operating Licence.

However, any new licence obligations that extends Water NSW's role beyond that of the current pilot program should be subject to a decision by Government on whether this accords with intended Government policy. We consider this process affords that opportunity with IPART making a recommendation to the Minister and the Minister ultimately signing off on the new licence. As part of this process, we would also need clarification and endorsement of the Government's and the LWUs' expected scope and levels of service and we would seek to resolve this as part of developing the Program.

Should that occur, then key subsequent considerations would be to quantify the costs of such a Program and ensure there are ongoing funding arrangements, either outside the IPART Determination process or if within it, quarantined to LWUs to avoid cross-subsidies with other customers. This process will help to mitigate the risk on WaterNSW of being subject to licence conditions that may not be aligned with Government policy and, as such, may not be able to be funded via Government budget processes on an ongoing basis.

If this clause does proceed, we request further clarification around the scope of the program, which is limited to regulated rivers across NSW in the draft licence. We note that the current TWRRP Stage 2 program focuses on regional communities located in both regulated and unregulated rivers across NSW, with the majority located in the Murray Darling

Basin. An extension of this program should also maintain its geographic scope to ensure economies of scale and equity among NSW's regional communities.

Furthermore, if this clause does proceed, we request further clarification around the scope of the program being limited to local water utilities and instead also encapsulating environmental water quality monitoring. For example, monitoring parameters important for environmental issues such as fish deaths, blue-green algal blooms and cold-water pollution. An expanded role for WaterNSW into this space would at least partly address recommendation 2 in the final report of the independent review into the 2023 fish deaths in the Darling-Baaka River at Menindee, which recommends the establishment of an integrated, open, whole-of-system approach to data collection, and analysis. We understand that a lack of management of catchments and source water supply is an existing risk to several local water utilities. However, this proposed clause does not extend to water quality management, which we consider to not be solely WaterNSW's responsibility and therefore it is not appropriate to extend it beyond monitoring.

We also seek clarification in relation to clause 20(1)(a) which requires WaterNSW, from 1 July 2026, to enhance health-related monitoring of bulk water that WaterNSW makes available to drinking water suppliers. We note that "health-related monitoring" is terminology that is specific to the Australian Drinking Water Guidelines, that refers to guideline values for microbial, chemical and physical and characteristics for treated water. The current proposed wording could be misinterpreted as imposing requirements on WaterNSW that go beyond the intent of a risk-based monitoring program. We request further discussions with IPART on the wording of this clause to ensure it reflects its intended scope.

4.5 Customer agreements and accounts – Part

6

4.5.1 Clause 21 – Customer supply agreements for direct water services

Support in-principle, subject to clarification

WaterNSW support the wording of clause 21 and the requirement on customer supply agreements for direct water services. While WaterNSW support clause 21, this support is

provided under the assumption that it does not include or refer to existing agreements that have been executed prior to these clauses being included in the operating licence. We support all new agreements including these clauses.

4.5.2 Clause 22 – Water allocation accounts

Support

WaterNSW support the requirement to maintain water allocation accounts as per clause 22.

4.5.3 Clause 23 – Measuring water supplied, released and extracted

Support

WaterNSW support the requirement to measure water supplied, released and extracted as per clause 23.

4.6 Customer support and complaint management – Part 7

4.6.1 Clause 24 – Customer service charter

Support

WaterNSW support the customer service charter requirement in clause 24.

4.6.2 Clause 25 – Consultation with customers and the community

Support in-principle, with amendments

WaterNSW support in-principle the requirements contained in clause 25, but we propose amendments to the draft clause.

WaterNSW support IPART's decision to increase flexibility around community and customer consultation, which will allow us to better determine community and customer needs for more effective engagement. It also aligns with IPART's recent decision in Hunter Water's Operating Licence, which removed their previous requirement for Customer Advisory Groups and replaced it with a consultation procedure.

WaterNSW also considers that any changes or new ways of engaging with customers and the community should be developed in consultation with customers and stakeholders. This would alleviate concerns that some customers may lose their voice without a prescriptive obligation to maintain the CAGs.

During the public hearing, we also heard some concern from customers about taking into account regional and local issues in the design and implementation of a policy. To address this concern, WaterNSW supports the idea of a requirement that a policy consider regional issues in our engagement.

Lastly, WaterNSW recommends the clause refer to a customer and community engagement policy, rather than a consultation policy.

4.6.3 Clause 26 – Code of practice on payment difficulties

Support in-principle, with amendments

WaterNSW generally support the requirements in clause 26 except for paragraph 2(c) which requires WaterNSW to provide the code of practice to each customer within one business day from the date that WaterNSW first identifies the customer is experiencing payment difficulty. If this requirement is intended to be a postal requirement, this timeframe does not allow sufficient time for such correspondence to be delivered. WaterNSW seeks clarification from IPART on this requirement. We consider that making the code publicly available (as per 2(a)) and referring relevant customers to the code is a more practical, efficient and cost-effective approach.

4.6.4 Clause 27 – Family violence policy

Support in-principle, with amendments

WaterNSW support the inclusion of greater customer protections, including protections against family/domestic violence. However, WaterNSW recommend clause 27 be amended to limit the obligation to those requirements which fall within the sphere of WaterNSW's control and/or ability to exert reasonable influence over.

We note the current wording of clause 27(2)(c) contains a proactive detection requirement and creates a positive duty for WaterNSW to have processes that help minimise the reliance on individuals to disclose family violence. This duty is problematic for several reasons, the first being that WaterNSW do not currently have the capability to proactively detect customers who may experience family violence. While WaterNSW can provide protection of private and confidential information, as well as access to payment difficulty processes, this would ordinarily be done once a person experiencing family or domestic violence discloses or confirms that situation to WaterNSW. The requirement to proactively detect family violence could also have a reverse outcome whereby an incorrect assumption or assessment that there may be a family violence situation could result in reputational damage for WaterNSW and undue humiliation, grievance and/or anger for the customer.

Secondly, we consider clause 27(2)(c) would also incur significant additional costs for WaterNSW which, as a water utility with only a small customer-base, could have a material cost impact for water users. Unlike Sydney Water and Hunter Water who have large numbers of customers that help reduce the additional cost implications of such a provision, WaterNSW's water users would face a larger relative cost to meet this obligation. WaterNSW understand that Sydney Water was found to have a minor shortcoming in a recent audit relating to this provision within their own Operating Licence. To address this, it is understood that Sydney Water introduced individual case managers, among other actions. WaterNSW is concerned that, without a similar customer base, this would not be a cost-effective option for us.

