



Sydney Water Operating Licence Review  
2023-24

# Report to the Minister

May 2024

Water >>



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## **Acknowledgment of Country**

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

## **Tribunal Members**

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## **The Independent Pricing and Regulatory Tribunal**

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

# Contents

## Chapter 1

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<b>Introduction</b>	<b>1</b>
1.1 Our Review	2
1.2 Our key recommended changes to the licence	3
1.3 How we developed our recommendations	4

## Chapter 2

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<b>Water conservation, efficiency and long-term planning</b>	<b>9</b>
2.1 Focus on water conservation and efficiency	10
2.2 Water planning consistent with the Greater Sydney Water Strategy	21
2.3 Greater Sydney Drought Response Plan	24
2.4 Water supply augmentation planning	27
2.5 Long-term planning	31
2.6 Priority Sewerage Program	35

## Chapter 3

---

<b>Climate risk readiness</b>	<b>37</b>
3.1 Abatement	39
3.2 Resilience and adaptation	40
3.3 Climate-related planning and risk management	41
3.4 Climate-related disclosures	46

## Chapter 4

---

<b>Water quality, system performance standards and asset management</b>	<b>50</b>
4.1 Water quality standards and water quality management	51
4.2 Fluoridation	56
4.3 System performance standards for service interruptions	58
4.4 Asset management	67

## Chapter 5

---

<b>Sydney Water's obligations to its customers</b>	<b>73</b>
5.1 Protecting customers' rights	74
5.2 Protecting consumers' (tenants) rights	78
5.3 Operating licence conditions regulating specific customer protections	83
5.4 Consulting with customers	97

## Chapter 6

---

<b>Stakeholder cooperation and information for competitors</b>	<b>103</b>
6.1 Cooperating with Government stakeholders	104
6.2 Dealing fairly with competitors	113

## Chapter 7

---

<b>Critical infrastructure security</b>	<b>128</b>
7.1 Critical infrastructure security	129

## Chapter 8

---

<b>Administration</b>	<b>134</b>
8.1 Activities authorised and required by the operating licence	135
8.2 Licence context	138

8.3	Performance monitoring and reporting	144
8.4	Miscellaneous	148
<b>Chapter 9</b>		
<b>Full list of recommendations</b>		<b>153</b>
9.1	Our recommendations	154
<b>Appendix A</b>		
<b>Recommended changes to the Customer Contract</b>		<b>167</b>
A.1	Summary of our recommended changes to the current customer contract	168
<b>Appendix B</b>		
<b>Cost-benefit analysis</b>		<b>198</b>
B.1	Water quality, system performance standards and asset management	199
B.2	Water conservation, efficiency and long-term planning	200
B.3	Climate risk readiness	202
B.4	Sydney Water's obligations to its customers	202
B.5	Stakeholder cooperation and competition	204

Chapter 1 >>

Introduction

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We have undertaken an end-of-term review of the 2019-2024 [Sydney Water Operating Licence](#) (current licence) and Customer Contract (which is included in a schedule to the operating licence) (Review). The current licence will expire on 30 June 2024.<sup>a</sup> This licence anticipates the Review in the final year of the licence to investigate whether it is fulfilling its objectives and to investigate any issues that have arisen during the term of the licence that may impact its effectiveness.<sup>1</sup>

This report explains our recommendations to the Minister for Water (Minister) for updating the operating licence and customer contract in response to our investigation.

## 1.1 Our Review

Sydney Water is a monopoly service provider that provides essential services to 5 million customers. As a monopoly service provider, Sydney Water's customers do not have an option to change service providers if they are dissatisfied with their level of service. As Sydney Water does not face competition, regulation and licensing are required to promote positive consumer outcomes.

The current licence authorises Sydney Water to operate under terms and conditions which address:

- the quality of products or services including the protection of public health and the environment
- the availability of essential products or services.

We are making our recommendations to the Minister for a new operating licence (and customer contract) to come into effect by 1 July. Our recommendations are informed by the findings of this Review.

Sydney Water's prices are regulated by IPART's price determinations. Price regulation, in combination with operating licence requirements, protects customers from excessive (monopoly) prices.

We have also reviewed the current 2019-2024 Reporting Manual and made updates informed by submissions to this Review. We will publish the new 2024-2028 reporting manual and a document explaining the changes we made to the current reporting manual once the new operating licence comes into effect. We have not attached the reporting manual with our recommendations to the Minister for the operating licence. The reporting manual is an IPART document and does not require the Minister's approval.

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<sup>a</sup> The current operating licence was previously set to expire on 29 November 2023 but has been extended until 30 June 2024.



The **operating licence** sets terms and conditions to regulate how Sydney Water undertakes its functions in its area of operations.



The operating licence contains a **customer contract** which sets the terms for how Sydney Water provides services to its customers.



IPART publishes a **reporting manual** which includes details and deadlines for Sydney Water's reporting requirements.

## 1.2 Our key recommended changes to the licence

We have recommended terms and conditions for the new operating licence that reflect customers' preferences and needs. This is particularly important for customers of monopoly suppliers such as Sydney Water where customers cannot change their provider.

Our key recommendations for the operating licence are summarised below. The full list of all recommendations is in Chapter 9.

- Retain the current water quality standards in the operating licence and system performance standards for minimising water supply service interruptions, water pressure failures and wastewater overflows onto private properties.
- Include new operating licence conditions requiring Sydney Water to:
  - maintain, implement and annually review a 5-year water conservation plan
  - undertake water planning consistent with the Greater Sydney Water Strategy, drought response planning, and water supply augmentation planning
  - maintain and implement a Long-Term Capital and Operational Plan.
- Include new operating licence conditions for Sydney Water to undertake climate risk related actions.
- Include a new operating licence condition requiring Sydney Water to publish information on its website that clearly sets out the rights and responsibilities of tenants, who are not party to the customer contract.
- Update the current licence requirements for a family violence policy to include additional requirements for what Sydney Water's policy must include and to define 'family violence' in the operating licence consistent with the definition in the *Intervention Orders (Prevention of Abuse) Act 2009 (SA)*.
- Include a new operating licence condition requiring Sydney Water to provide Fire and Rescue NSW (FRNSW) with network performance information for all fire hydrants in its network by the end of the 2024-2028 operating licence term, to help FRNSW to plan for firefighting.
- Retain and update the current licence conditions requiring Sydney Water to publish servicing information about its water and wastewater systems to allow its competitors and new entrants into the market to make informed investment decisions.

We consider that there may be benefits in having a direct billing relationship between Sydney Water and tenants who pay their water usage charges. Currently, Sydney Water sends bills to landowners as they are Sydney Water's customers. However, a direct billing relationship would require legislative changes to the *Residential Tenancies Act 2010* (NSW) and the *Sydney Water Act 1994* (NSW). Providing rebates to tenants is a long-standing issue in NSW. We also considered this matter in the 2019 end-of-term review of the Sydney Water operating licence as well as in the 2017 and 2022 end-of-term reviews of the Hunter Water operating licence. We have not made a specific recommendation to the Minister about making legislative changes for a direct billing relationship between Sydney Water and tenants.

Should the NSW Government seek to make the necessary legislative changes, IPART would be well placed to advise on the costs and benefits, as well as the practical implications, of any contemplated change. We can also undertake a review of any changes needed for the operating licence to support any contemplated change. This does not need to wait until the next end-of-term review of the operating licence. If any legislative changes are made during the term of the 2024-2028 operating licence, we can make recommendations to amend the licence mid-term, under section 28 of the *Sydney Water Act 1994* (NSW). The Governor can also amend the operating licence at any time, without input from IPART.

We have discussed our recommendations for updating the Customer Contract in Appendix A. Our key recommendation is to remove references to tenants from the Customer Contract and require Sydney Water to publish information targeted at tenants separately.

### 1.3 How we developed our recommendations

We have conducted this Review to assess whether the current licence meets:

- its objectives in a way that imposes the lowest possible cost on Sydney Water and its customers
- customer and stakeholder expectations and supports wider government policy.

#### **We consulted widely with stakeholders**

We consulted widely with Sydney Water's customers and relevant government stakeholders during this Review.

In July 2023, we published an Issues Paper outlining our early thinking for changes to the current licence and seeking stakeholder input about issues relevant to the licence.

Feedback to the Issues Paper informed our draft recommendations for the new operating licence and customer contract, which we released for consultation in December 2023. At the same time, we consulted on our draft proposals for the reporting manual. We held a public hearing in February 2024 for our stakeholders to provide verbal feedback on our draft recommendations, and we received written submissions in March.

Both the verbal and written submissions to our draft recommendations have informed our final recommendations for the operating licence and customer contract to the Minister. We have also considered the feedback received in finalising the reporting manual



We received submissions to the Issues Paper and our draft recommendations from Sydney Water, the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW), the Council on the Ageing NSW, the Energy and Water Ombudsman NSW (EWON), the NSW Environment Protection Authority (EPA), Hunter Water, the Northern Beaches Council, NSW Health, the Public Interest Advocacy Centre (PIAC), the Scotland Island Residents' Association, the Tenants' Union of NSW, WIC Act licensees and some individuals.<sup>b</sup>

## **We applied lessons learnt from other operating licence reviews**

We have applied lessons learnt from the 2021-22 Hunter Water operating licence review, as well as the 2023-24 Water NSW operating licence review which we undertook concurrently to this Review,<sup>c</sup> where there are similar conditions in the Sydney Water operating licence. Where it makes sense, we have made changes to make licence conditions for consistency across the utilities. However, we have not made changes to Sydney Water's operating licence where consistency with the other operating licences would not be suitable for, or applicable to, Sydney Water.

In this report, we have explained any differences from the approach in the other licence reviews where we have recommended them.

## **We considered cost-benefit analysis when making our recommendations**

Where necessary, our recommendations for changes to the operating licence are supported by a cost-benefit analysis. The cost-benefit analysis considers if the recommended changes provide a net benefit to customers and the community (i.e. the benefits outweigh the costs).

We have focused the cost-benefit analysis we undertook during this Review on the:

- new conditions that we recommend including in the operating licence
- current licence conditions that we recommend retaining but with substantial changes.

Please refer to Appendix B for further details on the cost-benefit analysis that we undertook for this Review.

We have not undertaken a cost-benefit analysis during this Review for the current licence conditions that we recommend retaining with minimal changes. For these licence conditions, we have relied on the cost-benefit analysis that we completed in the previous end-of-term reviews of the Sydney Water operating licence in 2019 and the Hunter Water operating licence in 2022. We concluded then that the net benefits of these licence conditions are high, establishing a case for retaining them in the new operating licence. There was minimal benefit in repeating the cost-benefit analysis for these conditions for this Review. While we acknowledge that costs have risen since 2019 and 2022, it is also reasonable to consider that many of the benefits estimated have also changed and the conclusions from the previous licence reviews remain relevant for this Review.

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<sup>b</sup> The stakeholder submissions to our Issues Paper and draft recommendations are available on our [website](#).

<sup>c</sup> Details about the 2023-24 Water NSW operating licence review are available on our [website](#).



## What is a cost-benefit analysis?

An operating licence best serves the people of NSW when each condition adds value to the operating licence overall. Cost-benefit analysis is a method of testing the value of a condition.

To perform a cost-benefit analysis we contrast 2 situations:

- an existing or proposed operating licence condition in force (we call this the 'factual' scenario)
- the existing or proposed licence condition is not included in the operating licence but some realistic alternative set of arrangements is in place (we call this the 'counterfactual' scenario).

We look at differences in social benefits between factual and counterfactual and differences in cost. Ultimately, all costs are borne by either water customers or taxpayers. Social benefits include net financial benefits to the State as a whole, but importantly they also include non-financial benefits, which could include:

- avoidance of health and safety risks from contaminated water
- avoidance of inconvenience from disrupted or poor-quality services
- a healthy environment
- resilience to extreme weather events.

## Comparison of costs and benefits

In recommending operating licence conditions, we compared the costs and benefits of each proposed conditions to establish that there was a net benefit to customers and the community. If benefits or costs could not be reasonably quantified, we compared the benefits and costs qualitatively.

Benefits of operating licence conditions are usually experienced by the customers of the licensed utility or the general public (for example with environmental conditions). Quantifying these benefits is sometimes difficult, particularly if they relate to non-monetary values.

Operating licence conditions usually impose costs on the licensed utility because the operating licence requires it to undertake certain activities or to refrain from undertaking certain others that it might prefer to do on commercial grounds. Further, operating licence conditions entail compliance and enforcement costs. Activity costs or costs of foregone opportunities are usually able to be quantified with accounting data.

## We have applied 6 principles for this Review

We applied the following principles when considering whether conditions in the current licence should be retained or removed, or whether the operating licence should include new conditions. We developed these principles taking into account the specific characteristics of the Sydney Water business and its customers, the functions it performs and the wider context of the Review.



### Principle # 1: Protecting customers, the community and the environment

Sydney Water's operating licence should authorise the provision of services that are safe and reliable in a way that protects customers, the community, and the environment.

Water and sewerage services are essential services, delivered to customers who mostly have no choice in who they buy their services from because Sydney Water is a monopoly supplier. Through this Review, we have sought to support IPART's work to ensure that customers pay fair prices to receive these services. We have balanced this with the need to ensure adequate safety and reliability standards are in place to protect customers.



### Principle # 2: Setting minimum protections

The operating licence conditions should set minimum protections for safety and reliability that hold Sydney Water to account when delivering services to customers.

In this Review, we have considered if the current operating licence sets appropriate minimum protections for customers, the community, and the environment. The operating licence establishes the minimum standards and allows us to monitor Sydney Water's compliance with delivering these protections.



### Principle # 3: Supporting the pricing framework

This Review of the operating licence supports [IPART's water pricing regulatory framework](#). The Review has not sought to drive reductions in the current level of service provided to customers or discourage Sydney Water from providing a higher standard of service than the operating licence requires. It complements the objectives of the pricing framework which are to incentivise customer value and deliver a higher standard of service where customers want it and are willing to pay for it.



#### Principle #4: Focusing on outcomes

The Review has focused on outcomes for the customers, the community and the environment and considers how the operating licence works with other regulatory frameworks and NSW Government policies to achieve these outcomes.

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#### Principle # 5: Removing redundancy

The Review has focused on removing redundancy and streamlining current regulation. At times, this means removing current operating licence conditions that are redundant or duplicative without additional benefits.

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#### Principle #6: Recognising new strategies or policies

The Review has considered new events since the current (2019-2024) operating licence conditions were drafted. We have considered changes to policy or the regulatory framework or environment since the previous 2019 end-of-term review when making recommendations for a new operating licence (for example, recognising the NSW Water Strategy and Greater Sydney Water Strategy which were after the current 2019-2024 operating licence commenced).

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## Chapter 2

### Water conservation, efficiency and long-term planning

Water conservation & efficiency and long-term planning ensure the sustainable supply of water.

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In this chapter, we discuss our recommendations for:

- Aligning operating licence conditions with policy objectives of the Greater Sydney Water Strategy and clarifying the cooperative relationship between Sydney Water and WaterNSW.
- Updating operating licence requirements for Sydney Water to focus on water conservation and efficiency to achieve desired outcomes under the [NSW Water Efficiency Framework](#).
- Ensuring planning efforts support growth in the region and that Sydney Water can respond to system shocks, including drought and longer-term changing climate impacts.

The 2019-2024 operating licence (current licence) requires Sydney Water to participate in and support water planning. This is to ensure that Sydney Water manages water supply and demand effectively and efficiently and contributes to achieving the policy objectives of the NSW Government. Since the current licence was granted in July 2019, the [NSW Water Strategy](#) and the [Greater Sydney Water Strategy](#) have been released. The Greater Sydney Water Strategy sets the direction for water management in Greater Sydney to deliver sustainable and integrated water service for the next 20-40 years. We have considered the objectives of the Greater Sydney Water Strategy to enable Sydney Water to meet the supply needs for growth and adapt to a changing climate.

While Sydney Water's water conservation actions and climate change actions are linked, we have discussed the climate change actions separately in Chapter 3 as they should apply to all of Sydney Water's functions and operations.

## 2.1 Focus on water conservation and efficiency

### 5-year water conservation plan

#### Our recommendations for the operating licence

1. Include new operating licence conditions requiring Sydney Water to:
  - a. maintain, implement and comply with a water conservation plan, replacing the current licence requirements for a water conservation program
  - b. make its conservation plan consistent with the NSW Water Efficiency Framework
  - c. consider in the plan, the strategic context of the Greater Sydney Water Strategy in the water conservation plan and any guidance the Minister provides to Sydney Water
  - d. demonstrate in the plan, Sydney Water's contribution to the water conservation and efficiency goals and how Sydney Water contributes to any subsequent monitoring, evaluation, reporting or annual reviews of the Greater Sydney Water Strategy
  - e. consider in the plan a range of options for water conservation, and identify proposed water conservation programs and projects over the life of the plan

- f. assess those programs and projects against the current economic method and other factors, and explain its decision making for selecting water conservation options for implementation
  - g. consider the previous year's water conservation activities and then update the plan for the next 5 years
  - h. submit a copy of the updated plan to the Department of Climate Change, Energy, the Environment and Water (DCCEE) and IPART and publish it on Sydney Water's website by 30 November every year.
2. Provide a transition period for Sydney Water to maintain, implement and comply with its existing water conservation plan, until it has developed the water conservation plan required by the new operating licence by 1 December 2024.

The current licence requires Sydney Water to maintain and implement a water conservation program.<sup>2</sup> We recommend that the 2024-2028 operating licence (new operating licence) should replace the current licence conditions for a water conservation program to reflect that Sydney Water's water conservation program has now been replaced with a water conservation plan.<sup>3</sup>

Sydney Water first developed this water conservation plan with the Department of Climate Change, Energy, the Environment and Water (DCCEE) under its actions to implement the Greater Sydney Water Strategy.<sup>4</sup> Until Sydney Water has updated the water conservation plan to meet the requirements under the new operating licence, we recommend requiring Sydney Water to maintain, implement and comply with this current water conservation plan.<sup>5</sup> This will provide Sydney Water sufficient time to update the current plan to be consistent with the proposed licence requirements.

### Minimum requirements for the water conservation plan

Water conservation is critical for managing supply and demand in Greater Sydney. Sydney Water's water conservation activities support the delivery of the NSW Water Strategy and Greater Sydney Water Strategy and the NSW Government's priorities to reduce demand and system leakage.

While it is likely that Sydney Water will maintain and comply with the water conservation plan it has developed under the Greater Sydney Water Strategy even without a licence obligation, including a licence condition will allow us to monitor Sydney Water's maintenance and implementation of and compliance with the plan.<sup>6</sup> The operating licence condition is enforceable and transparent, and it will provide assurance that Sydney Water is undertaking water conservation appropriately.

Further, we recommend that the operating licence should specify the following minimum requirements for the water conservation plan to be effective and to assist us in monitoring Sydney Water's compliance with the licence requirements:<sup>7</sup>

- Sydney Water must consider a range of options for water conservation in its water conservation plan. These options should include, at minimum, water efficiency (including consumer behaviour programs), leakage reduction and recycled water use. This requirement will minimise the risk that Sydney Water only considers a narrow range of water conservation options. Sydney Water should investigate all options before deciding on water conservation measures to be implemented, making it more likely that prudent investments will be identified and less likely that good water conservation opportunities will be overlooked.
- The water conservation plan must be consistent with the [NSW Water Efficiency Framework](#). The NSW Water Efficiency Framework is a best practice guide that provides clear steps to design, deliver and review water efficiency programs. The framework provides guiding principles and allows Sydney Water to tailor its considerations from emerging to best practice. A mature water conservation plan should include definitive and measurable goals for optimising system performance and ensuring efficient water use, with timelines for implementation that are auditable.

Further, the NSW Water Efficiency Framework includes an economic approach for assessing water conservation options and deciding which options to implement. We consider that using an economic approach to water conservation is in the public interest. An economic approach requires Sydney Water to assess whether the potential benefits and water savings for a proposed water conservation option would outweigh the costs of investment, before selecting that option for implementation.

- Sydney Water's decision making about which water conservation options it should implement should not be guided by monetary costs and benefits alone. Sydney Water should balance the economic assessment with considerations about whether the options considered contribute to wider policy objectives. To make this clear, we do not recommend retaining the current licence requirement to implement all water conservation measures assessed as economic by the current economic method.<sup>8</sup>

Taking a holistic approach to deciding which water conservation options to implement is consistent with the NSW Water Efficiency Framework. This framework allows Sydney Water to consider social and environmental factors in addition to economic factors when identifying and deciding on water conservation programs and projects to implement. To further support this, we recommend that the operating licence should require Sydney Water to consider the following factors in its decision making for water conservation:

- the strategic context of the Greater Sydney Water Strategy.
- how the water conservation options in the plan contribute to the water conservation and efficiency goals in the Greater Sydney Water Strategy (i.e. to save 38 GL/year of drinking water by 2030 and 49 GL/year by 2040).<sup>9</sup>
- how Sydney Water contributes to any subsequent monitoring, evaluation, reporting or annual reviews of the Greater Sydney Water Strategy.
- any guidance that the Minister has provided.



## Information about how Sydney Water chooses water conservation programs and projects for implementation

We recommend that the new operating licence should require Sydney Water to include the following minimum information in the water conservation plan about the water conservation options that Sydney Water considers and the ones it chooses for implementation.<sup>10</sup> This is to promote clarity and transparency about Sydney Water's decision making:

- The proposed water conservation programs and projects considered over the life of the plan. Sydney Water is not limited to only water conservation programs and projects that it can deliver itself, but it can and should consider if options provided by third party suppliers may be beneficial. This is consistent with guidance in the NSW Water Efficiency Framework.
- Sydney Water's economic assessment of the proposed water conservation programs and projects using the current economic method.<sup>11</sup> We recommend retaining the economic approach specified in the current licence which is the economic level of water conservation method.<sup>12</sup> This method requires Sydney Water to thoroughly investigate all options before deciding on which water conservation measures to implement, making it more likely that Sydney Water will identify prudent investments and less likely that Sydney Water will overlook good water conservation opportunities. For programs or projects assessed as not economic, Sydney Water should explain whether the program or project would contribute to wider policy objectives.<sup>13</sup>
- The expected water savings and costs for each of the proposed water conservation projects and programs, which Sydney Water needs to estimate to undertake the economic assessment accurately.<sup>14</sup>
- An explanation of how the proposed water conservation projects and programs would further the operating licence objectives.<sup>15</sup>
- And finally, an explanation of which programs and projects Sydney Water has implemented/has chosen for implementation, and how and when Sydney Water has/will implement these programs and projects.<sup>16</sup> Sydney Water should also explain why any projects and programs have not been chosen for implementation.<sup>17</sup>

## Reviewing and updating the water conservation plan annually

We have also recommended that the new operating licence should require Sydney Water to review and update the water conservation plan annually.<sup>18</sup> The water conservation plan is not intended to be a static plan from the licence commencement date. Rather, Sydney Water should review the plan each year, considering the previous financial year's water conservation activities<sup>19</sup> and then updating the plan for the next 5 years.<sup>20</sup> During this end-of-term review of the Sydney Water operating licence (Review), we recommend that Sydney Water should be required to assess its progress towards the overall objectives of the plan, and also check that the plan is meeting its intended objectives the requirements of the operating licence.<sup>21</sup>

Under these recommendations, Sydney Water would be required to undertake the first review of its current water conservation plan by 30 November 2024. At that time, we recommend that Sydney Water should update the current water conservation plan so that by 1 December 2024, the plan is made consistent with the licence requirements.<sup>d</sup> After each yearly update, Sydney Water must implement and comply with the updated version of the plan.

We recommend that Sydney Water should be required to submit the updated water conservation plans and reports on the annual reviews of the plans to DCCEEW and IPART by 30 November each year.<sup>22</sup> This will help us understand how Sydney Water's water conservation programs and projects have performed over the previous financial year and how this performance has informed any updates to the forward five-year rolling program.

Providing the report by 30 November will ensure that the water conservation plan informs DCCEEW's monitoring, evaluation and review (MER) process for assessing the progress of the Greater Sydney Water Strategy implementation plan. Aligning the reviews of the water conservation plan and MER process in this way will mean that there is support from DCCEEW (and IPART) for Sydney Water's updated water conservation plans and that they align with the targets, priorities and outcomes of the Greater Sydney Water Strategy. We understand from communications with DCCEEW that the requirements to publish the report on the review of the water conservation plan will not duplicate the MER process or cause any conflicts.

Finally, we also recommend that Sydney Water should be required to publish the updated water conservation plan and report on its website and make it available on request through its contact centre.<sup>23</sup> This will promote transparency about Sydney Water's water conservation activities and increase accountability, encouraging Sydney Water to make decisions in the public interest.

## Box 2.1 Recommended licence conditions for water conservation and efficiency

### 10 Water conservation

#### 10.1 Water conservation plan

(1) Sydney Water must, from 1 December 2024, maintain a water conservation plan that:

- (a) is consistent with the NSW Water Efficiency Framework (published by the NSW Government in August 2022),
- (b) considers the strategic context provided by the Greater Sydney Water Strategy,
- (c) demonstrates how Sydney Water contributes to the water conservation and efficiency goals set by the Greater Sydney Water Strategy,

<sup>d</sup> Clause 10.1(1) of the recommended operating licence requires Sydney Water to maintain a water conservation plan consistent with the requirements of the operating licence by 1 December 2024.

### Box 2.1 Recommended licence conditions for water conservation and efficiency

(d) demonstrates how Sydney Water contributes to any subsequent monitoring, evaluation, reporting or annual reviews of the Greater Sydney Water Strategy,

(e) considers any guidance that the Minister provides to Sydney Water, and

(f) considers a range of options for water conservation including, at a minimum, water efficiency (including consumer behaviour programs), leakage reduction and recycled water, and identifies proposed programs and projects over the life of the water conservation plan

(the **water conservation plan**).

(2) For the purposes of (1)(f), for each program and project, the water conservation plan must:

(a) assess the proposed program or project against the current economic method and identify:

(i) the expected water savings,

(ii) the expected costs,

(iii) whether it is currently economic and, if it is not, whether it may later become economic, and

(iv) if it is not economic, whether it contributes to wider policy objectives,

(b) explain whether it furthers the objectives set out in clause 1(1)(b),

(c) explain whether Sydney Water has implemented it or is proposing to implement it at a later date or in specific circumstances and how and when Sydney Water will implement it, and

(d) if Sydney Water is proposing not to implement it, explains the reasons for the decision.

(3) Sydney Water must, by 30 November each year:

(a) review and update the water conservation plan to:

(i) identify activities carried out under the plan over the immediately preceding financial year (and, for the 2024 review, the activities carried out under its existing plan maintained under clause 10.1(5)), including information on any programs and projects researched, piloted, or developed (including expenditure on these activities),

(ii) assess its progress towards meeting the overall objectives of the plan,

### Box 2.1 Recommended licence conditions for water conservation and efficiency

- (iii) ensure the plan is meeting its objectives, and, once applicable, the requirements of clause 10.1(1), and
  - (iv) update the forward-looking component of the plan to cover the upcoming 5 years,
- (b) submit to the Department and IPART:
- (i) the updated plan, and
  - (ii) a report outlining the outcomes of the annual review and the reasons for any changes to the plan, and
- (c) make the updated plan and report following the annual review publicly available.
- (4) Sydney Water must implement and comply with the water conservation plan.
- (5) Until Sydney Water has developed the water conservation plan required by clause 10.1(1), it must maintain, implement and comply with its existing water conservation plan.

#### 45 Timeframe for Sydney Water to take action

- (1) [...]
- (2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

#### In these clauses:

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**Current economic method** means:

- (a) the economic level of water conservation method approved by IPART on 21 December 2016 contained within the document titled "Determining Sydney Water's Economic Level of Water Conservation – Part A: The ELWC Methodology" and published by Sydney Water on its website, or
- (b) an economic method updated in accordance with the procedure in clause 10.2.

**Department** means the Department of the Public Service responsible to the Minister.

### Box 2.1 Recommended licence conditions for water conservation and efficiency

**financial year** means a period of 12 months commencing on 1 July.

**Greater Sydney Water Strategy** means:

- (a) the "Greater Sydney Water Strategy" published by the Department of Planning and Environment in August 2022 and comprising a plan designed to ensure a sustainable and secure water supply for greater Sydney, and
- (b) any other plan generally for the development of urban water policy and planning for greater Sydney that is approved by the Minister.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**Minister** means the Minister responsible for administering Part 5 of the Act.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

## Current economic method

### Our recommendations for the operating licence

3. Retain the current licence conditions requiring Sydney Water to make its current economic method, a plain English summary of the method, and the economic level of water conservation calculated using this method, publicly available.
4. Include a new operating licence condition requiring Sydney Water to make changes to the current economic method at any time with the Minister's approval (i.e. allowing Sydney Water to initiate the changes after it has sought the Minister's approval).
5. Amend the current licence condition which states that the Minister may direct Sydney Water to amend the current economic method at any time, to a requirement for Sydney Water to review and update the method on request from the Minister.

6. Retain the current licence condition requiring Sydney Water to update the economic level of water conservation annually to inform its economic assessments of water conservation programs and projects.
7. Remove the current licence condition requiring Sydney Water to re-calculate and publish the economic level of water conservation monthly.

### Requiring an economic approach and publishing information about it

As discussed in the previous section, we recommend that the new operating licence should retain the current requirements for Sydney Water to take an economic approach to water conservation, using the current economic method (the economic level of water conservation method).<sup>24</sup>

To promote transparency and accountability to the community about the methodology and factors that Sydney Water considers in making investment decisions for promoting water conservation, we recommend retaining the current licence requirements for Sydney Water to publish the following on its website and provide them on request through its customer contact centre:<sup>25</sup>

- a copy of the current economic method
- a plain English summary of the current economic method
- the economic level of water conservation that it has calculated using the current economic method (expressed as the value of water in dollars per kilolitre and as the quantity of savings in megalitres per day).

### Updating the current economic method and plain English summary

Sydney Water should be able to update the current economic method at any time. We recommend that Sydney Water should be able to initiate changes with the Minister's approval<sup>26</sup> and be required to implement any changes that the Minister requests.<sup>27</sup>

The current licence does not include conditions allowing Sydney Water to initiate changes to the current economic method. Therefore, we recommend new licence conditions allowing Sydney Water to do this with the Minister's approval. Initiating these reviews is an important policy decision, and we consider that it is appropriate that the Minister remains the decision maker and this decision is not delegated to DCCEEW or IPART.

The current licence notes that the Minister may at any time direct Sydney Water to revise the current economic method in any way that the Minister requires and includes requirements for Sydney Water to submit the revised current economic method to the Minister by the specified times.<sup>28</sup> We recommend retaining this general approach but with minor amendments to focus the condition on Sydney Water's obligation only, which is to review and update the current economic method if requested to do so by the Minister. The Minister can issue such requests or directions to Sydney Water under the *State Owned Corporations Act 1989 (NSW) (SOC Act)*.<sup>29</sup> We consider that it is not necessary to explain the Minister's directions in the operating licence.

Finally, we recommend that the new operating licence should require Sydney Water to update the current economic method and plain English summary published on its website (and that is available through the contact centre) within 10 business days of any changes taking effect, to ensure that the most current version is available.<sup>30</sup>

## Updating the economic level of water conservation

We recommend that the new operating licence should require Sydney Water to update the published economic level of water conservation annually by 30 September each year).<sup>31</sup> We do not recommend retaining the current licence approach requiring a monthly update.<sup>32</sup> This is only for publishing purposes. In contrast, Sydney Water is only required to re-calculate the economic level of water conservation annually if it is to inform its economic assessment of water conservation projects and programs.<sup>33</sup>

As the primary purpose of calculating the economic level of water conservation is to inform decision making about water conservation, we recommend that the operating licence should only require this calculation annually, to inform Sydney Water's annual review of its water conservation plan.<sup>34</sup> We consider that there is limited value in requiring Sydney Water to re-calculate and report the economic level of conservation more often than annually. Sydney Water can re-calculate it more often if it considers necessary. The operating licence specifies the minimum frequency.

### Box 2.2 Recommended licence condition for the current economic method

#### 10 Water conservation

##### 10.2 Current economic method

(1) Sydney Water must make the following publicly available:

- (a) the economic level of water conservation (as the value of water in dollars per kilolitre and as the quantity of savings in megalitres per day) determined in accordance with the current economic method,
- (b) the current economic method, and
- (c) a plain English summary of the current economic method.

(2) Sydney Water must:

- (a) update the economic level of water conservation using the current economic method annually by 30 September of each year,
- (b) review and update the current economic method if requested to do so by the Minister, and

## Box 2.2 Recommended licence condition for the current economic method

(c) in reviewing the current economic method, consider any matters specified by the Minister.

(3) Sydney Water may review and update the current economic method at any time with the Minister's approval.

### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**Current economic method** means:

- (a) the economic level of water conservation method approved by IPART on 21 December 2016 contained within the document titled "Determining Sydney Water's Economic Level of Water Conservation – Part A: The ELWC Methodology" and published by Sydney Water on its website, or
- (b) an economic method updated in accordance with the procedure in clause 10.2.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.



### Box 2.2 Recommended licence condition for the current economic method

**Minister** means the Minister responsible for administering Part 5 of the Act.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## 2.2 Water planning consistent with the Greater Sydney Water Strategy

### Our recommendations for the operating licence

8. Include new operating licence conditions requiring Sydney Water to:
  - a. engage in water planning for Greater Sydney that is consistent with the priorities of the Greater Sydney Water Strategy
  - b. cooperate with the Department of Climate Change, Energy, the Environment and Water (DCCEEW) in any review of the Greater Sydney Water Strategy.
9. Remove the current licence condition requiring Sydney Water to implement any action under the then Metropolitan Water Plan (replaced by the Greater Sydney Water Strategy) or that the Minister directs in writing.
10. Retain requirements in the operating licence to maintain and comply with the data sharing agreement.

### Engage in water planning consistent with the Greater Sydney Water Strategy

We recommend including a new operating licence condition requiring Sydney Water to engage in water planning for Greater Sydney that is consistent with the priorities of the [Greater Sydney Water Strategy](#).<sup>35</sup> To support this, we recommend including requirements for Sydney Water to participate in reviews of the Greater Sydney Water Strategy, together with DCCEEW.<sup>36</sup> This would replace the current licence requirement for Sydney Water to participate in reviews of the Metropolitan Water Plan<sup>37</sup> given that the Greater Sydney Water Strategy has replaced the Metropolitan Water Plan.

Our recommended licence conditions will support the successful delivery of the Greater Sydney Water Strategy and encourage Sydney Water to work cooperatively with DCCEEW. Having

operating licence conditions allows us to monitor Sydney Water's compliance and participation in planning and the reviews of the Greater Sydney Water Strategy.

We do not recommend requiring Sydney Water to implement actions from the Greater Sydney Water Implementation Plan in the new operating licence as we consider that this would be inappropriate. This is a departure from the current licence which requires Sydney Water to implement actions from the Metropolitan Plan.<sup>38</sup> Our recommended change achieves a similar objective but is a more flexible approach than hardcoding requirements to implement actions into the operating licence.

Hardcoding requirements for implementation into the operating licence could result in these actions not being able to be updated and re-evaluated easily. It could also mean that Sydney Water does not evaluate the prudence and efficiency of these actions. The operating licence has a term from 2024-2028. In contrast, the Greater Sydney Water Strategy Implementation Plan only sets out actions until 2025. The time horizon of the implementation plan has been aligned with Sydney Water's price determination, providing clarity about the forward workplan and funding availabilities to Sydney Water (and WaterNSW). It is appropriate that the actions in the implementation plan are updated and evaluated in accordance with funding availability and as circumstances change. Wholesale reviews of these actions should be done together with the next IPART price review.

If there are specific actions that the Minister considers that Sydney Water should implement, the Minister can direct Sydney Water to do so under the SOC Act.<sup>39</sup> We consider that it is not necessary to explain the Minister's directions in the operating licence.

### **Data sharing agreement with DCCEEW**

We recommend retaining the current licence conditions requiring Sydney Water to have a data sharing agreement with DCCEEW.<sup>40</sup> This data sharing agreement is necessary to support the relationship between these 2 organisations when reviewing the Greater Sydney Water Strategy and undertaking long-term planning. We also recommend requiring Sydney Water to maintain and comply with this agreement to ensure that it is enforceable.<sup>41</sup>

The data sharing agreement sets out Sydney Water's and DCCEEW's roles and responsibilities for collaborating on water planning for Greater Sydney. It also sets out the types of data and information that should be shared between the 2 organisations when reviewing the Greater Sydney Water Strategy and undertaking other related reviews, the purpose of sharing this data, and the minimum requirements for the shared data. There is currently no other instrument that requires Sydney Water to provide accurate and timely data for reviewing the Greater Sydney Water Strategy.

## Box 2.3 Recommended licence condition for the Greater Sydney Water Strategy

### 11 Water Planning

#### 11.1 Greater Sydney Water Strategy

(1) Sydney Water must engage in water planning for Greater Sydney that is consistent with the priorities in the Greater Sydney Water Strategy.

(2) Sydney Water must cooperate with the Department in any review of the Greater Sydney Water Strategy.

### 31 Data sharing

(1) Sydney Water must maintain a data sharing agreement with the Department that identifies:

- (a) the roles and responsibilities of Sydney Water and the Department under the agreement,
- (b) the types of data and information that are covered by the agreement,
- (c) the purposes for the sharing of data and information,
- (d) the technical and quality requirements that shared data and information must meet,
- (e) agreed timelines and the format for sharing data and information,
- (f) procedures for resolving matters of conflict in providing data and information, and
- (g) other matters that Sydney Water and the Department agree are necessary to support effective collaboration on water planning and strategy.

(2) Sydney Water must comply with the data sharing agreement.

#### **In these clauses:**

**Department** means the Department of the Public Service responsible to the Minister.

**Greater Sydney Water Strategy** means:

- (a) the "Greater Sydney Water Strategy" published by the Department of Planning and Environment in August 2022 and comprising a plan designed to ensure a sustainable and secure water supply for greater Sydney, and
- (b) any other plan generally for the development of urban water policy and planning for greater Sydney that is approved by the Minister.

## 2.3 Greater Sydney Drought Response Plan

### Our recommendations for the operating licence

11. Remove the current licence condition requiring Sydney Water to develop an emergency drought response plan that addresses written guidance by the Minister.
12. Include new operating licence conditions requiring Sydney Water to:
  - a. cooperate with WaterNSW to jointly review the Greater Sydney Drought Response Plan with WaterNSW, every year, and consult with DCCEEW on the review of the plan
  - b. use its best endeavours to develop with DCCEEW and WaterNSW an agreed approach to the review
  - c. by 31 December each year, or another date approved by IPART in writing, jointly (with WaterNSW) submit an updated Greater Sydney Drought Response Plan and report on the review
  - d. make a summary of the updated plan publicly available by 31 January of the following year.