We note that IPART's CBA estimated the cost of the Family Violence Policy to be \$400,000. WaterNSW considers that the cost could be significantly more than this. Our current systems do not allow us to store confidential information or lock accounts down. WaterNSW is progressing towards the use and uptake of a Customer Relationship Management System (CRM), which would allow us the ability to treat sensitive accounts in a secure and

confidential manner. The total build of the CRM is estimated to cost around \$1.6 million. We are currently in the preliminary phase and seeking funding to begin the next phase of our digital roadmap, which includes the build of the CRM. Until such time as WaterNSW has a CRM in place, it would be very difficult for WaterNSW to meet this obligation under 27(2)(c).

WaterNSW recommend that IPART consider removing or rewording clause 27(2)(c) to ensure it is better suited to WaterNSW's customer base and size.

If the current wording is retained, then WaterNSW would seek further guidance from IPART on what would be considered appropriate actions for an organisation such as WaterNSW to meet these obligations and would propose a more appropriate timeframe to meet such actions. We would expect that the additional funding required would need to be secured and developing appropriate processes would take at least two years from the commencement of the new Operating Licence.

WaterNSW wishes to also make the distinction between a family violence policy for customers and a family violence policy for employees, staff and contractors working for WaterNSW. WaterNSW already has a 'Domestic and Family Violence Support Guideline' which provides WaterNSW employees or contractors with protections and workplace adjustments if they are experiencing family or domestic violence. This is consistent with legislative requirements under Work, Health and Safety law. SafeWork Australia requires all persons conducting a business or undertaking to manage health and safety risks that create a risk to a worker's health and safety whilst at work, including family and domestic violence. This does not need to be regulated under the Operating Licence.

4.6.5 Clause 28 – Internal complaints handling

Support

WaterNSW support clause 28 and the requirements for internal complaints handling.

4.6.6 Clause 29 – Energy and Water Ombudsman NSW (EWON)

Support in-principle

WaterNSW supports in-principle our Operating Licence containing requirements for a dispute resolution service. While we do not have any major concerns with draft clause 29, we suggest the use of a more flexible approach that refers generically to a dispute resolution scheme. This could be similar to that adopted for Hunter Water in its last end-of-term review.

4.6.7 Clause 30 – Code of conduct with WIC Act licensees

Support

WaterNSW support the code of conduct requirement in clause 30.

4.7 Catchment and river health – Part 8

4.7.1 Clause 31 – Catchment management for declared catchment areas

Support

WaterNSW support clause 31 and the requirement for catchment management in declared catchment areas.

4.7.2 Clause 32 – Catchment and river health research

Support in-principle, with amendments

WaterNSW support the requirement to maintain a broader research program that includes research in both the Declared and non-Declared catchments and in-principle, support clause 32 albeit with amendment. A broader research program will ensure WaterNSW's Operating Licence is better aligned with the objectives contained in the *Water NSW Act 2014*.

By expanding the remit of our research program, the Operating Licence will enable us to better align our research objectives with the work we already undertake in non-Declared catchment areas. For instance, we can focus on more of the research areas that support our

functions, as well as water-related water quality and health risks, such as managing cyanobacteria, management and investigation of cold-water pollution, and environmental flow management. A broader research program will enable WaterNSW to exhibit a greater sense of social responsibility, allowing WaterNSW to include, consider and understand the needs and interests of the diverse range of communities in which we operate.

The draft Operating Licence's specific requirement that the research must support our functions (i.e. "by furthering our objectives under the Act" as per paragraph 1(c)(i)) will operate to prevent duplication with the research work of agencies and ensure the research supports work that falls under WaterNSW's remit. At the same time, it will also support our ability to collaborate with other government agencies, permitting us to leverage resources where we share a common research goal. WaterNSW has already adopted this approach in the Declared catchments, working in close collaboration with NSW DCCEEW, NSW National Parks and Wildlife Services, Sydney Water and local councils to pool and maximise the effectiveness and outcomes of research funding by removing any duplicative research programs and aligning any mutual research priorities.

The same approach would be applied in the regional context. WaterNSW has a well-developed research program that focusses on the interaction between catchment health, as well as water quality and quantity. Our highly skilled team deliver a robust research program and hold established relationships with leading universities and research providers. Our research program has been used to effectively improve catchment health and the delivery of water supply services, including the development and implementation of new remote monitoring capabilities; improved understanding of bushfire impacts to bulk water quality; and strategies to provide early warning and mitigate potential water quality risks such as taste and odour events, as well as blue green algae blooms.

Nevertheless, the outcomes of any research program will only be as good as the funding granted to it. While we support the broadening of our research remit, it must be accompanied by sufficient funding. Without sufficient funding, WaterNSW will not be able to deliver an impactful program in which research drives meaningful change.

Should this expanded obligation remain in the final Operating Licence, this funding could come direct from Government (e.g. via a CSO), or through the IPART determination process. Either option would require consultation with stakeholders and customers to consider the best value proposition in the design of the program.

With regard to the research context, WaterNSW seek clarification from IPART around the use of the word “downstream” in clause 32. Downstream could be interpreted in multiple ways. Is it intended to include all rivers downstream of catchments or only those rivers downstream of our major infrastructure? If IPART’s intent was to limit clause 31 to regulated rivers only, then WaterNSW recommend amending the wording to limit the geographic scope. Noting that the Greater Sydney system is not considered a regulated river per se, so the geographic scope would need to be carefully defined within the clause.

On a final note, in relation to the obligation on WaterNSW to implement the research findings to address the recommendations made by the Office of the Chief Scientist and Engineer, the research findings do not solely rest with WaterNSW. In fact, they are subject to a whole of Government response and action plan, that WaterNSW will be responsible for delivering in part. Furthermore, we are concerned that specifically referencing one such recent review in the Operating Licence places more emphasis on this aspect of research, which could be to the detriment of other aspects.

4.7.3 Clause 33 – Community education

Support in-principle, with amendments

WaterNSW support broadening the current education program to also include non-Declared catchments and thus, support clause 33 in principle, albeit with amendment. A broader education program would better align the Operating Licence with WaterNSW’s objectives under the *Water NSW Act 2014*.

WaterNSW has a key role to play in community education. Education allows WaterNSW to improve the community’s understanding of water resources and river systems and increase water literacy across the state. Water literacy is a statewide issue that can only be addressed holistically if WaterNSW receives both the remit and resources needed to provide meaningful education in both the Declared and non-Declared catchments.

To ensure a program that is both effective for and tailored to the needs of both the Declared Catchment and regional areas, WaterNSW endeavours to provide IPART with some additional points for consideration and a recommendation for amendment.

Firstly, WaterNSW recommend that clause 33 be amended to ensure the broader scope of the educational remit is also reflected within the educational objectives that WaterNSW is

expected to deliver. Namely, that the educational objectives are relevant to both the Declared and non-Declared catchments. A broader educational program should include material that is relevant to and that addresses the needs of the region or community in which it is delivered and is specifically related to WaterNSW functions, which would ensure that educational efforts by other agencies are not duplicated.