### **Maintaining and reviewing the Greater Sydney Drought Response Plan but no requirements to implement it**

The current licence requires Sydney Water to develop an emergency drought response plan together with WaterNSW.<sup>42</sup> Sydney Water and WaterNSW have now developed the [Greater Sydney Drought Response Plan](#), with DCCEEW's input. Therefore, there is no need for the new operating licence to retain the current requirements to develop the plan. However, we do recommend that the plan should be maintained as it is an important plan to ensure that we are prepared for drought in Greater Sydney.

Usually with recommendations to maintain a plan, we recommend the minimum requirements that the plan must be consistent with. However, we do not recommend specifying the minimum requirements for the Greater Sydney Drought Response Plan in the operating licence as we consider that this is adequately managed between Sydney Water, WaterNSW and DCCEEW. There is no further role for the operating licence.

Instead, we recommend including requirements in the new operating licence for Sydney Water to cooperate with WaterNSW to jointly review and update the plan annually.<sup>43</sup> As Sydney Water and WaterNSW developed the plan together (with DCCEEW's input) and both have responsibilities for drought response that are interrelated, we recommend that they have joint responsibility to maintain the Greater Sydney Drought Response Plan. We also recommend that Sydney Water should be required to consult with DCCEEW when reviewing the plan so that DCCEEW continues to have an opportunity to input into the plan as it gets updated.

To facilitate effective reviews, we also recommend that Sydney Water should use its best endeavours to agree an approach to the review with WaterNSW and DCCEEW. We have recommended similar requirements in the 2024-2028 Water NSW operating licence.

We do not recommend including operating licence conditions for implementing actions specified in the Greater Sydney Drought Response Plan so that the plan can remain adaptable and respond to changing climate and drought conditions. This is consistent with the approach in the current licence. Requiring implementation through the operating licence can mean that any actions specified in the plan may not be able to be changed to respond quickly to changing conditions.

If there are specific actions that the Minister considers that Sydney Water should implement, the Minister can direct Sydney Water to do so under the SOC Act.<sup>44</sup> We consider that it is not necessary to explain the Minister's directions in the operating licence.

## Communicating outcomes of the annual reviews of the plan

After reviewing the plan, we recommend that Sydney Water should provide the updated plan and an explanation of the changes to the Minister by 31 December each year. After providing the updated plan to the Minister, Sydney Water should publish a summary of the updated plan by 31 January of the following year. This allows Sydney Water time to prepare the summary, in a plain English format that is accessible to the public.

In this licence review, we considered whether the operating licence should require Sydney Water to also provide a copy of the updated plan to DCCEE and IPART. However, we concluded that this level of prescription is unnecessary in the operating licence. As this is an important policy decision, we consider that the Minister is the appropriate decision maker the plan should be provided to the Minister. The Minister can engage DCCEE to assist in decision making, as required, but this does not need to be prescribed by the operating licence.

### Box 2.4 Recommended licence conditions for the Greater Sydney Drought Response Plan

#### 11 Water Planning

##### 11.2 Greater Sydney drought response plan

(1) Sydney Water must:

- (a) cooperate with Water NSW to jointly review the Greater Sydney Drought Response Plan each calendar year, and consult with the Department on the review,
- (b) use its best endeavours to develop with the Department and Water NSW an agreed approach to the annual review (including timeline, roles and responsibilities),
- (c) jointly (with Water NSW) submit to the Minister an updated Greater Sydney Drought Response Plan and a report outlining the outcomes of the annual review and the reasons for any changes to the plan, by:
  - (i) 31 December each year, or

## Box 2.4 Recommended licence conditions for the Greater Sydney Drought Response Plan

- (ii) another date nominated by Sydney Water and approved by IPART, and
- (d) make a summary of the updated plan publicly available by:
  - (i) 31 January each year, or
  - (ii) another date nominated by Sydney Water and approved by IPART.

### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**Department** means the Department of the Public Service responsible to the Minister.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**Minister** means the Minister responsible for administering Part 5 of the Act.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and

### Box 2.4 Recommended licence conditions for the Greater Sydney Drought Response Plan

(b) on request to the contact centre.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

**Water NSW** means the corporation constituted under the *Water NSW Act 2014*.

## 2.4 Water supply augmentation planning

### Undertaking water supply augmentation planning with WaterNSW

Our recommendations for the operating licence

13. Include new operating licence conditions requiring Sydney Water to engage in ongoing water supply augmentation planning for its area of operations.
14. Include new operating licence conditions requiring Sydney Water to maintain and comply with a memorandum of understanding (or other agreement) with WaterNSW to work cooperatively to undertake water supply augmentation planning for Greater Sydney.
15. Include a new operating licence condition requiring the memorandum of understanding (or other agreement) to include processes for:
  - a. how WaterNSW assists Sydney Water with water supply augmentation planning
  - b. how Sydney Water consults WaterNSW on system yield calculations
  - c. notifications to WaterNSW and the Minister if Sydney Water considers future demand for bulk water may exceed the system yield and when this exceedance might occur.

We recommend including new conditions in the operating licence setting out Sydney Water's responsibilities for augmentation planning in Greater Sydney.<sup>45</sup> Sydney Water has been undertaking a lead role in water supply augmentation planning for Greater Sydney under [direction from the Minister](#) issued on 22 January 2021 (Ministerial Direction). WaterNSW used to undertake this role.

The benefit of including Sydney Water's supply augmentation planning responsibilities in the operating licence, rather than retaining them in the Ministerial Direction only, is that we can monitor Sydney Water's compliance in undertaking these responsibilities. We consider that this is important given the criticality of water supply augmentation planning to the long-term availability of water in Greater Sydney.

As set out in the Ministerial Direction, Sydney Water's responsibilities include:

- assessing the need for water supply augmentation in Greater Sydney
- identifying water supply augmentation options, including capital and non-capital options
- assessing the water supply augmentation options and prioritising them
- undertaking concept development and feasibility studies for preferred water supply augmentation options
- costing the preferred water supply augmentation options.

The Ministerial Direction required Sydney Water to enter into a Memorandum of Understanding (MoU) with WaterNSW to record how the 2 organisations would work together. We recommend retaining requirements for the MoU (or any other form of agreement with WaterNSW) as it is necessary for Sydney Water to work cooperatively with WaterNSW to undertake water supply augmentation planning effectively.

As Sydney Water has already entered into this MoU, we recommend including licence conditions for Sydney Water to maintain and comply with it.<sup>46</sup> We also recommend specifying the minimum requirements for the MoU in the operating licence, which should cover:

- Processes for WaterNSW to support Sydney Water by providing the necessary information, resources and knowledge for Sydney Water to undertake its water supply augmentation role.
- How Sydney Water is to support WaterNSW, especially to calculate the supply yield which remains WaterNSW's responsibility.<sup>e</sup> As part of this, Sydney Water is required to:
  - Consult with WaterNSW on projects that may affect the system yield so that the calculations are well-informed.
  - Provide any relevant information to WaterNSW about impacts to it from the water supply augmentation work that Sydney Water is undertaking.
  - Notify WaterNSW and the Minister as soon as possible if Sydney Water considers that future demand for bulk water<sup>f</sup> in Greater Sydney may exceed the system yield and when this exceedance may occur. This requirement is currently in the WaterNSW operating licence, but we consider that it is more appropriate for Sydney Water's operating licence as Sydney Water has knowledge of demand in the Greater Sydney region.

<sup>e</sup> System yield is the amount of water that WaterNSW estimates can be supplied from the water sources within the declared catchment areas over the long term.

<sup>f</sup> Bulk water (or 'raw water') means water that either has not been treated or has not been treated to drinking water standards.



## Box 2.5 Recommended licence conditions for water supply augmentation planning

### 11 Water Planning

#### 11.3 Water supply augmentation planning

(1) Sydney Water must engage in ongoing water supply augmentation planning that includes:

- (a) assessment of the need for water supply augmentation,
- (b) identification of water supply augmentation options, including capital and non-capital options,
- (c) whole-of-system assessment of water supply augmentation options and prioritisation,
- (d) concept development and feasibility studies for preferred water supply augmentation options, and
- (e) costings of preferred water supply augmentation options.

(2) Sydney Water must:

- (a) maintain a memorandum of understanding or an agreement with Water NSW about water supply augmentation planning for Greater Sydney, and
- (b) comply with that memorandum of understanding or agreement.

(3) The memorandum of understanding or agreement referred to in clause 11.3(2) must include processes for:

- (a) Water NSW to assist Sydney Water with water supply augmentation planning by providing Sydney Water with:
  - (i) data, information and knowledge, and
  - (ii) resourcing support, including access to Water NSW subject-matter experts,
- (b) Water NSW to consult with Sydney Water on system yield calculations, and
- (c) Sydney Water to consult with Water NSW on:
  - (i) projects that may impact system yield, and
  - (ii) water supply augmentation options that may have implications for Water NSW.

(4) Sydney Water must notify Water NSW and the Minister as soon as reasonably possible:

### Box 2.5 Recommended licence conditions for water supply augmentation planning

(a) if Sydney Water considers that future demand for water may exceed the system yield, and

(b) when this exceedance might occur.

(5) In this clause 11.3, **system yield** means the system yield determined by Water NSW under the current Water NSW operating licence.

#### In these clauses:

**Minister** means the Minister responsible for administering Part 5 of the Act.

**Water NSW** means the corporation constituted under the *Water NSW Act 2014*.

## Using the Sydney Desalination Plant to supplement drinking water supply in Greater Sydney

### Our recommendation for the operating licence

16. Include a new operating licence condition requiring Sydney Water to make production requests to the Sydney Desalination Plant (SDP) in accordance with the *Decision Framework for SDP Operation (Decision Framework)*.

We recommend including a new operating licence condition requiring Sydney Water to comply with the Decision Framework when it requests the SDP to produce drinking water.<sup>47</sup> Sydney Water would make such requests to supplement Sydney Water's drinking water supply to customers in Greater Sydney. These are known as 'production requests'.

In these production requests, Sydney Water states the volumes of drinking water that it requires from the SDP. The SDP is then required, under its [operating licence](#) under the *Water Industry Competition Act 2006 (NSW)* to produce the requested drinking water, but only if Sydney Water's production request is in accordance with the Decision Framework.<sup>48</sup>

There is limited risk of the SDP not producing the requested water even if Sydney Water's production requests are not in accordance with the Decision Framework. However, there is a risk that the volumes of water requested from the SDP will exceed how much water is necessary to supplement Sydney Water's drinking water supply to meet demand. This in turn can result in increased costs which are ultimately borne by Sydney Water's customers. Requiring Sydney Water's requests to be in accordance with the Decision Framework will require Sydney Water to assess the efficiencies of these requests and whether it is justified to require the SDP to produce the requested volumes of water. We consider that this is in the interests of customers and the community.

Currently, Sydney Water is not required to comply with the Decision Framework under any other legislation. We consider that this gap should be filled by the operating licence. The recommended operating licence conditions will allow us to monitor Sydney Water's compliance with the Decision Framework in making production requests to the SDP. This would enable transparency and accountability on how the SDP is used to supplement drinking water supply in Greater Sydney.

## Box 2.6 Recommended licence conditions for annual production requests to Sydney Desalination Plant

### 11 Water Planning

#### 11.4 Annual production requests to Sydney Desalination Plant

(1) Sydney Water must make annual production requests consistent with the decision framework.

(2) In this clause 11.4, **annual production requests** and **decision framework** have the meaning provided in the network operator's licence for the Sydney Desalination Plant Pty Limited (ACN 125 935 177) granted under the WIC Act or, in the case of 'decision framework', any updated decision framework the Sydney Desalination Plant is required to comply with.

#### In these clauses:

**WIC Act** means the *Water Industry Competition Act 2006*.

## 2.5 Long-term planning

### Our recommendations for the operating licence

17. Remove the current licence condition requiring Sydney Water to develop a long-term capital and operational plan.
18. Include a new operating licence condition requiring Sydney Water to maintain a Long-Term Capital and Operational Plan that:
  - a. identifies future water supply, wastewater and stormwater needs
  - b. identifies and assess long-term investment options for meeting the identified future water needs
  - c. considers any guidance from the Minister.

19. Include a new operating licence condition requiring Sydney Water to review and update the Long-Term Capital and Operational Plan at least once during the operating licence term and submit the updated plan, and a report on the review of the plan, to the Minister.
20. Include a new operating licence condition requiring Sydney Water to consult with and consider WaterNSW's input in its review of its plan.
21. Include a new operating licence condition requiring Sydney Water to cooperate with WaterNSW as required in reviewing WaterNSW's Long-Term Capital and Operational Plan

### Maintaining the Long-Term Capital and Operational Plan

The current licence requires Sydney Water to develop a long-term capital and operational Plan.<sup>49</sup> Sydney Water has now developed its Long-Term Capital and Operational Plan, under its actions under the Greater Sydney Water Strategy Implementation Plan.<sup>50</sup> Therefore, there is no need for the new operating licence to retain the current requirements to develop the plan, but we do recommend licence conditions requiring the plan continue to be maintained.<sup>51</sup>

Sydney Water's Long-Term Capital and Operational Plan is an adaptive plan that captures Sydney Water's key infrastructure and operational decisions to 2050. It is important that Sydney Water should be required to plan its long-term investments to be able to meet current and future drinking water, wastewater and stormwater needs and respond to growth and changing climate. Robust long-term planning is essential to delivering in customers' long-term interest. It allows businesses to make prudent investment decisions today that are ready for and resilient to future challenges.

The plan provides the long-term context for future pricing proposals to IPART. We expect a business to provide us with its long-term investment plans to support its pricing proposals in some detail, together with supporting evidence and assumptions. We need to be confident that the investment plans are designed to deliver in the long-term interest of customers.

To this end, and to ensure that the plan is enforceable, we recommend that the new operating licence should specify the following minimum requirements for what the Long-Term Capital and Operational Plan should contain:<sup>52</sup>

- Identification of the future drinking water supply, wastewater and stormwater needs
- Identification and assessment of long-term investment options for meeting the identified future needs and delivering the long-term value for customers, considering:
  - the Greater Sydney Water Strategy
  - integrated water cycle management
  - management of Sydney Water's assets.
- Consideration of any guidance from the Minister.

During the Review, we considered whether the operating licence should also prescribe that Sydney Water's long-term capital and operational plan should identify investment options for:

- water supply augmentation
- ensuring water supply resilience in the context of changing climate
- ensuring compliance with regulatory standards and meeting community expectations for performance standards and environmental outcomes.

However, we concluded that these requirements do not need to be prescribed in the operating licence condition for the Long-Term Capital and Operational Plan. Our approach has been to recommend the minimum requirements necessary in the operating licence for the Long-Term Capital and Operational Plan to achieve its intended objectives. We have already recommended requirements for Sydney Water to consider the above matters in other parts of the operating licence. We would expect Sydney Water to include relevant information about these matters in the Long-Term Capital Operational Plan when it "identifies and assesses long-term investment options," without requiring a prompt from the operating licence.

We discuss our recommendations for the operating licence to require Sydney Water to:

- comply with the system performance standards in the operating licence which reflect customers' preferences, in section 4.3 of this report
- consider options for water conservation and provide information on the programs and projects Sydney Water has chosen for implementation, in section 2.1
- undertake planning consistently with the Greater Sydney Water Strategy, in section 2.2
- undertake water supply augmentation planning cooperatively with WaterNSW, including setting out the preferred water supply augmentation option(s) to be taken forward for an investment decision, in section 2.4
- maintain and implement a climate risk management process that is consistent with the NSW Climate Risk Ready Guide, to identify and manage climate related risks, in section 3.3.

### **Reviewing and updating the Long-Term Capital and Operational Plan but no requirement to implement it**

We do not recommend including requirements in the new operating licence for Sydney Water to implement the Long-Term Capital and Operational Plan. This is consistent with the approach in the current licence.

The Long-Term Capital and Operational Plan needs to be continually updated with new information to ensure the business is sufficiently nimble, adaptable to new conditions and is managing risks. Hardcoding requirements in the operating licence to implement the plan may result in the plan not being able to be updated and re-evaluated easily. Instead, we recommend that the new operating licence should require Sydney Water to review and update the Long-Term Capital Operational Plan at least once during the operating licence term to ensure that it remains current and adaptive.<sup>53</sup>

If there are specific actions that the Minister considers that Sydney Water should implement, the Minister can direct Sydney Water to do so under the SOC Act.<sup>54</sup> We consider that it is not necessary to explain the Minister's directions in the operating licence.

We understand that currently the plan is reviewed every 5 years. We have recommended that this be reviewed once during the 4-year licence term as we are unable to monitor compliance with this requirement if it falls outside the licence term. As Sydney Water and WaterNSW work cooperatively to provide long-term servicing options in Greater Sydney, we recommend including operating licence conditions requiring Sydney Water to work cooperatively with WaterNSW to review both organisations' long-term capital and operational plans.<sup>55</sup> This is to ensure that the 2 organisations' plans work together cohesively.

After reviewing the plan, we recommend that the operating licence should require Sydney Water to provide the updated plan and an explanation of the changes to the Minister.<sup>56</sup> As this is an important policy, we consider that the Minister is the appropriate decision maker, and the plan should be provided to the Minister. The Minister can engage DCCEEW, if required.

## Box 2.7 Recommended licence conditions for the Long-term capital and operational plan

### 11 Water planning

#### 11.5 Long-term capital and operational plan

(1) Sydney Water must maintain a long-term capital and operational plan that:

- (a) identifies future water supply, wastewater and stormwater needs,
- (b) identifies and assesses long-term investment options for meeting those needs and delivering the best long-term value to customers – this includes considering:
  - (i) the Greater Sydney Water Strategy,
  - (ii) integrated water cycle management, and
  - (iii) the management of ageing assets in a way that furthers the objectives set out in clause 1(1)(b) of this licence,
- (c) considers any guidance the Minister provides to Sydney Water.

(2) Sydney Water must review and update its long-term capital and operational plan and submit a copy of the updated plan, along with a report explaining the outcome of the review and any changes to the plan, to the Minister:

- (a) at least once between 1 July 2024 and 30 June 2028, and
- (b) on request by the Minister with any additional review to be completed within the timeframe requested by the Minister.

### Box 2.7 Recommended licence conditions for the Long-term capital and operational plan

(3) Sydney Water must in a review of its plan, consult with Water NSW and the Department and consider Water NSW's and the Department's input.

(4) Sydney Water must cooperate with Water NSW in Water NSW's review of its own long-term capital and operational plan.

#### In these clauses:

**Department** means the Department of the Public Service responsible to the Minister.

**Greater Sydney Water Strategy** means:

(a) the "Greater Sydney Water Strategy" published by the Department of Planning and Environment in August 2022 and comprising a plan designed to ensure a sustainable and secure water supply for greater Sydney, and

(b) any other plan generally for the development of urban water policy and planning for greater Sydney that is approved by the Minister.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**Minister** means the Minister responsible for administering Part 5 of the Act.

**Water NSW** means the corporation constituted under the *Water NSW Act 2014*.

## 2.6 Priority Sewerage Program

### Our recommendation for the operating licence

22. Remove the current licence conditions requiring Sydney Water to:
  - a. participate in any government reviews of the Priority Sewerage Program
  - b. implement and comply with any outcomes of any NSW Government review of the Priority Sewerage Program, if required by the Minister.