The current drafting of clause 33 would impose several educational requirements that are more specific to the needs of the Declared catchments and would extend that obligation to the educational requirements of the non-Declared catchments. This includes: the requirement to improve community understanding of impacts of illegal activities on catchments in paragraph (1)(a)(iii); and the requirement to improve community understanding about the importance of well-designed and maintained stormwater and on-site sewage management systems on lands near catchments and downstream rivers in paragraph (1)(a)(iv). While these paragraphs may maintain some educational value for persons and communities living in non-Declared catchments, their relative importance to other issues in those areas is small and may steer the program's focus away from other, more relevant messages. WaterNSW recommend that this clause be amended to include a statewide focus for the objectives of the education program and to provide the flexibility to tailor the program to the needs of the region in which the program is being delivered.

Secondly, it is imperative that adequate funding is provided for the broader educational remit. The ability to develop and deliver an impactful educational program in non-Declared catchments will be contingent upon the funding allocated to it.

WaterNSW note that education, much like research, is frequently underfunded; often because it is considered difficult to quantify the net economic benefit. This is apparent in the CBA released by IPART as part of this licence review process. While the costs are easy enough to calculate in quantitative terms, the benefits are typically qualitative. The true impact of education is often found at the macro level. It is at the macro rather than micro-level, where improved water literacy provides significant net-benefit for the community and environment at large. For instance, greater water literacy results in improved community consultation outcomes for planning and policy agencies. It also changes behavioural patterns, with targeted education programs increasing knowledge, understanding, and a desire to care about and "own" issues at a local level. By reshaping behavioural outcomes, education can reduce the costs associated with negative environmental behaviours. It reduces the costs required to rectify environmental damage by preventing environmental

damage in the first instance. Similarly, it reduces the costs associated with climate change by reducing the societal impact.

These are the type of benefits which are often left unaccounted for, and which fail to be included as part of the quantitative cost-benefit analysis when assessing the impact of water literacy and water education. This was highlighted in a 2022 literature review that compared over 169 studies from 43 countries across 6 continents examined the effectiveness of environmental education on children and adolescents.¹ What they found in their review was that environmental education had a conclusive, noticeable, effective, and positive impact on the attitudes, intentions, and behaviours of young people. This evidences the powerful impact that environmental education has on the behaviour of youth and adolescents. It is equally as powerful for adults, making them crucial agents for change and environmental sustainability. In particular, the study found that environmental education increases an individual's motivation to protect, preserve and improve the natural environment. In much the same way, the delivery of community education in relation to water literacy more broadly in both regional and non-regional areas can fundamentally improve community behaviours in, around, and on NSW's rivers, catchments, tributaries, and waterways.

WaterNSW note that a requirement for community education should be underpinned by best practice principles. The principles should be evidence-based principles with a clear definition of the problem that the educational program is seeking to solve. They should ensure they are adaptable for and tailored to the target audience with learning outcomes linked to the region in which they are provided. They should also ensure they incorporate current science and research and include monitoring and evaluation to document and measure program outcomes. This will ensure the funding is directed to the issues and programs that provide the most effective outcomes and lead to the greatest gains.

Nevertheless, the outcomes of any education program will only be as good as the funding granted to it. While we support the broadening of our education remit, it must be accompanied by sufficient funding. Without sufficient funding, WaterNSW will not be able to deliver an impactful program in which education drives meaningful change.

¹ Van de Wetering J. et al. (2022) *Does environmental education benefit environmental outcomes in children and adolescents? A meta-analysis*, Vol. 81 Journal of Environmental Psychology 101782. Accessed at: [Does environmental education benefit environmental outcomes in children and adolescents? A meta-analysis - ScienceDirect](#)

Should this expanded obligation remain in the final Operating Licence, this funding could come direct from Government (e.g. via a CSO), or through the IPART pricing determination process. Either option would require consultation with stakeholders and customers to consider the best value proposition in the design of the program.

Finally, WaterNSW wish to reiterate that the education program should be one that reflects a life-long approach to learning which includes working with the general public in all phases of life, including children, young adults and adults, as well as government, industry and any other special interest groups or members of the community.

4.8 Water conservation and planning – Part 9

4.8.1 Clause 34 – System yield for declared catchment area

Support in-principle, with amendments

WaterNSW supports the refreshed obligation relating to the system yield for the declared catchment area, noting the inclusion of the consideration of the impacts of climate change. However, there are a number of new requirements and changes that we consider require amendment.

Firstly, (1) the wording of '*use a long-term hydrological model*' and '*it can supply*' and '*12 months for 30 years*' is not clear and could be interpreted differently. The purpose of this period is not to enable a forecast from today per se, but rather to enable a long-term hydrological model to simulate the system and the statistical outcomes for a representative climatic period. In NSW, with a highly variable climate, long periods are required to achieve this. We would consider a simulation period of at least 50 years, and we typically adopt periods longer than 100 years, which are limited based on available historical data. We suggest reverting back to the wording in the current licence.

Secondly, (1)(a), appears to limit the scope to inflows to the catchment infrastructure works in the declared catchment area. However, the model also uses flows we receive from outside the declared catchment and from the Fish River Water Supply Scheme.

Thirdly, (3)(b), we seek clarity as to the slight wording changes and what the intended purpose of these changes is. In particular "*....the supply of water in and from the declared catchment area*", as opposed to the current licence condition of "Supply of water in respect of the Declared Catchment Areas". We suggest reverting to the wording in the current licence for clause 2.5.1.

We suggest removing the following two requirements; (3)(d), as DCCEEW defines the design criteria and is vested with the power to change the design criteria, not WaterNSW, and (4)(b), as since the Ministerial decision to reassign responsibilities for certain water planning activities from 31 January 2021, Sydney Water has had the responsibility for supply augmentation planning. Sydney Water are also responsible for determining demand. Therefore, we consider that this clause is better placed in the Sydney Water Operating Licence.

For (5), WaterNSW is supportive of making information about the system yield and how it was calculated publicly available online to align with (6) and making the design criteria publicly available online. This would also improve transparency and efficiency and minimise any future costs in terms of responding to individual requests for information on an as needs basis.

4.8.2 Clause 35 – Water conservation plan

Support in-principle, with amendments

WaterNSW considers the NSW Water Efficiency Framework is a best practice guide for a broad range of water suppliers, distributors, customers and consumers, including government, water utilities, councils and large businesses. As a result, consideration to the extent that it can be applied to WaterNSW, in terms of our functions and operations needs to be clearly defined, as well as the Framework's relevance given key components can only be applied in the urban context. Given this, we suggest that this only apply in the context of the declared catchment.

We also seek clarification on clause 35(1)(e), as it is unclear if the intent is to document and report on the costs and volumes specifically for water lost or saved, or is it the costs of the projects, or the value? The first, costs and volumes for water lost or saved would be extremely difficult to provide accurate figures on given environmental factors and the natural infrastructure (i.e. rivers) that WaterNSW use for supply and delivery of water.

4.8.3 Clause 36 – Climate-related planning and risk management

Oppose

The NSW Climate Risk Ready Guide (the Guide) provides government agencies and state-owned corporations with a robust approach to climate risk assessment and climate risk management. However, there is currently no Government requirement for WaterNSW as a state-owned corporation to implement the Guide, nor are there mandated timeframes for certain actions to be completed.

Accordingly, WaterNSW opposes draft clause 36, as the NSW Government has not imposed any requirements for implementation. In our view, it would be more appropriate for the Government to make policy decisions to mandate implementation, and, if this occurs, to assess WaterNSW's progress in implementing any activities within the Guide.

While we do not consider this needs to be covered by an Operating Licence requirement, WaterNSW recognises that alignment to the Guide is good practice, and we intend to undertake work regardless of whether a licence obligation is imposed on us.

We are currently in the process of developing a Climate Risk and Adaptation Plan in accordance with the Guide, which also aligns with recommendations of the Taskforce on Climate-related Financial Disclosures (2017). WaterNSW will undertake several activities, which include scenario analysis and an assessment of inter-dependencies, transitional and system-wide risks, as well as compounding, cascading and cumulative risks where feasible.

4.8.4 Clause 37 – Greater Sydney drought response plan

Support in-principle, with amendments

As the Greater Sydney Drought Response Plan (GSDRP) is a joint plan, both WaterNSW and Sydney Water's Operating Licences need to be consistent with each other in relation to GSDRP clauses. The proposed changes we are seeking include reordering and simplifying the clauses relating to the review of the plan to remove unnecessary prescription. Secondly, submit the revised plan directly to the Minister each year, rather than through the Department, and instead engage/consult with the Department throughout the review

process. Thirdly, include a requirement to explain any actions that have been deferred, cancelled or updated since the last review in the report to the Minister. Also, amend the requirements for implementation to allow greater flexibility, to minimise WaterNSW being found non-compliant for actions that have been adjusted through the annual review process. Lastly, allow for a small amount of additional time for the updated plan to be posted on both utility's websites (i.e. up to 31 January).

WaterNSW and Sydney Water have sought to align the obligations relating to GSDRP in both Operating Licences. In doing so, we suggest the following specific amendments to this clause to address the proposed changes outlined above.

Clause 37(1)(a) - We propose to change this clause to *"Jointly review the Greater Sydney Drought Response Plan annually with Sydney Water"*.

Clause 37(1)(b) - We propose to delete clauses (i) and (ii) and instead suggest, *"WaterNSW must submit the documented outcomes of the annual review, the revised Greater Sydney Drought Response Plan and progress of actions to the Minister by 30 November each year"*. We also recommend transferring this clause to 37(2) so that requirements relating to the documentation and delivery of the GSDRP are under clause 37(2).

Clause 37(1)(c) - We propose to change this to *"Make a summary of the revised Greater Sydney Drought Response Plan publicly available online (accessible from both Sydney Water and WaterNSW websites) by 31 January"*.

Clause 37(2)(a) - We propose to change this clause to, *"Use best endeavours to develop an agreed approach (including timeline, roles and responsibilities) with Sydney Water to undertake and document the joint annual review"*.

Clause 37(2)(b) - This clause does not promote and support collaboration between WaterNSW and Sydney Water. Thus, we propose to change this clause to *"Document the outcomes of the annual review and any changes to the Greater Sydney Drought Response Plan, and an explanation of any actions that have been deferred, cancelled, or updated since the previous review"*.

Clause 37(3)(a) and Clause 37(3)(b) - We propose to replace these clauses with *"WaterNSW and Sydney Water to collaborate with the Department as part of the annual review"*, and then transfer this clause to 37(1).

Clause 37(4)(a) and Clause 37(4)(b) - We propose to replace these clauses with *"Implement the actions in the Greater Sydney Drought Response Plan assigned to WaterNSW, as may be adjusted as agreed between Sydney Water and WaterNSW. Any adjustments must be recorded as part of the annual reporting under Clause 37(2)(b)"*.

4.8.5 Clause 38 – Water supply augmentation planning

Support in-principle, with amendments

We suggest removing clause 38(2)(c) as this obligation is on Sydney Water and not WaterNSW. Therefore, it should be removed from our Operating Licence and inserted as an obligation in Sydney Water's Operating Licence.

For clause 38(2)(d), we recommend removing the requirement for Board approval. Our internal governance ensures that our Board is informed of, and where relevant approves, key supply augmentation decisions and potential implications for WaterNSW. Our internal governance processes do not need to be regulated by the Operating Licence, as they're a function of the Company's Constitution and subordinate instruments, which are required under the *State-Owned Corporations Act 1989*. If this provision is retained, it should not refer to Sydney Water since that is an obligation on Sydney Water and should not be in WaterNSW's Operating Licence.

4.8.6 Clause 39 – Long-term capital and operational plan

Support in-principle, with amendments

As the Long-term Capital and Operational Plan (LTCOP) is a collaboration between WaterNSW and Sydney Water, both Operating Licences need to be consistent with each other in relation to the LTCOP clauses. Consequently, we suggest the following amendments to this clause:

Clause 39(1)(b) - We propose changing the clause to *"a range of long-term investment pathways to meet customer needs, regulatory requirements, and government expectations"*.

39(2)(a) - We propose to amend this clause to reflect that the update to the LTCOP should occur *"at least once every five years and remove the dates"*.

39(2)(b) - We propose to amend this clause to reflect that it should be upon request by the Minister and remove the 12-month timeframe.

39(3)(a) - We propose including the Department in the consultation process. We suggest updating the clause to *"consult with Sydney Water and the Department in its review of the plan"*.

39(3)(b) - We propose removing this clause. The proposed change in clause 39(3)(a) above will ensure the Department is provided with the opportunity to review and provide comments on the LTCOP.

39(3)(c) - We propose removing the 20-day timeframe. We would prefer to have the flexibility to negotiate timeframes with Sydney Water and the Department based on the extent and complexity of the feedback, our program and resource availability. Specifying a timeframe does not necessarily provide for an improved regulatory outcome.