We recommend removing the current licence conditions requiring Sydney Water to participate cooperatively in any NSW Government review of the Priority Sewerage Program (PSP) and to implement and comply with the outcomes of any NSW Government review of the PSP, if required by the Minister.<sup>57</sup> The PSP is a coordinated group of projects whereby Sydney Water provides wastewater services to previously unsewered areas.<sup>58</sup>

During the Review, residents in some of these unsewered areas raised concerns with removing the licence conditions related to the PSP. They were concerned that this would reduce the likelihood of these areas becoming sewerage in the future. We acknowledge these stakeholders' concerns and appreciate that they brought this to our attention. However, we consider that it is appropriate for the Minister use their powers under the SOC Act to direct Sydney Water<sup>59</sup> to provide sewerage services to any unsewered areas, after the Minister has considered the factors required for making such directions. Including requirements in the current licence have not been effective in delivering sewerage services to these areas to date, as there is no action required by Sydney Water until an action is directed by the Minister. There is no reason to expect that retaining these conditions would be beneficial in future.

Further, retaining the current licence conditions could create an unrealistic expectation that Sydney Water will eventually provide services to the currently unsewered areas and that the costs for this will be borne by Sydney Water's customer base. This could in turn inhibit other options from being investigated which could be available to provide services to unsewered areas earlier. For example, a private utility may provide services or developer contributions could be levied to provide the public infrastructure.<sup>60</sup>

The PSP was initiated by the NSW Government in the 1990s. The PSP provides improved wastewater services to selected existing but unsewered urban towns and villages in environmentally sensitive areas identified at that time by the Environment Protection Authority (EPA). However, the EPA does not have a role in determining PSP obligations, the primary responsibility for the PSP is with the government. The areas to which the PSP currently applies are Austral, Menangle, Menangle Park, Nattai, Scotland Island and Yanderra.<sup>61</sup>



## Chapter 3 >>

### Climate risk readiness

Climate risk preparedness requires Sydney Water to manage its climate risks and provide sustainable services now and into the future.

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03

In this chapter, we discuss our recommendations for the 2024-2028 operating licence (new operating licence) to promote effective management of climate-related risks without duplicating existing and emerging obligations.

Human-induced climate change refers to long-term shifts in temperatures and weather patterns because of anthropogenic activities.<sup>62</sup> NSW's climate is projected to change which will mean changing weather patterns, and increasing frequency, duration, and intensity of extreme weather events such as bushfires and floods.<sup>63</sup> Government and policy makers have a key role in helping address the economic and social impacts of climate change.

The NSW Government has made commitments to take decisive and responsible action on climate change. These include climate-related objectives and actions outlined in NSW Climate Change Policy Framework, State Infrastructure Strategy 2018–2038, NSW Critical Infrastructure Resilience Strategy and NSW 2040 Economic Blueprint. Water specific objectives and priorities are outlined in the NSW Water Strategy and the Greater Sydney Water Strategy.

Climate change can impact water security, quality, demand and how water will be used in the future. Water industry infrastructure are also vulnerable to climatic events. Therefore, effective risk management is critical to the water industry's climate change resilience and adaptation.

Sydney Water has identified the following climate-related risks to its operations:

- reduced fresh water supplies
- increased customer demand for water
- increased risk of severe bushfires in water catchments
- increased algal blooms in dams
- increased risk of pipe corrosion and odours
- more extreme storms that push water resource recovery facilities over capacity
- higher sea levels and more storms that threaten low-lying coastal assets
- increased pipe failures due to changes in soil structure and stability
- large-scale disruptions to electricity supplies.<sup>64</sup>

### 3.1 Abatement

#### Our recommendation for the operating licence

23. Do not include operating licence conditions for climate change abatement.

Abatement refers to how Sydney Water is reducing the impact of its operations on climate change. The services that Sydney Water provides are energy intensive and the processes that it undertakes, such as wastewater treatment, release significant greenhouse gas emissions to the environment.<sup>9</sup>

The 2019-2024 operating licence (current licence) does not require Sydney Water to undertake abatement actions. We do not recommend that the new operating licence should either. We consider that Sydney Water is already adequately incentivised to undertake abatement actions, as set out below. Including further prescriptive requirements risks duplicating existing obligations or conflicting with emerging obligations without benefit:

- Sydney Water's actions under the Greater Sydney Water Strategy and its objectives under the *Sydney Water Act 1994* (NSW)<sup>65</sup> require Sydney Water to undertake abatement actions.
- The [NSW Government's Statement of Expectations for Sydney Water](#) sets out the expectation for Sydney Water to operate its business in a way that is consistent with the NSW Net Zero 2050 Plan. The NSW Net Zero Plan sets a target to achieve a 70% reduction in greenhouse gas emissions by 2035 compared to 2005 emission levels and reach net zero by 2050.<sup>66</sup> The Greater Sydney Water Strategy Implementation Plan<sup>67</sup> also has actions for reducing emissions and supporting the NSW Government's Net Zero Plan.
- The NSW Government has legislated the *Climate Change (Net Zero Future) Act 2023*, which sets emissions reduction targets for NSW, including net zero by 2050. It also provides for the establishment of an independent Net Zero Commission to monitor, review, report on and advise on progress towards the targets for reducing emissions. We understand that the Department of Climate Change, Energy, the Environment and Water is currently working on establishing the commission.<sup>68</sup>
- Sydney Water has set its own aspirational target to achieve Net Zero by 2030 for its Scope 1 and Scope 2 emissions<sup>h</sup> and in its supply chain by 2040 (Scope 3 emissions)<sup>i</sup>.<sup>69</sup> This aspirational target exceeds the Net Zero Plan targets.

<sup>9</sup> Greenhouse gases covered are listed in Office of Energy and Climate Change, [Scope of the NSW state-wide net zero by 2050 target](#), p 2, accessed 28 June 2023.

<sup>h</sup> Scope 1 emissions refer to those that are generated from sources that are directly owned or controlled by Sydney Water. Scope 2 emissions refer to all indirect emissions from the generation of the electricity purchased and used by Sydney Water on location.

<sup>i</sup> Scope 3 emissions refer to all indirect emissions that occur in Sydney Water's supply chain.

- The Environment Protection Authority (EPA) is also developing requirements that will further promote abatement actions from Sydney Water. Action 5(b) of the EPA's [Climate Change Action Plan 2023-26](#) provides that the EPA will progressively require environment protection licensees<sup>j</sup> (including Sydney Water) to prepare and implement a Climate Change Mitigation and Action Plan to minimise emissions and exposure to climate risks.<sup>70</sup> The licensees will also have to report on the effectiveness of their Climate Change Mitigation and Action Plan.

Currently, the EPA is still developing the requirements for the Climate Change Mitigation and Action Plan. The focus for this plan is expected to be on environmental impacts from emissions and risk of pollution events due to climate change impacts on licensee infrastructure. This could potentially include emissions targets for sectors or specific facilities. It is not expected to encompass impacts to customers or service delivery.<sup>71</sup> These requirements will also support Sydney Water in implementing climate-related opportunities and risk mitigation actions, including any future actions on abatement.

## 3.2 Resilience and adaptation

### Our recommendation for the operating licence

24. Do not include operating licence conditions for climate change resilience and adaptation.

Resilience and adaptation are vital to enable Sydney Water to provide its services both now and into the future. Resilience relates to Sydney Water's ability to withstand and adapt to changing climate conditions and recover positively from shocks and long-term stresses. Adaptation refers to actions that Sydney Water takes to reduce the impact of changing climate conditions on assets, systems and products.

The current licence does not require Sydney Water to undertake resilience and adaptation actions. We do not recommend that the new operating licence should either as it risks duplicating or conflicting with current and emerging obligations without benefit. We discussed some of these current and emerging obligations in the previous section (on abatement), including obligations under the Greater Sydney Water Strategy and under the environment protection licence requirements that the EPA is developing.

A key focus of the Greater Sydney Water Strategy is on improving Sydney's water security by building resilience to drought and the changing climate. As such, the Greater Sydney Water Strategy Implementation Plan includes the following actions for Sydney Water to:

- Develop and maintain a detailed 5-year Water Efficiency Plan consistent with the long-term water conservation and efficiency goals for Sydney to save 38 GL/year of drinking water by 2030 and 49 GL/year by 2040.
- Improve Sydney's water security by building resilience to drought and the changing climate making better use of stormwater, wastewater and recycled water.

<sup>j</sup> Environment protection licences are issued by the EPA under the *Protection of the Environment Operations Act 1997* (NSW) to regulate activities that may impact the environment.

- Complete a long-term capital and operating plan detailing 20-year investment needs to meet growth, renewals, service standards, and Greater Sydney Water Strategy outcomes.<sup>72</sup> In identifying investment needs for the future in its long-term capital and operational plan, Sydney Water considers the impact of climate change on its services.<sup>73</sup>

To further support these actions, we have made recommendations for the operating licence to include requirements related to water conservation (discussed in section 2.1 of this report) and Sydney Water's long-term capital and operational plan (discussed in section 2.5 of this report). Sydney Water would be required to consider the operating licence objectives in these plans. The licence objectives include conducting Sydney Water's activities in a manner that considers the impacts of climate change and provides or considers 'equity within and between generations' (we discuss licence objectives specifically in section 8.1).

In the next section, we also discuss our recommendation to require Sydney Water to maintain and implement a climate risk management process that is consistent with the [NSW Climate Risk Ready Guide](#). This will require Sydney Water to identify and manage its climate-related risks.

These recommended licence conditions should also assist Sydney Water in adapting and building climate resilience.

### 3.3 Climate-related planning and risk management

#### 3.3.1 Climate-related risk management process

##### Our recommendation for the operating licence

25. Include a new operating licence condition requiring Sydney Water to engage in an ongoing climate risk assessment and management process that is consistent with the NSW Government's Climate Risk Ready Guide.

We recommend that the new operating licence should require Sydney Water to engage in an ongoing organisation-wide climate-related risk assessment and management process.<sup>74</sup> While we acknowledge that Sydney Water has several obligations already to manage its climate-related risks under the [NSW Water Strategy](#), the [Greater Sydney Water Strategy](#) and the EPA's anticipated requirements for a Climate Change Mitigation and Action Plan (discussed in the previous sections), we consider that the new licence requirements will provide benefit.

Under the current licence, Sydney Water is required to have management systems in place which include risk management frameworks<sup>k</sup> that would consider risks posed by natural hazards. However, some enterprise level risks currently exist outside Sydney Water's management systems, and Sydney Water identifies and considers these separately.<sup>75</sup>

<sup>k</sup> Sydney Water currently has a Drinking Water Quality Management System, Recycled Water Quality Management System, Asset Management System and Cyber Security Management System, as required by the current licence, in addition to other management systems. In addition Sydney Water is now also required to develop, implement and comply with a Critical Infrastructure Risk Management Program under the [Security of Critical Infrastructure Act 2018 \(Cth\)](#).

The new organisation wide climate-related risk assessment and management process would enable climate-related risks to be:

- coordinated throughout the organisation
- clearly identifiable
- visible
- appropriately addressed.

Further, we recommend that the new operating licence should specify that the climate-risk management process must be consistent with the [NSW Climate Risk Ready Guide](#) and consider the principles of the NSW Government's Climate Change Adaptation Strategy, as this would:<sup>76</sup>

- Strengthen Sydney Water's management of climate-related risks.
- Provide Sydney Water with clear guidance on NSW Government's expectations in a climate-risk management process.
- Enable Sydney Water to align with NSW Government's approach to managing climate risks.<sup>77</sup> The NSW Audit Office includes state-owned corporations in its definition of agency.
- Provide Sydney Water flexibility to integrate that climate risk management and adaptation into existing frameworks and procedures and therefore minimises regulatory burden.
- Set a standard against which we can audit Sydney Water's compliance and provide assurance and drive transparency and accountability that climate-related risks are being identified and managed appropriately.

The NSW Climate Risk Ready Guide provides a 4-step process for NSW Government agencies on how to consider climate risks that might impact their ability to achieve government objectives. It is aligned to the general process and considerations contained in *ISO 31000:2108 – Risk management guidelines* and *ISO 14091 – Adaptation to climate change – Guidelines on vulnerability, impacts and risk assessment*.

While these would be new licence conditions, we do not recommend including transitional arrangements in the operating licence as Sydney Water has told us it is ready to comply with these requirements from 1 July 2024, when the new operating licence commences.

Figure 1 Outline of the Climate Risk Ready NSW process aligned to ISO 31000



Source: NSW Climate Risk Ready Guide, page 12.

### Box 3.1 Recommended licence condition for climate-related risk management

#### 10 Water conservation

##### 10.3 Climate-related planning and risk management

(1) Sydney Water must engage in an ongoing climate risk assessment and management process that:

- (a) is consistent with the NSW Government's Climate Risk Ready Guide (published March 2021) and addresses climate-related risks specifically, including priority risks, mitigation actions and adaptation actions,
- (b) furthers the objectives set out in clause 1(1)(b) of this licence, and
- (c) considers, where appropriate:
  - (i) principles of the NSW Government's Climate Change Adaptation Strategy (published June 2022), and
  - (ii) updated or replacement guidance material on climate risk assessment and management as it is released by the NSW Government and other bodies Sydney Water identifies as relevant.

### 3.3.2 Climate risk maturity

#### Our recommendation for the operating licence

26. Include a new operating licence condition requiring Sydney Water to achieve a climate-risk maturity level of 'embedded', as defined in the Climate Risk Ready Guide, by 30 June 2027 or another date nominated by Sydney Water and approved by IPART in writing and make reasonable progress to achieving a climate-risk maturity level of 'advanced' by 30 June 2028, or another date nominated by Sydney Water and approved by IPART in writing.

The NSW Climate Risk Ready Guide includes a Climate Risk Maturity Health Check Tool<sup>76</sup>. The recommended maturity levels are outlined in Table 3.1. The NSW Climate Risk Ready Guide recommends that NSW Government organisations should aim to achieve a minimum climate risk maturity of 'systematic'.

We recommend that the new operating licence should require Sydney Water to achieve a minimum climate risk maturity of 'embedded' by 30 June 2027, and make reasonable progress during the licence term, to reach a maturity level of 'advanced' by 30 June 2028.<sup>79</sup> The recommended timeframes reflect the urgency for Sydney Water to establish a mature and effective climate-related planning risk management process.

Our recommendation sets a high bar but we consider that this is appropriate given Sydney Water's size and the nature of its operations. A failure of in Sydney Water's ability to provide water and sewage services would have a catastrophic impact on consumers. Sydney Water provides essential services with physical assets that are exposed to climate-related hazards, including floods and bushfires. We expect that climate-related hazards have a higher probability of disrupting the essential services that Sydney Water provides. The impact to people from this is also expected to be greater than disruptions to a typical government agency or department.

We have recommended flexibility in the operating licence to change the target dates if necessary.



Table 3.1 Climate change risk maturity levels<sup>a</sup>

Maturity level	Description
Fundamental	Climate change risk assessments have been undertaken in isolated parts of the organisation. Climate change risk is not considered in risk frameworks.
Repeatable	Climate change risk is considered in risk management frameworks and processes. Climate risk assessments are undertaken in isolated parts of the organisation.
Systematic	Clear and disciplined climate change risk management processes are established and proactively managed with an annual review of adaptation action implementation. A climate risk officer role is established in a central corporate function.
Embedded	Priority climate change risks for the organisation have been identified. An organisation-wide adaptation strategy for managing climate risks has been established. Monitoring, learning and reporting on climate risks is consistent.
Advanced	Climate change risk assessments and adaptation responses consider broader economic, financial, social and environmental resilience. Shared and interdependent risks are being actively managed. Monitoring, learning and reporting on climate risks results in continuous improvement.

Source: Climate Risk Ready NSW Guide, p 21

## Box 3.2 Recommended licence condition for climate-related risk management

### 10 Water conservation

#### 10.3 Climate-related planning and risk management

(1) [...]

(2) Sydney Water must, on the enterprise scale, meet an embedded level of climate risk management maturity, as defined in the NSW Government's Climate Risk Ready Guide, by:

(a) 30 June 2027, or

(b) another date nominated by Sydney Water and approved by IPART.

(3) Sydney Water must, on the enterprise scale, make reasonable progress towards meeting an advanced level of climate risk management maturity, as defined in the NSW Government's Climate Risk Ready Guide, by:

(a) 30 June 2028, or

(b) another date nominated by Sydney Water and approved by IPART.

#### 45 Timeframe for Sydney Water to take action

(1) [...]

### Box 3.2 Recommended licence condition for climate-related risk management

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

#### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## 3.4 Climate-related disclosures

### Our recommendation for the operating licence

27. Include a new operating licence condition requiring Sydney Water to publish annual climate-related disclosures consistent with the IFRS S2 climate-related disclosures standard, or an Australian equivalent, from FY2025-26 onwards, if not already published such as if required by other legislation.

We consider that there is benefit in requiring Sydney Water to publish disclosures consistent with the International Financial Reporting Standard (IFRS) *S2 Climate-related Disclosures* standard. In June 2023, the International Sustainability Standards Board (ISSB) released the IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information* and IFRS S2 standards.<sup>80</sup> IFRS S2 requires an entity to disclose information about climate-related risks and opportunities that could reasonably be expected to affect the entity's prospects.<sup>81</sup>

Requiring Sydney Water to publish annual disclosures will increase transparency and allow stakeholders, including government, the community and regulators, to monitor Sydney Water's progress towards meeting its climate change objectives. We recommend that Sydney Water should be required to do this by 30 November each year, publishing its disclosures for the previous financial year. We recommend flexibility in the operating licence for Sydney Water to publish disclosures by a different date, with IPART approval.<sup>82</sup>

We recommend that Sydney Water should be required to publish disclosures under this licence requirement for the first time in November 2026, reporting on the 2025-2026 financial year. Sydney Water should be exempted from publishing disclosures in November 2025 for the 2024-2025 financial year, as this is a new licence requirement.<sup>83</sup>

During this Review, we considered if requiring publishing climate-related disclosures based on IFRS S2 would duplicate *Government Sector Finance Act 2018 (NSW)* (GSF Act) requirements, administered by NSW Treasury. The NSW Treasury requirements are consistent with the *Task Force on Climate related Financial Disclosures* (TCFD). We concluded that there are benefits of requiring IFRS S2 disclosures in the operating licence, compared to the current NSW Treasury obligations for TCFD based disclosures, as the IFRS 2 standard:

- is a standard and has specific and detailed requirements for compliance that are universally comparable, while TCFD is a framework and only provides principle-based guidance.
- requires Scope 3 emissions reporting.
- requires industry and sector specific information that is more relevant.
- defines and focuses on disclosing information that is material.<sup>84</sup>

Further, we consider that it is important for Sydney Water to be held to the same standards as private and publicly listed companies. This is supported by the *Sustainable Finance Strategy Consultation Paper* released by the Federal Treasury. The paper outlines the importance of climate-related disclosures in the public sector:

Governments and public sector entities are also subject to climate-related opportunities and risks. As markets and regulators demand more comprehensive disclosures by companies, it is important that similar requirements apply to comparable public sector entities. This will support planning and risk management and build community confidence that these risks are being managed by public authorities and policy makers.<sup>85</sup>

If Sydney Water were to publish climate-related disclosures during the term of the operating licence under a different law, we recommend that Sydney Water should be exempted from having to also publish disclosures under the recommended operating licence, provided that the other legal requirements are similar to or consistent with IFRS S2 or an Australian equivalent.<sup>86</sup> This will reduce the risk of duplication with other legislation, both current and incoming.

### Box 3.3 Recommended licence conditions for climate-related disclosures

#### 43 Climate-related disclosures

(1) Subject to clause 43(2), Sydney Water must make annual climate-related disclosures for the preceding financial year publicly available by 30 November each year (or another date nominated by Sydney Water and approved by IPART) that are consistent with:

- (a) the International Financial Reporting Standard S2 Climate-related Disclosures issued in 2023 (**IFRS S2**), or
- (b) another climate-related disclosures standard nominated by Sydney Water and approved by IPART.

(2) Sydney Water is not required to make disclosures under clause 43(2) for:

- (a) the financial year commencing on 1 July 2024, and
- (b) a financial year for which Sydney Water has made disclosures required by another law that are consistent with an Australian equivalent of IFRS S2, or that cover the matters required to be disclosed by IFRS S2 and has made those disclosures publicly available.

#### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

#### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

### Box 3.3 Recommended licence conditions for climate-related disclosures

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**financial year** means a period of 12 months commencing on 1 July.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## Chapter 4

### Water quality, system performance standards and asset management

Performance standards directly impact on the level and quality of service that customers receive.



In this chapter, we discuss our recommendations for retaining the current:

- water quality standards in the operating licence
- requirements to comply with the *NSW Code of Practice for Fluoridation of Public Water Supplies* (Fluoride Code) in the operating licence
- system performance standards in the operating licence for service interruptions
- operating licence conditions regulating Sydney Water's asset management.

## 4.1 Water quality standards and water quality management

Our recommendations for the operating licence

28. Retain the water quality standards in the current licence which require Sydney Water to maintain, implement and comply with water quality management systems consistent with the Australian Drinking Water Guidelines and the Australian Guidelines for Water Recycling.
29. Retain the requirements in the current licence for Sydney Water's water quality management systems to also be consistent with NSW Health's requirements but clarify that these requirements will be health related and specified in writing.
30. Include new operating licence conditions (currently reporting requirements in the subordinate Reporting Manual) requiring Sydney Water to:
  - a. Consult with NSW Health about any significant changes that it proposes to make to the water quality management systems and then notify NSW Health and IPART of these significant changes in accordance with the reporting manual.
  - b. Immediately notify NSW Health of water quality incidents in accordance with the processes in its water quality management systems (and accordingly, include such processes in its water quality management system).
  - c. Submit quarterly water quality monitoring reports to IPART and NSW Health in accordance with the reporting manual.

### Specifying water quality standards in the operating licence

The *Sydney Water Act 1994* (NSW) (the Act) specifies that the operating licence must include terms and conditions that require Sydney Water to have systems and services to meet the quality and performance standards specified in the licence.<sup>87</sup> Accordingly, the 2019-2024 operating licence (current licence) requires Sydney Water to maintain and implement management systems to meet the drinking and recycled water quality standards specified in the licence.<sup>88</sup> We recommend retaining these requirements in the 2024-2028 operating licence (new operating licence) as they remain appropriate for specifying the minimum quality of the water that Sydney Water supplies to its customers.<sup>89</sup>

The Australian Drinking Water Guidelines (ADWG) and the Australian Guidelines for Water Recycling (AGWR) are the drinking and recycled water quality standards specified in the current licence, and they have been since the licence first came into effect. We recommend retaining these standards in the new operating licence,<sup>90</sup> and do not recommend including any other standards, as they:

- define the quality that Sydney Water must meet to satisfy the licence requirement and avoid enforcement action
- minimise the risk of Sydney Water providing drinking water to customers that is unsafe for consumption or recycled water that is not of an appropriate quality for its intended end-uses
- ensure that Sydney Water supplies a similar quality of water to customers as in other parts of NSW as well as in other countries across the world.<sup>1</sup>

We recommend including flexibility in the operating licence to allow Sydney Water to nominate an updated or replacement version of the ADWG or AGWR. This would allow Sydney Water to update its water quality management systems and ensure its systems reflects the latest water quality standards, if it becomes available. Sydney Water would then be required to comply with that version if IPART approves it. We do not intend to provide the option for Sydney Water to nominate an alternate standard.



#### **Sydney Water's compliance during the 2019-2024 operating licence term**

We found that Sydney Water has had a high level of compliance with the water quality standards during the 2019-2024 operating licence term.

We have not found any issues, either through this licence review or through our compliance monitoring function, that need to be resolved through changes to the operating licence conditions. The shortcomings that we identified during operational audits were with Sydney Water's asset management practices. We discuss Sydney Water's obligations for asset management in section 4.4.

### **Specifying NSW Health's role in the operating licence**

We also recommend retaining the requirements in the current licence for Sydney Water's water quality management system to be consistent with any requirements from NSW Health related to drinking and recycled water.<sup>91</sup> As NSW Health is the health regulator, it may sometimes need to impose requirements that are different from, or additional to, the ADWG and AGWR to manage water quality and health-related matters.

However, we recommend clarifying that NSW Health's requirements must be:

- health-based,<sup>92</sup> reflecting NSW Health's role as the health regulator and its role in monitoring the quality of water supplied by water utilities including Sydney Water

<sup>1</sup> The ADWG and AGWR set out a process for developing a preventative risk management framework to achieve health-based targets. These targets are consistent with those adopted by the World Health Organisation (WHO)<sup>1</sup> and by more than 93 other countries.



- in writing,<sup>93</sup> to help ensure that the licence condition is enforceable, and we can monitor Sydney Water's compliance.

During this end-of-term review of the Sydney Water operating licence (Review), we considered whether the new operating licence should also specify that NSW Health's requirements will be 'reasonable'. However, we concluded that this was not necessary. NSW Health has told us that it would not usually depart from the ADWG or AGWR except in exceptional circumstances. For example, NSW Health may seek departures in relation to emerging contaminants, but it is required to demonstrate why such departures are necessary.

Finally, we recommend including new operating licence conditions requiring Sydney Water to:

- Consult with NSW Health about any significant changes that it proposes to make to either the drinking or recycled water quality management systems.<sup>94</sup>
- Immediately notify NSW Health of water quality incidents in accordance with the processes in its water quality management systems (and accordingly, include such processes in its water quality management system).<sup>95</sup>
- Submit quarterly water quality monitoring reports to IPART and NSW Health in accordance with the reporting manual.<sup>96</sup>

Sydney Water is already required to do this under the current reporting manual,<sup>m</sup> but because they are substantial obligations, we consider that it is appropriate that they are licence conditions. Sydney Water must then include details in its reports to NSW Health and IPART, in accordance with the reporting manual.

## Box 4.1 Recommended licence conditions for the system performance standards

### 12 Water quality management systems

(1) Sydney Water must maintain a water quality management system for drinking water that is consistent with:

(a) any health-based requirements for drinking water specified by NSW Health, and

(b) subject to (a):

(i) the Australian Drinking Water Guidelines, or

(ii) an updated or replacement version of the Australian Drinking Water Guidelines nominated by Sydney Water and approved by IPART,

**(drinking water quality management system).**

<sup>m</sup> Section 3.2 of the current reporting manual requires Sydney Water to *notify* IPART and NSW Health of significant changes that it proposes to make to the water quality management systems, before it implements them. We consider that this notification process is the same as requiring Sydney Water to consult NSW Health, as we would expect NSW Health to provide any necessary feedback through the notification process.

#### Box 4.1 Recommended licence conditions for the system performance standards

(2) Sydney Water must maintain a water quality management system for recycled water that is consistent with:

(a) any health-based requirements for recycled water specified by NSW Health, and

(b) subject to (a):

(i) the Australian Guidelines for Water Recycling, or

(ii) an updated or replacement version of the Australian Guidelines for Water Recycling nominated by Sydney Water and approved by IPART,

**(recycled water quality management system).**

(3) Sydney Water must implement and comply with:

(a) the drinking water quality management system, and

(b) the recycled water quality management system,

**(together water quality management systems).**

(4) Sydney Water must consult with NSW Health about any proposed significant changes to its water quality management systems and must notify NSW Health and IPART of any significant changes made in accordance with any requirements in the reporting manual.

(5) Sydney Water must include in its water quality management systems processes for classifying and notifying water quality incidents to NSW Health.

(6) Sydney Water must immediately notify NSW Health of water quality incidents in accordance with the relevant process in the water quality management systems.

(7) Sydney Water must submit quarterly water quality monitoring reports to IPART and NSW Health in accordance with the reporting manual.

(8) In this clause 12:

**Australian Drinking Water Guidelines** means the "*Australian Drinking Water Guidelines 2011*" published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council and updated in September 2022.

### Box 4.1 Recommended licence conditions for the system performance standards

**Australian Guidelines for Water Recycling** means the “*Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phases 1 and 2)*” published by the Environment Protection and Heritage Council, the Natural Resource Management Ministerial Council and the National Health and Medical Research Council or the Australian Health Ministers’ Conference.

#### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

#### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water’s Managing Director.

#### In these clauses:

**drinking water** means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering, whether or not the water is used for other purposes.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water’s policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**NSW Health** means the Ministry of Health.

### Box 4.1 Recommended licence conditions for the system performance standards

**recycled water** means water that, upon appropriate treatment, is suitable for its intended re-use application.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## 4.2 Fluoridation

### Our recommendation for the operating licence

31. Retain the current licence condition requiring Sydney Water to comply with the *NSW Code of Practice for Fluoridation of Public Water Supplies*.

During this Review, we considered removing the current licence condition requiring Sydney Water to comply with the *NSW Code of Practice for Fluoridation of Public Water Supplies* (Fluoridation Code).<sup>97</sup> We explored whether removal would minimise duplication with NSW fluoridation legislation which also requires compliance with parts of the Fluoridation Code (we explain regulation of fluoridation in New South Wales further in the next box). However, the fluoridation legislation does not clearly require compliance with all parts of the Fluoridation Code. We consider that it is beneficial to retain the current requirement to comply with the Fluoridation Code in the new operating licence to clearly set out NSW Health's expectation that Sydney Water must comply with the entire code.<sup>98</sup>

NSW Health has told us that if the current licence condition were removed, it would look to amend Sydney Water's fluoridation approval under the fluoridation legislation to require Sydney Water to comply with the (entire) Fluoridation Code. NSW Health considers that compliance with the entire Fluoridation Code is important and removing the requirement to comply with the code from the operating licence would result in a gap. We understand that for more recently granted fluoridation approvals to other water utilities, NSW Health includes a requirement in the approval that the utility must comply with the Fluoridation Code. It is appropriate for similar requirements to apply to Sydney Water.

We consider that directions to comply with the Fluoridation Code are better contained in Sydney Water's fluoridation approval than the operating licence. However, this change would provide mostly an administrative benefit to government. It would result in no practical changes for Sydney Water or its customers. There is no disbenefit in retaining this licence requirement.



### Regulating fluoridation of water in New South Wales

Fluoridation of water in NSW is governed under the [Fluoridation of Public Water Supplies Act 1957](#) (Fluoridation Act), [Fluoridation of Public Water Supplies Regulation 2022](#) (Fluoridation Regulation) and the [Fluoridation Code](#). Under this legislative framework, NSW utilities must not fluoridate the drinking water they supply except with the approval, or at the direction, of NSW Health. Once approved or directed to fluoridate, the Fluoridation Regulation requires water utilities to manage key aspects of fluoridation in accordance with the Fluoridation Code.<sup>99</sup> This applies to Sydney Water who was first approved to fluoridate its drinking water supplies in 1966.<sup>100</sup>

The Fluoridation Code was approved by the Director-General of the Department of Health under the Fluoridation Act. It includes generally technical material which has not been specified in the Fluoridation Act or in the Fluoridation Regulation.

When the Fluoridation Code was gazetted, it was stated that the material in the Fluoridation Code was intended to either from part of:

- the regulatory regime which fluoridators are to follow (non-compliance with which may constitute an offence under the Fluoridation Regulation), or
- an advisory guide to fluoridators as to the source of other relevant material or legislation (such as that governing occupational health and safety).<sup>101</sup>

However, there is not a clear regulatory directive for Sydney Water to comply with the entire Fluoridation Code. The current licence is the only instrument requiring this. Therefore, we recommend retaining the current licence requirement in the new operating licence.

## Box 4.2 Recommended licence conditions for compliance with the NSW Fluoridation Code

### 13 Fluoridation Code

(1) To the extent Sydney Water is authorised or directed to fluoridate drinking water under the *Fluoridation of Public Water Supplies Act 1957*, Sydney Water must, subject to that Act, comply with:

- (a) any requirements for fluoridation specified by NSW Health, and
- (b) subject to (a), the Fluoridation Code.

### Box 4.2 Recommended licence conditions for compliance with the NSW Fluoridation Code

(2) In this clause 13, Fluoridation Code has the meaning given in the *Fluoridation of Public Water Supplies Regulation 2022*.

#### In these clauses:

**drinking water** means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering, whether or not the water is used for other purposes.

**NSW Health** means the Ministry of Health.

## 4.3 System performance standards for service interruptions

### Our recommendations for the operating licence

32. Retain the system performance standards in the current licence for unplanned interruptions to water continuity and water pressure and for managing excessive dry weather wastewater overflows onto private properties with no changes to the levels of service required by these standards.
33. Remove the optimal level and tolerance band in the current licence for the water continuity standard.
34. Retain the current licence condition requiring Sydney Water to detect service interruptions to properties. Update the licence condition to require Sydney Water to maintain and implement monitoring systems or processes to enable it to identify the properties that have experienced an unplanned water supply interruption, water pressure failure or uncontrolled wastewater overflow.

The Act requires the operating licence to include performance standards for service interruptions.<sup>102</sup> Accordingly, the current licence includes system performance standards for minimising water supply interruptions, water pressure failures and wastewater overflows onto private properties during dry weather.<sup>103</sup> We recommend retaining these standards in the new operating licence<sup>104</sup> as they protect customers from inferior service by requiring Sydney Water to provide an acceptable minimum level of performance. If Sydney Water does not meet the required standard, it would face enforcement action. Adhering to these standards is important for maintaining reliable essential services and protecting public health from excessive wastewater exposure.

While performance standards specify a desired standard, they do not prescribe how a service provider must achieve the outcome. This allows service providers to adapt their systems and processes to varying local circumstances. Performance standards do not prevent Sydney Water from providing a greater level of service if this aligns with their customers' preferences.

### **We do not recommend changes to the standards specified in the operating licence**

We do not recommend including any new system performance standards in the operating licence. Sydney Water reports that the current standards reflect customer preferences.<sup>n</sup>

During this Review, we considered whether the current standards could be improved to further protect customers. However, we concluded that the benefits of the improvements considered would not outweigh the potential risks and unintended consequences. We explain these below:

- **Water continuity standard:** Under the current licence and customer contract, Sydney Water provides 2 days' notice of planned water service interruptions to residential customers and 7 days' notice to non-residential customers.<sup>105</sup> We considered whether all customers should be provided 7 days' notice equally. However, Sydney Water advised that requirements for longer notification periods could result in unintended consequences such as delays in resolving service interruptions and greater leakage while service outages due to pipe breaks are being resolved.

We concluded that the current notice periods remain adequate and any benefits of a longer notification period to customers may not outweigh the potential risks and unintended consequences. Sydney Water's customers have said that they are satisfied with the current notification periods.

- **Water pressure standard:** The current licence states that a water pressure failure ends when a customer's water pressure returns to 'normal'.<sup>106</sup> We considered whether the operating licence should specify what a 'normal' water pressure means (e.g. by specifying that the water pressure failure ends when the customer's service returns to at least 5m head of pressure). However, we concluded that the less specific approach in the current licence remains appropriate.

Sydney Water is currently unable to monitor pressure in its water supply network, and any fluctuations in pressure in real time. The costs of upgrading Sydney Water's networks and systems to be able to do so would be substantial and would likely outweigh the benefits. Sydney Water mostly relies on customers notifying it when they are experiencing water pressure issues. Customers do not typically have pressure gauges at their customer connections. They would notify Sydney Water when the drop in water pressure is visibly evident. Sydney Water would then investigate the notified water pressure failure. We consider that this process remains adequate for protecting customers from receiving inadequate water pressure. Sydney Water's customer engagement feedback suggests that customers have no issues with how this is currently managed.

<sup>n</sup> Sydney Water consulted its customers through its 'Our Water, Our Voice' engagement program to understand their preferences regarding the levels of service that they value and expect.

In the recommended operating licence, Sydney Water would not be required to count a property as experiencing a water pressure failure where it occurred due to an ongoing planned or unplanned water supply interruption.<sup>107</sup> This will avoid Sydney Water being penalised for failing to meet both its water continuity and water pressure standards for events with the same root cause. However, if Sydney Water has rectified a water supply interruption and a customer reports a water pressure failure after that, this will be counted as a water pressure failure as the water supply interruption is no longer 'ongoing.'

- **Dry weather wastewater overflows standard:** The current licence only includes a standard to minimise wastewater overflows onto private properties during dry weather.<sup>108</sup> We have not proposed to include standards in the new operating licence for wastewater overflows during wet weather. We have also not proposed to extend the current overflow standard to cover public properties.

The EPA is the relevant NSW regulator for discharge of wastewater to the environment. Sydney Water's environmental protection licences include requirements for wet-weather and dry-weather wastewater overflows to the environment. We do not recommend duplicating that in the operating licence. The system performance standards in the operating licence focus on managing the service interruptions to Sydney Water's customers, which is why we recommend that they be limited to overflows onto private properties only. Any requirements to manage wastewater overflows onto public properties should be regulated through Sydney Water's environmental protection licences.

### Changes to the current service levels are not beneficial

We recommend retaining the current system performance standards with no changes to the levels of service that they require. Sydney Water reports little appetite among its customers to raise or lower the current levels of service that they receive.

Raising the standards would result in increased customer bills as it would require Sydney Water to invest more in asset maintenance and renewals to reduce service outages caused by infrastructure failure. Lowering the standards could allow Sydney Water to reduce costs as it would not need to invest as much on asset management to meet the performance standards in the operating licence. However, reduced asset maintenance would likely result in customers experiencing more service interruptions than they currently do, and this would be an adverse outcome.

Retaining the current standards (and the levels of service they require) could also result in some increases in customer bills (though not as much as with raising the standards). Sydney Water needs to continue to invest in its ageing infrastructure to provide the same level of service over the term of the operating licence. Sydney Water has told us that it expects that these maintenance costs may increase more substantially in the longer-term due to changing climate conditions than in the immediate term. Therefore, we consider that the current standards remain appropriate for the next 4-year licence term.

We will monitor Sydney Water's performance against the standards over the 2024-2028 licence term. In the next operating licence review (planned for 2028), we will review the costs required to meet the standards in the recommended operating licence. This will help us determine if these standards continue to remain fit-for-purpose or require further review.



## The operating licence sets the minimum standard

We recommend removing the optimal and maximum level of water continuity service performance specified in the current licence<sup>109</sup> because this goes beyond requiring the minimum standard. The role of the system performance standards in the operating licence is to specify the minimum levels of service that Sydney Water must provide to protect customers. Sydney Water can perform above these levels, but this is not the objective of the operating licence.

Incentivising performance is better done through price regulation. Price determinations are more flexible than the operating licence and would allow Sydney Water to trade off higher levels of performance with community needs and willingness to pay. This approach is consistent with our water pricing regulatory framework. We recommended the water continuity optimal level and tolerance bands in the current (2019) licence before we had developed the water pricing regulatory framework. Now that we have developed this distinction between the operating licence and pricing mechanisms, we consider it appropriate to remove optimisation from the operating licence.

The next Sydney Water price determination will apply from 1 July 2025.

## Sydney Water's compliance during the 2019-2024 operating licence term



During the 2019-2024 operating licence term, we found that Sydney Water:

- did not meet the water continuity standard in its first year but returned to compliance in the second year
- was compliant with the water pressure standard
- was compliant with the dry weather wastewater overflows standard.

Sydney Water attributes the non-compliance with the water continuity standard in the first year of the operating licence term to drought conditions affecting soil moisture and resulting in greater pipe breakages. We have not proposed changes to the water continuity standard in the operating licence in response to this non-compliance as Sydney Water returned to compliance in the second year.