39(3)(d) - We propose removing the requirement for Board approval in this clause. Our internal governance ensures that our Board approves key planning documents, such as the LTCOP. Our internal governance processes do not need to be regulated by the Operating Licence as they are a function of the Company's Constitution and subordinate instruments, which are required under the *State Owned Corporations Act 1989*.

4.8.7 Clause 40 – Water strategies

Support in-principle, with amendments

The current wording places undue burden on WaterNSW, as, if the Department do not request our input, WaterNSW would be considered non-compliant when audited against this clause, but not due to our own fault. We suggest replacing the word *"cooperate"* with *"collaborate"* or *"advise"* and adding *"to the extent that we are requested to do so by the Department."*

4.9 Data management and access – Part 10

4.9.1 Clause 41 – Data management system (DMS)

Support in-principle, with amendments but oppose the requirement that data be “fit for purpose, including enforcement action”

In principle, WaterNSW support the data management system in clause 41 albeit with several amendments.

WaterNSW generally support a requirement to implement and maintain a data management system (DMS) (or as WaterNSW will subsequently propose, a *data management framework*) but note that successful delivery of such a system or *framework* will be contingent upon the funding made available for implementation, rollout, and system delivery.

WaterNSW recommend IPART amend the title of clause 41 and the wording throughout clause 41 to reference a data management “framework” instead of data management system. WaterNSW considers the term “framework” to be more appropriate and better aligned with IPART’s intention contained under clause 41. Namely, that WaterNSW introduce and implement a series of policies on data quality standards and that incorporate open data principles that align with current NSW Government policy. By calling it a “framework” instead of a “system”, it avoids any confusion with the ordinary meaning of “system” as it is currently used in the digital/IT sphere. It also avoids confusion with the meaning of “management system” in the context of ISO standards. Renaming the clause would better reflect the intended policy and governance functions outlined in this clause.

While WaterNSW supports best practice data management principles, WaterNSW opposes the draft Operating Licence requirement that data be “fit for purpose, including use for enforcement action” as per paragraph (1)(b)(ii)(A). WaterNSW recommend that the requirement that data be fit for “use for enforcement action” be removed.

A blanket requirement that WaterNSW ensure all the data can be used for enforcement action can be inferred as requiring WaterNSW to collect and maintain “evidentiary grade” data across all datasets. WaterNSW is concerned that this requirement is unlikely to be achievable and would be concerned about including this obligation prior to a full and comprehensive understanding of the cost implications, as well as the timeframes needed to

achieve the desired outcome. Even if sufficient funding was made available for this purpose, a requirement that all data be of a standard that can be used for enforcement action – across the entire organisation, for an organisation in which data collection is frequently impacted by natural events such as floods, droughts, storms and so on - is unlikely to be achieved in full by WaterNSW. It also raises questions around historic data. WaterNSW note that it is often not possible to convert or rectify historic data that has already been collected or captured to a higher quality standard, such as an evidentiary standard. The Operating Licence would need to better capture the distinction between 'historic' and 'future' data to avoid this problem if the "fit for purpose, including enforcement action" requirement was maintained within the Licence.

WaterNSW collects data for our own needs as well as for the needs of our customers. Other agencies also use our data for their own purposes, in accordance with appropriate customer consent, privacy protections and security obligations.

In some instances, we are the recipients of third-party data and at other times we collect data on behalf of other agencies. This is, however, usually coordinated under some kind of data-sharing agreement (DSA) and often with cost recovery provisions that permit WaterNSW to obtain financial compensation for the work performed. Broadening WaterNSW's data collection requirements to ensure all data collected is fit for purpose, including enforcement action would have a significant cost impact for both WaterNSW and potentially WaterNSW customers, depending on cost sharing decisions that would be part of the upcoming IPART Pricing Determination process. The cost impacts would affect all parts of the organisation, including water monitoring, SCADA, water planning and delivery, dam safety, water quality, GIS and asset data.

For this reason, WaterNSW recommend changing the requirement that data be "fit for purpose" to a requirement that data be assigned a Data Quality Statement that enables the end-user to assess what use that data is best suited for. The reason for this recommendation is that "fit for purpose" usually implies that it be fit for one's own purpose - i.e. for the purpose of one's own business or organisational needs. A fit-for-purpose provision does not ordinarily refer to use-cases for other individuals or entities. If the intention of paragraph (1)(b)(ii)(A) is to ensure that the data quality of WaterNSW data is both defined and understood by other agencies, then the wording should better reflect this intent. If the intention is to ensure that all WaterNSW data is fit-for-(the)-purpose(s) of all other agencies and Departments, then the requirement is likely and perhaps, unintentionally, far broader reaching than IPART intended.

WaterNSW is already working on the development of best practice data management principles with our key stakeholders, including a Data Quality Improvement Program which focusses on historic data remediation as part of our work with NSW DCCEE and NRAR. An Operating Licence requirement that data quality be suitably defined and attributed to data sets would better reflect the work that is currently being done in this space and the intention between our organisations to improve data quality for their benefit. The Operating Licence could obligate WaterNSW to develop a Data Quality Improvement Program (DQIP) for data that has been identified by a user-Agency as deficient. Such a Program should have agreed targets (standards and metrics) for data quality, accuracy and continuity and in that regard be a reasonable evolution of the current operating licence requirements. The Program would also need to be subject to funding and have reasonable timeframes to address the data quality issues.

If IPART's intent is to ensure that data is both suitable for certain use-cases *and* of a quality that achieves that a certain user purpose, data quality statements could be used instead of imposing a "fit-for-purpose" requirement.

The use of Data Quality Statements (DQS) would permit external agencies to assess the accuracy, continuity and reliability of the data being supplied. Under a DQS system, the originator of the data is responsible for assigning the appropriate DQS to the data. DQSs provide the data user with information on the data quality (including accuracy of the data) and enable the user to determine that data's suitability for a particular use-case. This gives the user a measurement by which to assess whether the data is suitable for use in enforcement action, alleviating concerns around the verifiability or legal weight of that data in a legal proceeding. WaterNSW note that IPART already reference DQS as per paragraph (1)(b)(ii)(D) and could either amend the provision (1)(b)(ii)(A) to be more explicit (i.e. require the development of a DQIP if requested by an external agency because the DQS has identified a shortcoming for their purpose) or simply remove paragraph (1)(b)(ii)(A) and rely on (1)(b)(ii)(D) for data quality assurance.

WaterNSW notes that if IPART intend for WaterNSW to comply with the National Water Information Standards under the *Water Act 2007* and the National Industry Guidelines for Hydrometric Monitoring then the wording of clause 41 and, in particular, paragraph (1)(a) should capture this intent by including them as part of the list of requirements in the paragraph.