## Identifying and investigating service interruptions to properties

The current licence requires Sydney Water to detect unplanned service interruptions to properties within its area of operations using available information.<sup>110</sup> This requirement applies for interruptions to water continuity. We recommend retaining this requirement in the new operating licence but expanding the obligation on Sydney Water to also identify unplanned service interruptions to water pressure failures and uncontrolled wastewater overflows onto private properties.<sup>111</sup>

We also recommend requiring that Sydney Water must use a monitoring system to identify and manage interruptions. This includes interruptions notified to Sydney Water by customers or the community, or those that Sydney Water has identified itself.<sup>112</sup>

We consider that the current licence requirement to detect the service interruptions does not clearly communicate the objective of this licence requirement which is to have an adequate process for identifying and then actioning service interruptions. The recommended operating licence seeks to clarify this. However, it does not limit Sydney Water to having a single monitoring system. Sydney Water can use any number of systems and processes to ensure that the interruptions are appropriately recorded and attended to.

### Box 4.3 Recommended licence conditions for the system performance standards

#### 14 Water continuity standard

- (1) Sydney Water must ensure that, in each financial year, at least 98.00% of properties that Sydney Water supplies drinking water to are unaffected by an unplanned water interruption (the **water continuity standard**).
- (2) Subject to clause 14(3), a property is taken to have experienced an unplanned water interruption for the purposes of the water continuity standard if:
  - (a) the supply of drinking water at the first cold water tap of the property is interrupted,
  - (b) it takes more than 5 continuous hours for a normal supply of drinking water to be restored to the property, and
  - (c) the occupant of the property does not receive notice from Sydney Water of the proposed interruption at least:
    - (i) for an occupant of a residential property, 2 days prior to the interruption, or
    - (ii) for an occupant of a non-residential property, 7 days prior to the interruption.
- (3) A property is taken not to have experienced an unplanned water interruption for the purposes of the water continuity standard if the interruption is caused by:
  - (a) a third party, or
  - (b) a power failure.
- (4) For the purpose of the water continuity standard:
  - (a) each separately billed part of a multiple occupancy property is to be counted as a separate property, and
  - (b) each separate instance, in a financial year, of a single property experiencing an unplanned water interruption is to be counted as a separate property that has experienced an unplanned water interruption (but not as a separate property to which Sydney Water supplies drinking water).

## Box 4.3 Recommended licence conditions for the system performance standards

### 15 Water pressure standard

(1) Sydney Water must ensure that, in each financial year, at least 99.99% of properties that Sydney Water supplies drinking water to receive a drinking water supply service affected by fewer than 12 water pressure failures (the water pressure standard).

(2) Subject to clause 15(3), a property is taken to have experienced a water pressure failure for the purposes of the water pressure standard if it experiences pressure of less than 15 metres head of pressure (measured at the point of connection of the property to Sydney Water's drinking water supply system) for a continuous period of one hour or more.

(3) A property will not be taken to have experienced a water pressure failure for the purposes of this clause 15 if that water pressure failure is caused by:

- (a) an ongoing planned water interruption or unplanned water interruption,
- (b) water usage in the case of a fire or other abnormal demand, or
- (c) a short term or temporary operational problem (such as a main break), including where caused by a third party, that is remedied within 4 days of its commencement.

(4) For the purposes of the water pressure standard:

- (a) where a property experiences multiple water pressure failures in a day, only one of those water pressure failures is to count as a water pressure failure experienced by the property,
- (b) where a property experiences a water pressure failure that affects more than one day, each day affected is to be counted as a separate water pressure failure,
- (c) each separately billed part of a multiple occupancy property is to be counted as a separate property,
- (d) each property that is affected by 12 or more water pressure failures in a financial year is to be counted once only as a property that has been affected by 12 or more water pressure failures in that financial year, and
- (e) a property in a property cluster is not to be counted if:
  - (i) the property was connected for the first time to Sydney Water's drinking water supply system on or after 1 July 2020, and
  - (ii) Sydney Water informed the owner before or at the time of connection of:

### Box 4.3 Recommended licence conditions for the system performance standards

- (A) the risk of recurring water pressure failures should the property be connected to that system, and
- (B) options to reduce that risk.

#### 16 Dry weather wastewater overflow standard

(1) Sydney Water must ensure that, in each financial year, at least:

- (a) 99.28% of properties that Sydney Water supplies a wastewater service to (but excluding public properties) receive a wastewater service unaffected by an uncontrolled wastewater overflow, and
- (b) 99.99% of properties that Sydney Water supplies a wastewater service to (but excluding public properties) receive a wastewater service affected by fewer than 3 uncontrolled wastewater overflows,

(the **dry weather wastewater overflow standard**).

(2) For the purposes of the dry weather wastewater overflow standard:

- (a) each multiple occupancy property is to be counted as a single property,
- (b) for the purposes of clause 16(1)(a), each separate instance, in a financial year, of a single property experiencing an uncontrolled wastewater overflow is to be counted as a separate property that has experienced an uncontrolled wastewater overflow (but not as a separate property that Sydney Water supplies a wastewater service to), and
- (c) for the purposes of clause 16(1)(b), each property that experiences 3 or more uncontrolled wastewater overflows in a financial year is to be counted only once as a property that has experienced 3 or more uncontrolled wastewater overflows.

#### 17 Identifying system interruptions

(1) Sydney Water must maintain monitoring systems and processes:

- (a) to identify unplanned water interruptions, water pressure failures and uncontrolled wastewater overflows, and
- (b) that use the best available information, including:
  - (i) information on incidents notified by customers or the community,
  - (ii) water pressure data, where available, and
  - (iii) data obtained through Sydney Water's data collection systems and hydraulic analysis,

### Box 4.3 Recommended licence conditions for the system performance standards

(the **monitoring system**).

(2) Sydney Water must implement the monitoring system maintained under this clause.

#### 18 Interpretation of standards

In the case of any ambiguity in the interpretation or application of the water continuity standard (clause 14), the water pressure standard (clause 15) or the dry weather wastewater overflow standard (clause 16), Sydney Water must refer the issue to IPART for clarification.

#### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

#### In these clauses:

**bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**drinking water** means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering, whether or not the water is used for other purposes.

**financial year** means a period of 12 months commencing on 1 July.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**multiple occupancy property** means real property comprising more than one individual dwelling or individual premises capable of being separately occupied, which may be used for any purpose.

**planned water interruption** means an event that, in relation to a property:

### Box 4.3 Recommended licence conditions for the system performance standards

(a) commences when the supply of drinking water at the first cold water tap of the property is interrupted following prior receipt by the customer or consumer of a water interruption notice from Sydney Water at least 2 days (for an occupant of a residential property) or 7 days (for the occupant of a non-residential property) prior to the interruption, and

(b) ceases when a normal supply of drinking water is restored to the property.

**property** means any real property that is:

(a) connected to, or for which a connection is available to Sydney Water's water supply system or wastewater system,

(b) within an area of land declared by an order of the Governor to be a stormwater drainage area under section 65 of the Act, or

(c) within the Rouse Hill stormwater catchment area.

Note: For the purpose of the dry weather wastewater overflow standard, a multiple occupancy property may be counted as a single property.

**property cluster** means a group of properties in close proximity to each other that are affected by recurring water pressure failures, were identified by Sydney Water as having been affected by those recurring water pressure failures prior to 1 July 2020, and are located in one of the following areas:

(a) Kurrajong,

(b) North Richmond,

(c) Horsley Park,

(d) Bass Hill,

(e) Buxton, and

(f) Denham Court.

**residential property** means a property that is categorised as residential under the Local Government Act 1993 or is used by the relevant occupant as the occupant's principal place of residence.

**Rouse Hill stormwater catchment area** means the area of land located in the Rouse Hill stormwater catchment as identified in any determination made by IPART of maximum prices that may be levied by Sydney Water for stormwater services.

**third party** means a person who is not employed, contracted by or working on behalf of Sydney Water.

### Box 4.3 Recommended licence conditions for the system performance standards

**uncontrolled wastewater overflow** is a wastewater overflow occurring in dry weather that is not a wastewater overflow that is directed by Sydney Water via a designed structure to a predetermined location such as a stormwater drainage system or waterway in order to prevent overloaded or blocked sewers from discharging at sensitive locations, on private property or within buildings (thus endangering public health or causing a public nuisance).

**unplanned water interruption** has the meaning given in clause 14.

**wastewater** means an effluent stream comprising elements such as sewage, trade waste discharges and grey water.

**wastewater overflow** is the discharge of untreated or partially treated sewage from:

- (a) any part of Sydney Water's wastewater system, or
- (b) any part of a customer's wastewater system where the cause of the discharge is a problem with Sydney Water's wastewater system.

## 4.4 Asset management

### Our recommendations for the operating licence

35. Retain the current licence conditions requiring Sydney Water to maintain, implement and comply with an asset management system consistent with *Australian Standard AS ISO 55001:2014*.
36. Include flexibility in the operating licence for Sydney Water's asset management system to be consistent with another standard if nominated by Sydney Water and approved by IPART in writing.
37. Include a new operating licence condition requiring Sydney Water to submit biennial asset management reports to IPART in accordance with the 2024-2028 reporting manual.

## Asset management system and the standard required

The current licence recognises these benefits and requires Sydney Water to maintain and implement an asset management system consistent with the relevant Australian Standard (*AS ISO 55001:2014*).<sup>113</sup>

We recommend retaining this licence condition<sup>114</sup> because it:

- requires Sydney Water to manage its assets adequately through processes developed consistent with an approved industry standard
- makes Sydney Water accountable for adhering to its asset management processes – there are currently no other legislative requirements requiring Sydney Water to have and implement an asset management system and be accountable for it
- enables IPART to monitor Sydney Water's compliance with the system through compliance audits - if there was a high-risk incident or a non-compliance, we would be able to readily audit Sydney Water's asset management, identify the cause of the issue, make recommendations to rectify the non-compliance or take enforcement action
- minimises any risk that Sydney Water could cease to maintain the asset management system due to commercial incentives if there are costs increases or changes to leadership at Sydney Water in the future, recognising the criticality of maintaining the asset management system for Sydney Water to deliver on its functions and meet the performance standards.

Appropriate asset management is necessary to enable Sydney Water to meet the quality and performance standards specified in the operating licence, and ultimately customers' expectations for services. The benefits of Sydney Water maintaining, implementing and complying with an asset management system are that it helps Sydney Water to:

- manage its assets through all phases of the asset's lifecycle including strategy and planning; asset creation; maintenance; and asset renewal
- meet its system performance standards and operate critical assets to provide essential services to more than 5 million customers
- monitor asset performance, which determines its overall system performance
- meet objectives (such as the water quality and system performance standards for service interruptions) by effectively managing asset risks and asset performance
- identify and pre-empt issues that may pose a significant risk to asset integrity and/or public health, including risks brought about by a changing climate
- identify the root cause of poorly performing assets and maximise asset value
- keep records of maintenance activities, which is essential to track performance, optimise maintenance, and identify areas requiring frequent attention.

We also recommend including flexibility in the new operating licence for Sydney Water's asset management system to be consistent with another asset management standard (instead of *AS ISO 55001:2014*), if nominated by Sydney Water and approved by IPART in writing.<sup>115</sup> This will allow Sydney Water to transition to an updated standard if one becomes available and it is appropriate.



The International Organisation for Standardisation (ISO) Technical Committee for asset management systems is currently updating *International Standard ISO 55001:2014*. The ISO Technical Committee has not advised when the updated International Standard will be released but we expect this to occur sometime in 2024. We do not recommend requiring compliance with the 2024 International Standard in the operating licence as soon as the 2024 standard is released as this would not give Sydney Water enough time to transition its current asset management system to the new standard.

Further, we recommend that Australian utilities should be required to comply with Australian standards rather than the international versions, in case of any differences between the standards. At this stage, we do not know when the Australian Standard will be released.



### **Sydney Water's compliance during the 2019-2024 operating licence term**

We found Sydney Water's current asset management system to be compliant with the elements of *AS ISO 55001:2014*, when audited during the 2019-2024 operating licence term. Through our compliance monitoring function, we have found that Sydney Water has had consecutive non-compliances with the implementation of its asset management system from 2020-2022.<sup>116-117-118</sup> The non-compliances related to how Sydney Water documented its reasons and decisions for deferring asset maintenance and replacement actions.

We consider that these non-compliances should be dealt with through our compliance monitoring function and do not require changes to the operating licence conditions.

We are closely monitoring Sydney Water's progress in taking steps to increase its compliance.

Sydney Water submitted a list of actions and reporting dates to IPART on 17 May 2023 to address the identified issues and improve its compliance. These actions included a program of works (which Sydney Water termed 'the Service Excellence Roadmap'). The Tribunal issued an Enforcement Notice to Sydney Water on 31 May 2023, which provided a direction to Sydney Water to complete the proposed program of works and provide reports.<sup>o</sup>

The Service Excellence Roadmap has 21 workstreams, including 5 asset-related workstreams, that when implemented should provide a degree of oversight and assurance that:

- Sydney Water will have developed and implemented appropriate processes to capture overdue/deferred maintenance items
- the improved processes will adequately describe reasons for deferment, and the effect (if any) on risks associated with that asset class.

<sup>o</sup> [Enforcement Action Notice 11/2023](#).

The improved processes will monitor and report on overdue items to an appropriate leadership/governance group who will then be responsible for ensuring action is taking to complete outstanding items.

## Biennial (2-yearly) asset management reports to IPART

In response to the repeat non-compliances with Sydney Water's operating licence requirements for implementing its asset management system identified above, we propose to increase Sydney Water's reporting obligations. In the 2024-2028 reporting manual, we propose to require Sydney Water to provide a biennial report on the state of its assets to IPART. To support this reporting obligation, we recommend including a new operating licence condition for Sydney Water to submit biennial reports on its asset management system in accordance with the reporting manual.<sup>119</sup> We propose that the biennial reports should include the following information (at minimum):

- a description of each group of assets managed by Sydney Water
- Sydney Water's assessment of the expected capability of the assets to deliver services and to meet the existing obligations under the operating licence, Customer Contract, and all applicable laws that Sydney water must comply with
- Sydney Water's assessment of the major issues or constraints on current and future performance of its assets
  - the strategies and expected costs of future investment in assets.

These reports would provide:

- Important information for us to track and target specific assets for annual operational audits and monitor how Sydney Water is managing its assets and whether its asset management processes are being implemented. This could potentially identify emerging issues before incidents or non-compliances occur. For example, the state of the assets reports could give us visibility about any assets that are underperforming or failing, allowing us to target how we audit Sydney Water's implementation of its asset management system.
- Transparency regarding trends in asset conditions and management (not just those that have been identified as non-compliant).
- An incentive to ensure that performance does not decline and minimise risk of similar non-compliances in the future.

## Box 4.4 Recommended operating licence condition for asset management

### 19 Asset management

(1) Sydney Water must maintain an asset management system for Sydney Water's assets that is consistent with:

- (a) the Australian Standard *AS ISO 55001:2014 Asset management – Management systems – Requirements*, or
- (b) another asset management standard nominated by Sydney Water and approved by IPART

(the **asset management system**).

(2) Sydney Water must implement and comply with the asset management system.

(3) Sydney Water must submit biennial asset management reports to IPART in accordance with the reporting manual.

### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**assets** mean the land, structures, plant, equipment, corporate and business systems of Sydney Water that enable Sydney Water to undertake its functions deliver its services and further its objectives.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

#### Box 4.4 Recommended operating licence condition for asset management

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## Chapter 5 >>

### Sydney Water's obligations to its customers

Protection for customers' rights and requirements for consultation with customers

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05

In this chapter, we discuss our recommendations for including conditions in the 2024-2028 operating licence (new operating licence) requiring Sydney Water to:

- Maintain a customer contract outlining customers' rights and responsibilities and ensure that customers receive information about the customer contract explaining their key rights and responsibilities.
- Have policies and procedures in place to help customers experiencing payment difficulties and family violence and to ensure that its customers can make complaints, and if necessary, escalate them to an external dispute resolution scheme.
- Undertake customer engagement to inform Sydney Water's business practices and the next operating licence and pricing reviews.
- Extend protections to tenants who are not 'customers' under the operating licence. Tenants are consumers under the operating licence, defined as 'any person who consumes or uses the services and includes a tenant or an occupier'.

During the 2019-2024 operating licence (current licence) term, Sydney Water has had a high level of compliance with all the current requirements to protect its customers and consumers.

Our recommendations aim to:

- Ensure that Sydney Water continues to provide customers and with a minimum level of customer service and protections that is acceptable.
- Minimise the risk that Sydney Water may avoid offering protections to its customers and consumers, where it is not in its commercial interest to do so. Having adequate measures to protect customers' rights is important to prevent Sydney Water from potentially taking advantage of its monopoly power. This could adversely affect the quality and delivery of essential water and wastewater services.

## 5.1 Protecting customers' rights

Our recommendations for the operating licence

38. Retain the current licence conditions for Sydney Water to make its customer contract, and a summary of it, publicly available on its website and on request through its contact centre.
39. Include a new operating licence condition requiring Sydney Water to publish the most up-to-date version of the Customer Contract, if it is varied.
40. Include a new operating licence condition requiring Sydney Water to notify its residential customers that a summary of the Customer Contract is available on Sydney Water's website and on request through its contact centre.

The 2019-2024 customer contract (current customer contract) is included in Schedule C of the current licence, as required by the *Sydney Water Act 1994* (NSW) (the Act).<sup>120</sup> The customer contract sets out:

- the terms and conditions for supply of service to Sydney Water's customers, aiming to ensure that Sydney Water's services meet customers' expectations
- customers' rights and protections and their responsibilities.

We have recommended changes to the current customer contract to:

- improve some customer protections
- make customer responsibilities clearer
- simplify the document and target it only at customers, not consumers (we discuss this further in the next section)
- improve general readability of the document
- better reflect how current business practices will enable potential future business changes.

We have explained these recommendations in Appendix A of this report. Our recommendations have been informed by input from Sydney Water, which was in turn informed by feedback provided by Sydney Water's customers.

We consider that it is beneficial to retain the current licence requirements for Sydney Water to publish the customer contract on its website and provide a copy on request to customers through Sydney Water's contact centre.<sup>121</sup> We recommend that the new operating licence should also require Sydney Water to ensure that this is the most up-to-date version of the customer contract if Sydney Water amends the contract.<sup>122</sup> Customers should have access to the most up-to-date customer contract so that they are aware of their current rights and responsibilities. Customer protections (such as family violence protection and payment assistance) are only effective if customers are aware of them and know how to gain access to them.

To further facilitate understanding among customers of their rights and protections, we recommend that Sydney Water should be required to:<sup>123</sup>

- publish a summary of the customer contract on its website
- provide a copy of this summary on request through the contact centre
- notify residential customers through their bills that this information is available on Sydney Water's website and on request.

We do not recommend requiring Sydney Water to attach the customer contract, or a summary of it, with customer bills. Requiring the contract and its summary to be made publicly available is adequate as a minimum requirement to meet the objective of transparency and ease of access for customers. However, we still encourage Sydney Water to provide the summary directly with bills, even though this is not a licence requirement, if Sydney Water considers that this will further customers' understanding of their rights and responsibilities under the customer contract.

## Box 5.1 Recommended licence conditions for the customer contract

### **20 Customer Contract**

- (1) The Customer Contract sets out the rights and obligations of customers and Sydney Water in relation to the services provided in accordance with this licence. The Customer Contract, as at 1 July 2024, is set out in Schedule B of this licence.
- (2) Sydney Water must make a copy of the Customer Contract publicly available.
- (3) If the Customer Contract is varied under section 59 of the Act, Sydney Water must make a copy of the varied Customer Contract publicly available from the date the variation takes effect.