WaterNSW strongly recommend that IPART include a best endeavours defence underneath the 1 July 2025 date for DMS (or as we have recommended DMF) rollout. As paragraph (1)(b)(ii) is currently written, WaterNSW will need to liaise with other Government agencies when developing the data quality policy to ensure the data quality proposed is “fit for (their) purpose” as well as our own. Settling on an agreed “fit for purpose” position will likely require extensive consultation; the outcomes of which we cannot necessarily control. Even if IPART amend the provision to a “suited for use” provision, WaterNSW would still be required to engage in consultation with the stakeholders who require that data. This would include ongoing engagement to manage and align potential changes. In addition, WaterNSW anticipate pushback from other agencies such as NRAR that a co-design requirement ought to be included as part of the DMS provision. As such, WaterNSW recommend the inclusion of a best endeavours provision in recognition that WaterNSW are not in a position to independently control the requirements listed under this provision but instead require input from and rely upon the collaborative efforts of other agencies.

WaterNSW seek clarity from IPART on what is meant in paragraph (1)(b)(ii)(B) and the requirement that metadata is stored for “all data”. WaterNSW note that this is a broad and far-reaching requirement, particularly given that “all data” has not been defined within the draft Operating Licence. IPART may consider revising this provision in recognition of the issues surrounding legacy data and the issues that would arise in terms of fulfilling this requirement for that legacy data.

WaterNSW also require clarity on paragraph (1)(b)(ii)(C), as the definition of “poor quality” is not defined. If the intention is to apply a data quality tag which other agencies can use to determine whether the data is suitable for use, then the wording should capture this intent and be consistent with the concept of developing DQs. If the intention is to ensure poor quality data is tagged by WaterNSW for the purposes of identifying all the quality requirements identified by other agencies and Departments, the requirement is likely, unintentionally, far broader reaching than IPART intended with a significant increase in cost.

WaterNSW also seek clarity on the meaning of “remediated” in paragraph (1)(b)(ii)(C). If IPART's intention is to ensure a data is remediated to a level that is suitable for use by other agencies, then the wording should capture this intent. If the intention is to ensure water data is edited by WaterNSW to meet the needs of all other agencies and Departments, then the requirement is likely, unintentionally, far broader reaching than IPART intended leading to a

significant increase in cost. As indicated above, we consider a DQIP is the more appropriate requirement, with targets for data quality as described above.

WaterNSW also seek clarity on paragraph (1)(b)(ii)(D), as a definition for “data element” is required.

Finally, WaterNSW seek clarity on paragraph (2)(c) and the requirement for an annual sampling program. It is unclear to WaterNSW what is the intended purpose and scope of such a sampling program. WaterNSW note that the audit requirements for such a program would raise additional operational expenses if this requirement were to remain.

4.9.2 Clause 42 – Water sector information hub

Requires further discussion with Government agencies

WaterNSW support the recognition of our vital role in terms of data collection, data management and data sharing within the water sector but note that our ability to provide a water sector information hub on behalf of all NSW Government Departments and agencies in the water sector will be contingent upon further discussion with relevant agencies as to the scope of such a role and resolution of the funding allocated to it.

The increasingly important role of WaterNSW as a data custodian of water sector data has been recognised in the *Roles and Responsibilities Agreement (RRA)* and via the proliferation of DSAs with other agencies seeking access to WaterNSW data. In addition to formal agreements such as DSAs and the RRA, we also facilitate many other ad hoc data sharing arrangements with external stakeholders, such as with State and Commonwealth government agencies, departments and local councils.

While WaterNSW recognise that we play a significant and growing role in terms of managing water sector data, we consider that IPART did not intend clause 42 to have its broadest possible meaning and therefore apply to *all water data*. Under the current wording of paragraph (1) WaterNSW would be required to create and manage a water sector information hub that provides storage, management and access to water data relevant to departments and agencies across the NSW Government that have any role in the water sector. WaterNSW consider this requirement is broader in scope than IPART anticipated. As “water data” is not limited in scope, the consequence is that it would result in a responsibility for WaterNSW to manage all of NSW DCCEEW and NRAR’s water data, LWU data, Sydney

Water data, Hunter Water data, BCS water data, Fisheries water data, and so on. WaterNSW requests that IPART clarify the scope of data to be held on the hub, noting that the scope could be limited by way of a definition for "water data" or by way of amendment to the paragraph to include a provision which considers "by agreement with other agencies".

WaterNSW further note that the cost of storing, managing and providing access to *all water sector data in NSW* was not included as part of the costing WaterNSW proposed in our Cost-Benefit Analysis (CBA). Nor were these costs factored in as part of our follow-up questions to IPART on the CBA. As a result, the costs we provided to the CBA and follow-up CBA questions will not accurately reflect the costs associated with the management of *all water sector data in NSW*. The \$10 million planned under the \$17.5 million Technology Roadmap would be a significant underestimate of costs and result in a serious shortfall if the scope of our data requirements was expanded to include all water sector data. If IPART intends for WaterNSW to take on responsibility for all water sector data, it requires appropriate funding to facilitate that outcome.

WaterNSW propose the scope of the data/information to be contained on the hub should be better defined by IPART and note that it could include data that other water sector agencies currently hold, by agreement with those agencies.

This also raises the question as to what is meant and intended by a water sector information hub. What are the expectations under it and how will it be differentiated from other agencies' data collection and storage facilities, such as NSW DCCEE's SEED data portal/hub or the BoM's water hub?

Regarding the distinction between data and information, noting that the title of the clause is "water sector information hub", WaterNSW raised the importance of this distinction in our submission to IPART's Issues Paper. WaterNSW appreciates IPART's effort to better understand and distinguish between data and information, however, we are not sure this nuance has been captured within the draft Operating Licence. We note that clause 42 requires the creation of a "water sector information hub" and propose that this terminology be amended to call it a "water sector data and information hub". This would better reflect the purpose of that hub, which is to collect and store both information *and data*. As stated in our Issues Paper, "information" implies a higher and more onerous requirement than data. Information implies that there has been a conversion and organisation of data from a raw, unorganised dataset into something that can be used as information, evidence, facts. We note that no definition of data or information has been included within the draft Operating Licence and

recommend that IPART include this subtle yet important distinction in their section on definitions.

WaterNSW requires further clarification from IPART to better understand the expectations and compliance obligations in clause 42. For instance, the requirement that the hub be co-designed with NRAR and DCCEEW necessitates the addition of a best or reasonable endeavours defence. WaterNSW note the current drafting of clause 42 does not include such a defence mechanism yet it simultaneously imposes strict timelines and dates by which WaterNSW need to:

1. Develop the water sector information hub "implementation plan";
2. Achieve reasonable progress against the implementation plan; and
3. Deliver the information hub.