### **22 Providing information to Customers**

- (1) Sydney Water must prepare one or more summaries that:
  - (a) provide a brief explanation of the Customer Contract, including the rights and protections available to customers,
  - (b) outline the types of relief available for customers experiencing payment difficulties,
  - (c) outline the rights of customers to claim a rebate and the conditions that apply to those rights,
  - (d) contain information about how to contact Sydney Water by telephone, email or post, including the contact centre, and
  - (e) explain that customers may enter into negotiated agreements with Sydney Water separate to the Customer Contract for the provision of services.
- (2) Sydney Water must:
  - (a) make the summaries publicly available, and
  - (b) notify all residential customers that the summaries are publicly available at least once each financial year using the method chosen by the customer to receive their bill.

### **45 Timeframe for Sydney Water to take action**

- (1) If a clause of this licence requires Sydney Water to:
  - (a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document



**Box 5.1 Recommended licence conditions for the customer contract**

or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

**In these clauses:**

**Act** means the *Sydney Water Act 1994*.

**Bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**Business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**Contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**Customer** means any person who:

(a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,

(b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,

(c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or

(d) owns a property within the Rouse Hill stormwater catchment area.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**financial year** means a period of 12 months commencing on 1 July.

**publicly available** means available to any person, free of charge:

(a) on Sydney Water's website, and

(b) on request to the contact centre.

**residential customer** means a customer that owns a residential property.

**services** means the services authorised by clause 8.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 5.2 Protecting consumers' (tenants) rights

### Extending provisions of the Customer Contract to apply to consumers

#### Our recommendation for the operating licence

41. Retain the current licence conditions that extend protections under the Customer Contract to consumers (e.g. tenants), with changes to extend additional protections to these consumers.

Generally, the customer contract does not apply to consumers such as tenants as they are not Sydney Water's customers. The Act provides that there is a customer contract between Sydney Water and the landholder.<sup>124</sup> Consumers who use Sydney Water's services but are not landholders, are not a party to the customer contract. This leaves a gap in consumer protections.

To fill this gap, the current licence requires Sydney Water to extend some provisions of the customer contract to consumers to ensure that they are given adequate protections when using Sydney Water's services.<sup>125</sup> These extended protections include, among others, access to assistance options if facing payment difficulties, and avenues to complain if the consumer is unhappy with the services they are receiving.

We recommend that the new operating licence should retain the requirement to extend protections under the Customer Contract to consumers. We also recommend extending additional provisions, as follows.<sup>126</sup> If Sydney Water fails to do this, it will breach its operating licence:

- Clause 2-2 - Who is covered by this contract?
- Clause 2-4 - When does this Customer Contract commence?
- Clause 2.5 - When does this Customer Contract end?
- Clause 2.6 - Variation of this Customer Contract
- Clause 6 - What you can do if you are unable to pay your bill
- Clause 7.5 Limitations on restriction or disconnection
- Clause 12-3 - Forms of redress
- Clause 12-4 - Claim for monetary compensation
- Clause 13 - What you can do if you are unhappy with the services
- Clause 14 - Who you should contact
- Clause 15 - Consultation, information and privacy.

These clauses reflect the numbering in the recommended customer contract, they have been re-worded and re-numbered from the current customer contract.

During this licence review, we considered if the operating licence should enable a direct billing relationship between Sydney Water and residential tenants who pay their water usage charges.

We concluded that extending the provisions of the customer contract described above provides adequate protections to tenants within the current legislative framework. There could still be benefits in having a direct billing relationship with Sydney Water, but this would first require legislative changes to the *Residential Tenancies Act 2010* (NSW) and the *Sydney Water Act 1994* (NSW).

Our consultation indicates that there may be disincentives for tenants who need payment assistance from Sydney Water to pay for water usage charges because it necessarily involves disclosing their financial hardship to their landlord. Should the NSW Government seek to make the necessary legislative changes to enable a direct billing relationship, IPART would be well placed to advise on the costs and benefits, as well as the practical implications of any contemplated change. We can also undertake a review of any changes needed for the operating licence to support any contemplated change. This does not need to wait until the next end-of-term review of the operating licence. If any legislative changes are made during the term of the 2024-2028 operating licence, we can make recommendations to the Minister to amend the licence mid-term, under section 28 of the Act.

## Box 5.2 Recommended licence conditions for protecting tenants

### 22 Consumers

(1) Sydney Water must, in its dealings with consumers, act in accordance with its obligations under the following clauses of the Customer Contract as though the consumers were parties to the Customer Contract:

- (a) Clause 2.2 - Who is covered by this contract?
- (b) Clause 2.4 - When does this Customer Contract commence?
- (c) Clause 2.5 - When does this Customer Contract end?
- (d) Clause 2.6 - Variation of this Customer Contract
- (e) Clause 6 - What you can do if you are unable to pay your bill
- (f) Clause 7.5 - Limitations on restriction or disconnection
- (g) Clause 12.3 - Forms of redress
- (h) Clause 12.4 - Claim for monetary compensation
- (i) Clause 13 - What you can do if you are unhappy with our services
- (j) Clause 14 - Who you should contact
- (k) Clause 15 - Consultation, information and privacy.

## Box 5.2 Recommended licence conditions for protecting tenants

### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

#### In these clauses:

**bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## Making tenant protections clear

Our recommendations for the operating licence

42. Include a new condition requiring Sydney Water to publish information on its website specifically for tenants which sets out their rights and responsibilities, by 30 November 2024.

As discussed above, the current licence extends some of the provisions of the customer contract to tenants as if they were customers because tenants are not otherwise a party to the customer contract. The current customer contract notes which provisions are available to tenants. However, we consider that this is not the best way to communicate tenant protections. The tenant protections are scattered throughout the customer contract and it is difficult for tenants to easily identify their rights or even find the parts of the contract which are relevant for them.

To make it simpler for both customers and tenants, we recommend changes to the customer contract so that it only applies/refers to customers, as envisaged by the Act. Then the new operating licence should require Sydney Water to separately publish information that is targeted specifically at tenants, explaining their rights and responsibilities.<sup>127</sup>

We consider that our proposed obligation will not be a substantial burden. Sydney Water already publishes information on its [website](#) targeted at tenants. Publishing information on Sydney Water's website will meet the requirements of the recommended operating licence if it covers all the protections in the customer contract extended to tenants and it is easily located. Sydney Water can and should include additional information where it provides protections beyond those set out in the customer contract.

To allow Sydney Water time to publish all the information required by the new operating licence, we recommend that this licence requirement comes into effect on 30 November 2024 (and not on 1 July 2024 when the operating licence commences).<sup>128</sup> Until that time, Sydney Water should continue to maintain the information it has already published on its website for tenants. However, we do not recommend recommended a licence condition explicating requiring this.

We do not propose that Sydney Water should have to publish information for any other types of consumers as we consider that most of Sydney Water's consumers are tenants. The benefits of publishing information for other consumer groups may not justify the costs.

We have not made recommendations requiring Sydney Water to notify tenants directly that this information is available. Sydney Water may not have comprehensive contact information for all its tenants. Tenants can find the information on Sydney Water's website if they need it.

### Box 3 Recommended licence conditions for protecting consumers

#### 21 Consumers

(1) [...]

(2) Sydney Water must, from 30 November 2024, make information publicly available that is specifically targeted at tenants who are consumers and that:

(a) explains how Sydney Water will act in its dealings with tenants who are consumers, and

### Box 3 Recommended licence conditions for protecting consumers

(b) includes an explanation of the matters dealt with by the Customer Contract referred to in clause 21(1) and their application to tenants with the explanation, at a minimum, to include an equivalent level of detail as relevantly provided in the Customer Contract.

#### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

#### In these clauses:

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**publicly available** means available to any person, free of charge:

(a) on Sydney Water's website, and

(b) on request to the contact centre.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 5.3 Operating licence conditions regulating specific customer protections

In this section, we explain why we have recommended retaining current licence conditions requiring Sydney Water to maintain, implement, comply with and advertise, the following documents designed to protect vulnerable customers:

- payment assistance policy<sup>129</sup>
- family violence policy<sup>130</sup>
- complaints handling procedures<sup>131</sup>
- external dispute resolution procedures<sup>132</sup>

Including a requirement for these policies and procedures in the new operating licence ensures that Sydney Water implements and complies with them and protects its customers, even if there is no commercial incentive. For example, Sydney Water may be less prompt in resolving customer complaints or issues where there might be a commercial advantage in ignoring them or delaying a response. An organisation in a competitive market would have strong incentives to address such issues promptly or lose market share to those competitors who do. However, that competitive discipline is absent for a monopoly supplier.

In this section we discuss our recommendations, including some additional new requirements to improve the current licence conditions.

### 5.3.1 Payment assistance options

#### Our recommendations for the operating licence

43. Retain and update the current licence conditions requiring Sydney Water to maintain, implement and comply with a payment assistance policy that must, at a minimum, provide for:
  - a. assistance to residential customers experiencing payment difficulties to better manage their current and future bills
  - b. procedures for residential customers to enter a payment plan where they are experiencing payment difficulties
  - c. procedures for identifying the circumstances under which Sydney Water may disconnect or restrict a supply of water to a property
  - d. processes for self-identification, identification by community welfare organisations and identification by Sydney Water of customers and consumers experiencing payment difficulties.
44. Retain and update the current licence conditions requiring Sydney Water to provide its payment assistance policy:
  - a. to customers as soon as Sydney Water has identified them as facing payment difficulty
  - b. on the Sydney Water website

c. on request through Sydney Water's contact centre.

45. Include a new operating licence condition requiring Sydney Water to notify its residential customers, at least annually with their bills, that the payment assistance policy is publicly available.

We recommend retaining the current licence requirements for Sydney Water to maintain and implement a payment assistance policy.<sup>133</sup> Access to payment assistance is necessary to protect customers experiencing payment difficulties. It protects them from Sydney Water restricting or disconnecting the water supply due to unpaid bills. Customers require adequate access to their water service for basic hygiene and drinking water.

Sydney Water currently offers customers the following payment assistance options:

- extensions to payment dates of bills
- payment plans to pay bills in smaller amounts more frequently with no payment fees or interest charges applied.
- access to Sydney Water's Payment Assistance Scheme (PAS). Sydney Water will apply PAS credits directly to the customer's bill if they're eligible (thereby reducing the total bill that the customer must pay).

The current licence specifies minimum requirements for what the payment assistance policy should cover, as follows:<sup>134</sup>

- Assistance to residential customers experiencing payment difficulties to better manage their current and future bills.
- Procedures for residential customers to enter a payment plan where in Sydney Water's reasonable opinion, they are experiencing payment difficulties.
- Procedures for identifying the reasonable circumstances under which Sydney Water may disconnect or restrict a supply of water to a property.
- Processes for self-identification, identification by community welfare organisations and identification by Sydney Water of residential customers experiencing payment difficulties.

We recommend retaining these requirements as we consider they are the minimum necessary to ensure that the policy is effective and enforceable.<sup>135</sup> We do not recommend including additional prescription because we consider that the requirements in the current licence are adequate and Sydney Water's payment assistance policy is working effectively.

We also recommend retaining the requirements in the current licence to provide information about payment assistance to its customers by doing the following, as a payment assistance is only effective as a customer protection if the customers are aware of its existence:<sup>136</sup>

- Publish the payment assistance policy on its website and make it available on request through Sydney Water's contact centre.
- Notify residential customers, at least once each financial year through their bills, that customers can access the policy from Sydney Water's website or the contact centre.



- Ensure that customers are provided information about payment assistance options available to them as soon as they are identified as facing payment difficulties.

Finally, if Sydney Water updates the payment assistance policy, we recommend that the new operating licence requires Sydney Water to publish the updated policy on its website with 10 business days, so that customers have access to the most current information.<sup>137</sup>

## Box 5.4 Recommended licence conditions for payment assistance

### 23 Payment assistance options

- (1) Sydney Water must maintain a payment assistance policy that deals with customers and consumers experiencing payment difficulty.
- (2) Sydney Water must implement and comply with the payment assistance policy.
- (3) The payment assistance policy must, at a minimum, provide for:
  - (a) assistance to residential customers experiencing payment difficulty to better manage their current and future bills,
  - (b) procedures for residential customers to enter a payment plan where they are experiencing payment difficulties,
  - (c) procedures for identifying the circumstances under which Sydney Water may disconnect or restrict the supply of water to a customer's property, and
  - (d) processes for self-identification, identification by community welfare organisations and identification by Sydney Water of residential customers experiencing payment difficulties.
- (4) Sydney Water must:
  - (a) make the payment assistance policy publicly available,
  - (b) notify all residential customers that the payment assistance policy is publicly available at least once each financial year using the method chosen by the customer to receive their bill, and
  - (c) provide the payment assistance policy to each residential customer that Sydney Water identifies is experiencing payment difficulty within one business day of the date that Sydney Water first identifies that the customer is experiencing payment difficulty.

### 45 Timeframe for Sydney Water to take action

- (1) If a clause of this licence requires Sydney Water to:

### Box 5.4 Recommended licence conditions for payment assistance

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

#### In these clauses:

**bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**customer** means any person who:

(a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,

(b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,

(c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or

(d) owns a property within the Rouse Hill stormwater catchment area.

**financial year** means a period of 12 months commencing on 1 July.

**property** means any real property that is:

(a) connected to, or for which a connection is available to Sydney Water's water supply system or wastewater system,

(b) within an area of land declared by an order of the Governor to be a stormwater drainage area under section 65 of the Act, or

(c) within the Rouse Hill stormwater catchment area.

Note: For the purpose of the dry weather wastewater overflow standard, a multiple occupancy property may be counted as a single property.

**publicly available** means available to any person, free of charge:

(a) on Sydney Water's website, and

### Box 5.4 Recommended licence conditions for payment assistance

(b) on request to the contact centre.

**residential customer** means a customer that owns a residential property.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 5.3.2 Family violence policy

### Our recommendations for the operating licence

46. Define 'family violence' in the new operating licence to align with the definition in the *Intervention Orders (Prevention of Abuse) Act 2009 (SA)*.
47. Retain the current licence condition requiring Sydney Water to implement a family violence policy and include a new requirement to also maintain and comply with the policy.
48. Retain the current licence condition requiring Sydney Water's family violence policy to cover the following matters, at minimum:
  - a. the protection of private and confidential information
  - b. access to payment assistance options
  - c. processes that minimise the reliance on individuals to disclose their family violence
  - d. processes for referrals to specialist services.
49. Include new operating licence conditions requiring Sydney Water to cover the following additional matters in its family violence policy:
  - a. identifying customers and consumers experiencing family violence
  - b. ensuring customers and consumers can nominate their preferred method of communication and when they can be contacted
  - c. clarifying that individuals experiencing family violence will not face consequences for not paying their bills.
50. Include new operating licence conditions requiring Sydney Water to:
  - a. publish its family violence policy on its website and provide it on request through its contact centre
  - b. notify residential customers at least annually with their bills that the family violence policy is publicly available
  - c. keep the information it provides about its family violence policy up to date.

We recommend retaining the current licence condition requiring Sydney Water to implement its family violence policy<sup>138</sup> and extending that condition to also require Sydney Water to maintain and comply with the policy.<sup>139</sup> Sydney Water currently has a family violence policy which it developed under the current licence. The policy offers necessary security to customers and consumers experiencing family violence. It is important that providers of essential services reduce risks for such individuals.

Currently the licence does not include a definition for family violence and neither does Sydney Water's policy. We recommend defining this in the new operating licence consistent with the definition in the *Intervention Orders (Prevention of Abuse) Act 2009 (SA)*.<sup>140</sup> Previously in this end-of-term review of the Sydney Water operating licence (Review), we considered aligning the definition of family violence with that in the *Family Law Act 1975 (Cth)*. However, we have recommended aligning it with the South Australian Act's definition as this definition more completely covers the various types of domestic abuse that we consider Sydney Water's family violence policy should cover.

We recommend that the new operating licence should require Sydney Water's family violence policy to cover the following matters, at minimum, to ensure that the policy is effective and enforceable.<sup>141</sup> The policy can also include additional matters if Sydney Water considers appropriate:

- Sydney Water's provisions for identifying those customers and consumers who are experiencing family violence. This is a proposed new operating licence requirement. We consider that adequate identification of vulnerable customers is a necessary first step before Sydney Water can take steps to protect their personal information and minimise the need for the customers to disclose their family violence (as required in the current operating licence).
- Sydney Water provisions for protecting the private and confidential personal information of all individuals experiencing family violence (including both customers and consumers). This is required in the current licence though the current licence is not clear that the policy should apply to both customers and consumers. We have recommended this specification in the new operating licence. Both customers and consumers communicate with Sydney Water and these individuals need to be confident that there will be no deliberate or inadvertent disclosure of their personal information to anyone associated with the perpetrator of abuse.
- Sydney Water's processes for minimising the need for individuals to disclose that they are experiencing family violence or provide evidence of it. This is required in the current licence. To meet this requirement, Sydney Water should take steps to ensure that their status as individuals experiencing family violence is appropriately recorded and communicated within the organisation. Sydney Water should provide these individuals with suitable protections on the assumption that the information that they have provided is accurate.
- Sydney Water's payment assistance options for individuals experiencing both family violence and payment difficulty, and how they can access these options. This is similar to what is required in the current licence but we have recommended extending this requirement so that Sydney Water's family violence policy must set out that such customers will not face consequences for not paying their bills. This means that they will not incur late/dishonoured payment fees, have their services restricted or disconnected, or face legal action, and their debts will not be referred to a third party debt collector.

Family violence can increase the complexity of financial hardship.<sup>142</sup> Perpetrators of family violence often avoid responsibility for debts and leave their partners or former partners with substantial liabilities. Debt incurred through jointly held accounts is one of the most difficult issues for customers experiencing family violence to resolve with financial institutions.<sup>143</sup> Domestic and family violence is the leading cause of homelessness for women and children.<sup>144</sup>

- Sydney Water's processes for enabling individuals experiencing family violence to nominate when and how they can be contacted, so that they are not contacted at times or via communication methods that could inadvertently increase their vulnerability to family violence. This is a proposed new operating licence requirement.
- Sydney Water's processes for referring individuals experiencing family violence to specialist support services. This might be for counselling services, emergency financial relief and medical advice and support.

Given the number of new requirements we have proposed, we recommend including time in the new operating licence for Sydney Water to update its current family violence policy to reflect these requirements by 30 November 2024.<sup>145</sup> Until that time, Sydney Water must maintain, implement and comply with its current family violence policy.

As with payment assistance, we recommend that Sydney Water should be required to publish its family violence policy on its website and make it available on request through its contact centre.<sup>146</sup> Further, Sydney Water should be required to communicate to its residential customers that the policy is publicly available at least once each financial year with their bills.<sup>147</sup> Finally, if Sydney Water varies its policy, it should be required to update the policy it has made publicly available within 10 business days, so that customers have access to the most current information.<sup>148</sup>

## Box 5.5 Recommended licence conditions for a family violence policy

### 24 Family violence policy

- (1) Sydney Water must maintain a family violence policy that deals with customers and consumers experiencing family violence.
- (2) Sydney Water must implement and comply with the family violence policy.
- (3) From 30 November 2024, the family violence policy must, at a minimum, provide for:
  - (a) the identification of customers and consumers experiencing family violence,
  - (b) the protection of private and confidential information,
  - (c) processes that minimise the reliance on individuals to disclose their family violence or to provide evidence of their family violence,

### Box 5.5 Recommended licence conditions for a family violence policy

(d) processes for customers and consumers experiencing family violence to nominate their preferred method of communication and when they can be contacted,

(e) processes for referrals to local specialist support services, and

(f) in the case of customers and consumers who own or occupy a residential property, access to payment assistance options, including the option to miss payments without:

(i) fees for late or dishonoured payments being charged,

(ii) services being restricted, disconnected or legal action being taken, and

(iii) debts being sold to third parties.