Ordinarily, when IPART impose requirements on WaterNSW to work with other agencies and include strict timeframes or parameters on the outputs of that collaborative work, they will also include a best endeavours defence for WaterNSW. This prevents WaterNSW from being found to be non-compliant if the reason for failure is either the fault of or caused by delay from other agencies. It would be prudent to include a similar such protection for such a large scale and complex project. Particularly given that co-design will involve agreement between three parties: WaterNSW, NSW DCCEEW and NRAR and will require agreement on complex matters such as hub architecture, definition and business requirements of the data and information hub, and the role of SEED in terms of interacting with the new water sector information (and data) hub.

WaterNSW also propose amending paragraph (4) to better reflect the intention that it maintain the status quo until such time as the water sector information hub is delivered. Under the current drafting of paragraph (4), the clause would require WaterNSW to provide greater data access than is currently provided as it would require WaterNSW to provide unfettered access to all data and information held by WaterNSW. This suggests that WaterNSW would lose our ability to limit third party access to information or data that is currently not provided due to privacy or security reasons (or any other reasons). Under the draft provision, all the third party would need to do is demonstrate that the data is "relevant to their functions". This is very broad, ill-defined and does not take into account privacy and security obligations for which WaterNSW is liable. There are certain circumstances in which limitations on access to data and information are appropriate; this is one of the underpinning

principles of DSAs. Therefore, this clause should be modified and limited to something along the lines of "provide access to open-source data consistent with the Government's Open-Source Policy, and for all other data and/or information, subject to an appropriate DSA".

4.9.3 Clause 43 – Metering equipment downloads

Oppose

WaterNSW is opposed to this obligation. 99%+ of the meters under the metering regulations are connected to telemetry, so data is received daily into WaterNSW systems. However, there is no certainty of data quality as the accuracy and calibration of the metering equipment is the responsibility of the customer (and the DQPs that the customer engages). WaterNSW is only responsible for receiving and storing this data. Consequently, WaterNSW has no visibility or control over the quality of the data, nor is the data received and stored considered high value data.

The number of meters that this proposed obligation applies to is currently 10 which is 0.0016% of all current compliant meters. These meters do not record significant volumes of water. For comparison, the number of meters connected to telemetry is 3921, with a further 1795 expected to connect to telemetry over the next 6 months. To undertake the manual download at these sites is costly, given staff must physically attend the sites, which are located across the state, as well as additional implementation and logistical costs.

Furthermore, in WaterNSW's experience, data collected from these meters has from time to time been corrupt and has subsequently been rendered unusable by any other agency or the customer.

Finally, WaterNSW note that this requirement is no longer of significant benefit to customers as the uptake of telemetry has far exceed expectations. As such, WaterNSW recommend that this clause be removed.

4.10 Government relationships – Part 11

4.10.1 Clause 44 – Memorandum of understanding with NSW Health

Support

WaterNSW supports the obligation to have an MoU with NSW Health.

4.10.2 Clause 45 – Memorandum of understanding with the EPA

Support

WaterNSW supports the obligation to have an MoU with the EPA.

4.10.3 Clause 46 – Roles and responsibilities agreement with the Department, NRAR and WAMC

Support in-principle, with amendments, including removal of reference to WAMC

WaterNSW supports the obligation to have a Roles and Responsibilities Agreement (RRA). However, we request the removal of WAMC as a fourth single party to the agreement or seek clarity from IPART on how this would work in practice. The Department, NRAR and WaterNSW as individual parties undertake specific WAMC functions, which are documented in the agreement, and together make up WAMC. Furthermore, WAMC is not in the current Operating Licence requirement at clause 6.15.

We also seek clarification on the wording in clause 46(1) "*about data that*" and the intent. We suggest that the clause should cover the full scope of the RRA and not just be limited to data. Also, there is no reference to the conferred functions, which is specific to the RRA and included in the current Operating Licence clause 6.15.1.a.

4.10.4 Clause 47 – Cooperation protocol with NRAR

Support in-principle, with amendments

WaterNSW supports the obligation to have a cooperation protocol with NRAR, noting that this replaces the current Operating Licence requirement to have a MoU. We recommend that clause 47(1) should include a 'best endeavours' approach to maintaining the cooperation protocol with NRAR. We also suggest that for clause 47(1)(a), the word "supply" is removed, as it is not necessary and may create confusion with Supply terminology.

4.10.5 Clause 48 – Cooperation protocol with NSW Fisheries

Support in-principle, with amendments

WaterNSW supports the obligation to have a cooperation protocol with NSW Fisheries. However, we recommend changes to clause 48(1)(a) and (b). Firstly, in relation to "ecologically sustainable development and the protection of the environment, including conservation of fish reserves and habitat", we suggest that it should have closer ties to WaterNSW's functions and better reflect our role as related to water quality and quantity and complementary responsibilities for fish passage. We recommend that clause 48(1)(b) should then be reworded in light of (1)(a).

4.11 Environment, climate and water quality reporting – Part 12

4.11.1 Clause 49 – Environmental performance indicators

Support in-principle, with clarification and amendments

WaterNSW support the inclusion of a requirement on environmental performance indicators in principle but recommend that IPART limit this requirement to WaterNSW's activities in the Declared catchment areas.

The current drafting of clause 49 requires WaterNSW to monitor and compile indicators of the “direct impact on the environment of WaterNSW’s activities”. Problematically, the meaning of “direct impact” is both ambiguous and lacks clear parameters with which to limit scope. WaterNSW seek clarity from IPART regarding the intended scope for this clause. WaterNSW note that, depending on IPART’s intention for the clause, it could result in significant additional costs to estimate and measure impacts where there is little or no limitation on scope.

WaterNSW recommend limiting clause 49 to only require WaterNSW to monitor and compile performance indicators for WaterNSW’s activities in the Declared Catchments. This would ensure consistency with IPART’s position in the WaterNSW Reporting Manual 2022-2024, which requires WaterNSW to report on environmental performance indicators for the Declared Catchment Areas only. We also request clarification from IPART that the reporting requirements intended for clause 49 will be consistent with the requirements contained in part C of the IPART Water NSW Reporting Manual 2022–2024. For instance, reporting would include information on total energy consumption, electricity consumption from renewable resources, percentage of solid waste recycled or reused, and estimated total mass of solid waste generated.

4.11.2 Clause 50 – Climate-related disclosures

Oppose, as WaterNSW is already subject to other Government reporting requirements

WaterNSW opposes the draft requirements contained in clause 50 regarding climate-related disclosures.

We oppose this requirement as we are already subject to State reporting requirements under the *Government Sector Finance Act 2018* (GSF Act). Under the GSF Act, WaterNSW is required to report on climate-related financial disclosures in accordance with the Taskforce on Climate-related Financial Disclosures (TCFD). An Operating Licence requirement for climate-related disclosures will create regulatory duplication and appears to usurp the Government’s role as policymaker.

The NSW Government has already determined that all NSW government agencies and state-owned corporations will need to comply with formal TCFD reporting, with reporting due to commence on 1 July 2025. We anticipate that, as per the framework used to determine

federal reporting requirements, which looks at the number of employees in an organisation and turnover, WaterNSW will most likely be included in the first tranche of reporting agencies. This would result in regulatory duplication within the requirements of the Operating Licence.

Moreover, the proposed requirements in the draft Operating Licence have been linked to international standards rather than the Australian standards. We understand that the Australian standards will be those required under the TCFD requirements. This raises the risk of inconsistency, should the Australian standards differ from the international ones, and could result in the possibility that the Operating Licence imposes a higher obligation on WaterNSW under international standards than the obligation imposed by the Australian Government. Not only does it create a risk of inconsistency, but it also creates duplicative efforts for WaterNSW in terms of reporting against an international and an Australian standard. The AASB (Australian Accounting Standards Board) has released a draft standard which is customised for Australian conditions and based on international standards (Exposure draft ED SR1). This consultative draft was open for comment until 1 March 2024.

If clause 50 is retained, WaterNSW is concerned about the inclusion of reporting requirements for Scope 3 emissions. WaterNSW note that this issue is still being resolved under the TCFD framework and it is not yet clear whether scope 3 emissions will be included as part of the reporting requirements. This could result in further inconsistency and misalignment in terms of reporting requirements.

WaterNSW further considers that it is more appropriate for audits on climate related disclosure to be conducted by NSW Treasury, the Climate Office or the Auditor General. This would ensure consistency with the audit requirements of other Government agencies and remove the need for IPART to duplicate their audit efforts on this activity. If retained, we request guidance from IPART on their intent for this provision and clarification on the expected audit requirements under this clause.

4.11.3 Clause 51 – Annual water quality report

Support access to information, with amendments

WaterNSW supports the intent of clause 51, which is to provide transparency, accountability and access to water quality information for the public and our regulators. However, we suggest that there are more efficient and effective ways of achieving the same outcome.

We recommend that IPART consider adopting some of the elements of digital reporting as part of this clause. Digital reporting may offer more practicable benefits for stakeholders, providing more frequent access to information than an annual, standalone report.

Lastly, we suggest that clause 51 relate to the reporting of water quality monitoring activities and not water quality per se. This is in alignment with the obligations in the reporting manual.

4.11.4 Clause 52 – Annual catchment health report

Support access to information, clarity required on potential duplicative reporting

The annual catchment health report is a new requirement. While WaterNSW support this clause in principle, WaterNSW has certain concerns regarding the scope, intent and reporting requirements of the report.

Firstly, in relation to the scope, the current Operating Licence requires an annual report on catchment management for the Declared Catchment Areas only, whereas the draft clause is more ambiguous. Based on the wording of the proposed reporting manual, WaterNSW assumes IPART's intent for clause 52 is to cover the Declared Catchment Area only. As such, we recommend articulating this in clause 52 of the Operating Licence to maintain clarity of the scope of the requirement. If our assumption is not correct, WaterNSW would find it difficult to comply with this clause, as we do not have responsibility for undertaking catchment activities outside of Declared Catchment Areas.

Secondly, regarding the intent of the report, the current Operating Licence obligation is for a catchment management report, not a catchment health report. These are two very different requirements. WaterNSW seeks clarification from IPART as to the correct requirements. WaterNSW currently undertakes every three years the declared catchment audit (under section 42 of the WaterNSW Act). This catchment audit requires significant effort and cost to undertake the comprehensive catchment health assessment. As worded, this draft clause appears to duplicate the regulatory obligations associated with the triennial declared catchment audit (under section 42 of the WaterNSW Act).

In addition, the reporting manual introduces a requirement to monitor and assess catchment health trends annually. However, no indicators are specified and does not elaborate on what is required. Also, WaterNSW has been investigating the opportunity to develop catchment health metrics to support business planning purposes as not all the catchment

audit report metrics are fit for purpose. Our initial assessment is that these complex data sets and analyses can be difficult to relate to changes in catchment health over annual timeframes due to lags in environmental responses and would be a more useful exercise on a 3-5 year reporting cycle. Therefore, we suggest that this frequency of reporting is unnecessary.

Lastly, we seek clarification on the changes proposed to the reporting requirements. Under the current Operating Licence, the annual catchment management reports on such aspects in relation to the declared catchment as:

- Planned and actual catchment management activities and outcomes
- Variances and reasons
- Research completed by WaterNSW
- Education completed by WaterNSW
- Progress updates on Catchment and Operating Licence Audits

It appears some of these will be captured under new, additional reports that have disparate dates, such as a research report and an education report. We suggest alignment and clarity is required between the proposed Operating Licence obligation and the reporting manual, which presents an opportunity to introduce less regulatory burden by harmonising obligations that can then be targeted at maximising the usefulness of the reporting and regulatory outcomes sought.

As noted above under clause 51, we suggest that IPART consider allowing a more flexible approach to reporting by adopting digital reporting elements as part of this clause.

4.12 Other matters

4.12.1 Terminology changes

Oppose

WaterNSW does not support IPART's decision to change the terminology from 'Supply' and 'Capture, Store, Release' (CSR) to 'direct water supply services' and 'water release services'. The proposed change is likely to create some adverse outcomes.

Firstly, the new terminology is inconsistent with the terminology contained within the WaterNSW Act. This means it is unclear which performance standards would apply to “water Supplied” and which would apply to “CSR water” under the Act. The Operating Licence is subordinate to the Act and therefore should not introduce new terminology that is inconsistent with the Act.

Secondly, the definition is problematic as it confuses individuals and entities in the water sector as to their meaning and application. Thirdly, the new terminology and their definitions do not appear interchangeable with “water Supplied” and “CSR water”. For example, “direct water supply service” as defined would include the water we supply to local water utilities via our rivers (via “CSR water”), but “water Supplied” does not, thus having implications on the application of the WQMS and the performance standards.

WaterNSW recommends that IPART ensure consistency with the terminology used in the legislation and revert to the ‘Supply’ as well as ‘Capture, Store, Release’ terminology. WaterNSW has developed the following definition of “water Supplied” in our Water Quality Policy and we recommend retaining “water Supplied” and adopting this definition:

- *“water taken from the State's water rights by WaterNSW under our water access licences and supplied by WaterNSW as drinking water, or as bulk water with the final end use as drinking water to customers such as Sydney Water, and the councils of Wingecarribee Shire, Goulburn Mulwaree, Shoalhaven City and Oberon”.*