(4) Sydney Water must:

(a) make the family violence policy publicly available,

(b) notify all residential customers that the policy is publicly available at least once each financial year using the method chosen by the customer to receive their bill.

#### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

#### In these clauses:

**bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**customer** means any person who:

(a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,

**Box 5.5 Recommended licence conditions for a family violence policy**

(b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,

(c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or

(d) owns a property within the Rouse Hill stormwater catchment area.

**family violence** means domestic abuse within the meaning of section 8 of the *Intervention Orders (Prevention of Abuse) Act 2009 (SA)* as at 1 July 2024.

**financial year** means a period of 12 months commencing on 1 July.

**publicly available** means available to any person, free of charge:

(a) on Sydney Water's website, and

(b) on request to the contact centre.

**residential customer** means a customer that owns a residential property.

**residential property** means a property that is categorised as residential under the *Local Government Act 1993* or is used by the relevant occupant as the occupant's principal place of residence.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

**third party** means a person who is not employed, contracted by or working on behalf of Sydney Water.

### 5.3.3 Internal complaints handling

#### Our recommendations for the operating licence

51. Retain and update the current licence conditions requiring Sydney Water to:
  - a. Maintain, implement and comply with an internal complaints handling procedure consistent with *Australian Standard AS/NZS 10002:2014- Guidelines for complaint management in organisations* until 30 June 2025.
  - b. publish a summary of its internal complaints handling procedure on Sydney Water's website and on request through its contact centre.

52. Include new operating licence conditions requiring Sydney Water, from 1 July 2025, to maintain, implement and comply with an internal complaints handling procedure consistent with the 2022 version of the Australian Standard (i.e. *Australian Standard AS 10002:2022 – Guidelines for complaint management in organizations*).
53. Include a new operating licence condition requiring Sydney Water to notify its residential customers, at least annually with their bills, that the summary of its internal complaints handling procedure is publicly available.

We recommend retaining the current licence conditions requiring Sydney Water to maintain, implement and comply with its internal complaints handling procedure.<sup>149</sup> Customers of utilities should have the opportunity to provide feedback and make complaints if the service they receive does not meet their expectations. This allows the utility to improve their services, aligned with customer expectations.

An effective complaints handling mechanism means that customers will enjoy a higher quality of service than they otherwise would, everything else being the same. This is particularly important in the case of monopoly suppliers of essential services like Sydney Water where customers do not have the choice of changing providers.

We recommend retaining the approach in the current licence which requires Sydney Water's internal complaints handling procedure to be consistent with the relevant Australian Standard.<sup>150</sup> Requiring consistency with the Australian Standard means that these procedures are required to meet the minimum accepted industry standards and expectations, providing assurance that they are adequate.

Currently, Sydney Water's procedure complies with the 2014 version of the Australian Standard as this is what is required in the current licence. An updated 2022 version is now available. To ensure currency, we recommend requiring Sydney Water to comply with 2022 version of the standard in the new operating licence (or any other complaint management standard nominated by Sydney Water and approved by IPART in writing).<sup>151</sup>

As this is a new licence requirement, we recommend that the operating licence should allow Sydney Water a year to fully transition its procedures to be consistent with the 2022 version (i.e. by 1 July 2025).<sup>152</sup> Until that time, we recommend that Sydney Water's procedure should continue to be required to be consistent with the 2014 version.<sup>153</sup> This version remains appropriate for the interim.

As with payment assistance and family violence protection, we recommend that Sydney Water should be required to publish a summary of its internal complaints handling procedure on its website and make the summary available on request through the contact centre.<sup>154</sup> Further, Sydney Water should be required to communicate to its residential customers that this summary is publicly available at least once each financial year with their bills.<sup>155</sup> Finally, if Sydney Water varies its payment assistance procedure, it should be required to update the summary on its website within 10 business days, so that customers have access to the most current information.<sup>156</sup>



## Box 5.6 Recommended licence conditions for internal complaint handling

### 26 Internal complaints handling

(1) Sydney Water must, from 1 July 2025, maintain an internal complaints handling procedure for receiving, responding to and resolving complaints that is consistent with:

- (a) *Australian Standard AS 10002:2022 – Guidelines for complaint management in organizations*, or
- (b) another complaint management standard nominated by Sydney Water and approved by IPART,

(the **internal complaints handling procedure**).

(2) Sydney Water must, from 1 July 2025, implement and comply with the internal complaints handling procedure.

(3) Until Sydney Water has developed the internal complaints handling procedure required by clause 26(1), it must maintain, implement and comply with a procedure that is consistent with Australian Standard AS/NZS 10002:2014 – Guidelines for complaint management in organizations.

(4) Sydney Water must:

- (a) make a summary publicly available that explains the current procedure for handling internal complaints including how to make a complaint and how Sydney Water will receive, respond to and resolve complaints, and
- (b) notify all residential customers that the summary is publicly available at least once each financial year using the method chosen by the customer to receive their bill.

### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

- (a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and
- (b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

## Box 5.6 Recommended licence conditions for internal complaint handling

### In these clauses:

**bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**complaint** means an expression of dissatisfaction made to or about Sydney Water related to its actions, products, services, staff or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected or legally required.

**financial year** means a period of 12 months commencing on 1 July.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**residential customer** means a customer that owns a residential property.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 5.3.4 External dispute resolution scheme

### Our recommendations for the operating licence

54. Retain the current licence conditions requiring Sydney Water to:
  - a. facilitate the resolution of disputes between Sydney Water and its customers and consumers by being a member of the Energy and Water Ombudsman NSW (EWON) as an external dispute resolution provider
  - b. publish a summary about EWON, including information about EWON's services and how customers can contact EWON.
55. Include new operating licence conditions allowing Sydney Water to be a member of an alternative dispute resolution scheme if it meets the minimum requirements specified in the licence, and with IPART's written approval.

56. Include new operating licence conditions requiring Sydney Water to keep the summary of its external dispute resolution on its website up to date.

We recommend retaining the current licence condition requiring Sydney Water to be a member of EWON.<sup>157</sup> Being a member of EWON enables its customers and consumers to escalate any unresolved complaints and disputes to an external resolution service. As with complaints handling, external dispute resolution helps to ensure that services provided meet customer expectations. Being a member of EWON is the minimum requirement we recommend for external dispute resolution.

We recommend that the new operating licence should also include flexibility to allow Sydney Water to be a member of another external dispute resolution scheme if it meets the minimum requirements set out in the operating licence, and with IPART's written approval.<sup>158</sup>

At this stage, we consider that there are no suitable alternatives to EWON that would provide customers similar levels of protection. However, the proposed flexibility will mean that the operating licence will not limit Sydney Water from considering other options if a suitable alternative were to become available during the 2024-2028 operating licence term. Requiring IPART's approval before changing providers from EWON to the alternative scheme allows us a mechanism to review the scheme's appropriateness and ability to protect customers' interests in a similar way that EWON currently does. We made similar recommendations in the 2022-2027 Hunter Water operating licence.

As with payment assistance, family violence protection and internal complaints handling, we recommend that Sydney Water should be required to publish a summary of the external dispute resolution scheme on its website and make the summary available on request through the contact centre.<sup>159</sup> Further, Sydney Water should be required to communicate to its residential customers that this summary is publicly available at least once each financial year with their bills.<sup>160</sup> Finally, if there are any changes to the external dispute resolution provider such as if we were to approve an alternative provider, Sydney Water should be required to update the summary on its website within 10 business days, so that customers have access to the most current information.<sup>161</sup> We also recommend that Sydney Water should be required to update the Customer Contract with the alternative provider's details as the contract currently makes references to EWON.<sup>162</sup>

## Box 7 Recommended licence condition for external dispute resolution

### 27 External dispute resolution scheme

(1) Sydney Water must be a member of EWON or an alternative external dispute resolution scheme to help Sydney Water and its customers and consumers resolve disputes.

(2) Sydney Water must:

### Box 7 Recommended licence condition for external dispute resolution

(a) make a summary publicly available that explains the right to have a complaint or dispute referred to the external dispute resolution scheme, lists the dispute resolution services provided by the scheme, and explains how to contact the scheme provider,

(b) notify all residential customers that the summary is publicly available at least once each financial year using the method chosen by the customer to receive their bill.

(3) For the purposes of this clause 27, if IPART approves an alternative external dispute resolution scheme, Sydney Water must within 30 days publish the notice required under section 59(1) of the Act to make the relevant variations to the Customer Contract (noting that any variation of the Customer Contract is subject to approval by the Governor).

(4) In this clause 27:

**alternative external dispute resolution scheme** means a scheme nominated by Sydney Water and approved by IPART that satisfies the following:

(a) approved by the Minister and published in the NSW Government Gazette,

(b) provides an independent dispute resolution service,

(c) free for customers and consumers, and

(d) consistent with the Commonwealth *Benchmarks for Industry-based Customer Dispute Resolution* (published March 2015).

**EWON** means the Energy & Water Ombudsman NSW being the NSW industry complaints scheme for the water industry of that name and any successor to that scheme.

### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

## Box 7 Recommended licence condition for external dispute resolution

### In these clauses:

**bill** means a bill sent by Sydney Water to a customer or consumer for the provision of the services.

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**complaint** means an expression of dissatisfaction made to or about Sydney Water related to its actions, products, services, staff or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected or legally required.

**financial year** means a period of 12 months commencing on 1 July.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**residential customer** means a customer that owns a residential property.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 5.4 Consulting with customers

### Customer and Community Reference Group

#### Our recommendation for the operating licence

57. Retain and update the current licence conditions requiring Sydney Water to maintain and consult with its customer council (known as the Customer and Community Reference Group)
58. Remove prescription in the current licence about how Sydney Water is to use this Customer and Community Reference Group.

It is a requirement of the Act that the operating licence must include terms or conditions that require Sydney Water to establish and regularly consult with one or more customer councils.<sup>163</sup> The current licence reflects this by including requirements for Sydney Water to establish and regularly consult with its customer council.<sup>164</sup> We recommend retaining this requirement in the new operating licence but updating it to refer to Sydney Water's Customer and Community Reference Group instead of a generic 'customer council'.<sup>165</sup>

We consider that regularly engaging with and consulting Sydney Water's customers and consumers is necessary to ensure that Sydney Water's services are aligned with customer expectations. Using the Customer and Community Reference Group is one of the ways that Sydney Water can consult. However, it should not be the only way customers and consumers are engaged. Therefore, we recommend including other conditions in the new operating licence requiring Sydney Water to engage with customers and consumers through other avenues (discussed further in the next section).<sup>166</sup>

During this Review, we considered whether the operating licence should prescribe how Sydney Water uses its Customer and Community Reference Group and whether it should also use an independent group to undertake customer consultation specifically to inform the reviews of Sydney Water's operating licences and prices. Currently, Sydney Water uses its Customer and Community Reference Group for both ongoing consultation and in the lead up to the reviews. We considered if the Customer and Community Reference Group should focus only on ongoing consultation. However, we concluded that such prescription would go beyond the minimum requirements necessary to ensure Sydney Water engages its customers. For the same reason, we also recommend removing the prescription in the current licence around how Sydney Water is to manage the Customer and Community Reference Group.<sup>167</sup>

We consider that any further improvements to Sydney Water's engagement practices is better managed under the pricing framework. We provide examples in the [Water Regulation Handbook](#) of good practice engagement.

## Box 5.8 Recommended licence conditions for consulting with customers

### **25 Engaging Customers and Consumers**

- (1) ...
- (2) Sydney Water must establish and regularly consult with a customer and community reference group to support its engagement with customers and consumers.
- (3) Sydney Water may have more than one customer and community reference group.

### **45 Timeframe for Sydney Water to take action**

- (1) If a clause of this licence requires Sydney Water to:

### Box 5.8 Recommended licence conditions for consulting with customers

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

#### In these clauses:

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**customer** means any person who:

(a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,

(b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,

(c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or

(d) owns a property within the Rouse Hill stormwater catchment area.

**customer and community reference group** means a group of persons appointed by Sydney Water to a customer council referred to in section 15 of the Act.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**publicly available** means available to any person, free of charge:

(a) on Sydney Water's website, and

(b) on request to the contact centre.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## Consulting customers through other avenues

### Our recommendation for the operating licence

59. Retain the current licence conditions requiring Sydney Water to engage its customers to understand their preferences and willingness to pay for service levels provided by Sydney Water and to better inform Sydney Water's systems and processes and IPART reviews of the operating licence and price determination.

As discussed above, we recommend retaining requirements in the new operating licence for Sydney Water to engage with customers through other avenues, and not be limited to just using the Customer and Community Reference Group.<sup>168</sup>

IPART recently introduced our pricing regulatory framework supporting prudent investment by water businesses to provide customer value, which is driven by strong customer engagement.<sup>169</sup> Under this framework, Sydney Water must demonstrate how it would engage its customers in a meaningful way to understand customers' needs and preferences, which are then used to inform Sydney Water's pricing proposal.<sup>170</sup>

Sydney Water is doing this through its 'Our Water Our Voice' program. It uses this program to understand customers' preferences and willingness to pay as well as to obtain advice and perspectives on the customer contract and other key issues related to Sydney Water's planning and operations.<sup>171</sup> Sydney Water has told us that it aims to ensure that it engages with a diverse audience including First Nations peoples, people living with disability, culturally and linguistically diverse communities and people coming from various ages, genders, sectors of the industry and geographical locations.<sup>172</sup> In addition, Sydney Water has told us that it has an ongoing customer feedback and community sentiment tracking program and it proactively reaches out to communities affected by its infrastructure projects to obtain feedback.

We have recommended minimal prescription in the operating licence about how Sydney Water is to undertake customer consultation to minimise burden on Sydney Water, and ultimately its customers. We consider that the guidance in the [Water Regulation Handbook](#) is adequate for Sydney Water to undertake customer consultation in accordance with our expectations.

### Box 5.9 Recommended licence conditions for consulting with customers

#### 25 Engaging customers and consumers

- (1) Sydney Water must engage with customers, and consumers to:
  - (a) understand customer and consumer preferences and willingness to pay for service levels,
  - (b) understand how its systems and processes can support more effective and direct relationships with consumers including residential tenants,



### Box 5.9 Recommended licence conditions for consulting with customers

(c) obtain insights on such other issues related to Sydney Water's functions under this licence that impact on customers, consumers and the community, and

(d) in the lead up to the end of term review referred to in clause 47, hear feedback and perspectives from customers and consumers on this licence, including the Customer Contract.

#### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

(a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and

(b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) [...]

#### In these clauses:

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**customer** means any person who:

(a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,

(b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,

(c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or

(d) owns a property within the Rouse Hill stormwater catchment area.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

Box 5.9 Recommended licence conditions for consulting with customers

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## Chapter 6

### Stakeholder cooperation and information for competitors

Licence conditions requiring Sydney Water to maintain relationships and provide information to align with the expectations of customers, competitors and regulators.



In this chapter, we discuss our recommendations for the 2024-2028 operating licence (new operating licence) to:

- Retain the requirements of the 2019-2024 operating licence (current licence) to maintain cooperative relationships with government agencies including Water Administration Ministerial Corporation (WAMC), NSW Health, the Environment Protection Authority (EPA) and Fire and Rescue NSW (FRNSW), so that these agencies and Sydney Water can undertake their roles effectively.
- Include new requirements for Sydney Water to provide information about the fire hydrants in its water supply network to FRNSW so that it can effectively attend to fire safety emergencies.
- Retain the current requirements for Sydney Water to cooperate and engage effectively with competitors and provide them information to make informed investment decisions and encourage fair market competition.

## 6.1 Cooperating with Government stakeholders

The current licence requires Sydney Water to maintain cooperative relationships with key Government stakeholders through memoranda of understanding (MoUs). These relationships encourage Sydney Water to align its operations with the expectations of the public, Government and regulators.

A MoU is a flexible administrative tool that facilitates agreements between the parties on matters that may not be foreseen at the time that the operating licence is granted. Generally, we consider that MoUs are cost-effective ways for parties to establish effective working relationships. They promote cooperative approaches to addressing issues of mutual concern, such as data and information sharing, and they can be easily reviewed and updated.

### 6.1.1 WAMC, NSW Health and the EPA

Our recommendations for the operating licence

60. Retain the current licence conditions requiring Sydney Water to maintain MoUs with the Water Administration Ministerial Corporation (WAMC), NSW Health and the Environment Protection Authority (EPA).
61. Include new operating licence conditions requiring Sydney Water to comply with the MoUs with WAMC, NSW Health, and the EPA and publish them on Sydney Water's website.

Sydney Water is required to enter into the MoUs with WAMC, NSW Health and the EPA under the *Sydney Water Act 2014* (NSW) (the Act).<sup>173</sup> We recommend retaining the current licence conditions requiring Sydney Water to maintain these MoUs,<sup>174</sup> and including new requirements to comply with them,<sup>175</sup> as these requirements support the purpose of the MoUs to maintain cooperative relationships. MoUs are only effective if the parties involved maintain them and comply with them. Finally, we also recommend that the operating licence should require Sydney Water to publish these MoUs on Sydney Water's website, for transparency, and make the MoUs available on request through its contact centre.<sup>176</sup>

We acknowledge that for Sydney Water to be able to comply with the MoUs, it relies on cooperation from the other parties. During this end-of-term review of the Sydney Water operating licence (Review), we considered whether the licence should require Sydney Water to 'use its best endeavours' to comply with the MoUs to recognise that compliance with the MoU is not wholly within Sydney Water's control. However, we concluded that the 'best endeavours' clause is not required. Sydney Water and the other entities (NSW Health, the EPA and WAMC) can and should draft their MoUs to allow flexibility for Sydney Water to comply with the MoU as far as possible, but to the extent that compliance is within its control. Sydney Water raised a concern to us that, for example, if the MoU required regular meetings between the stakeholders, Sydney Water could be found to be non-compliant with the operating licence requirement if the other stakeholder did not attend the meeting. Our view is that the MoUs can be drafted so that Sydney Water's roles and responsibilities are clearly set out so that Sydney Water is only required to do what it can within its control. Such as, organise to attend scheduled meetings but Sydney Water is not responsible for the meeting going ahead if the other party does not attend.

The MoU with WAMC recognises WAMC's role in regulating water access, use and management, and Sydney Water's right to use water vested in WAMC. WAMC is a statutory body representing the Crown established under the *Water Management Act 2000*.<sup>177</sup> Currently, the Department of Climate Change, Energy, the Environment and Water works together with the Natural Resource Access Regulator (NRAR) and WaterNSW to carry out WAMC's functions.

The MoU with NSW Health recognises NSW Health's role in providing advice to the Government about drinking water quality standards and the supply of water which is safe to drink. NSW Health is the lead agency for guiding water-related public health incident responses.

Finally, the MoU with the EPA recognises its role as the environment regulator of New South Wales. We recommend removing the statement in the current licence that "the purpose of the MoU with the EPA is to commit Sydney Water to environmental obligations".<sup>178</sup> We consider that this is not the purpose of this MoU. The purpose of the MoU is to encourage a cooperative relationship with the EPA and "recognise the role of the EPA as the environmental regulator of New South Wales". Sydney Water's environmental obligations are regulated through environment protection licences issued by the EPA under the *Protection of the Environment Operations Act 1997* (NSW).<sup>179</sup> Though the MoU can assist the EPA in its regulatory functions by encouraging the 2 parties to come to mutual agreements regarding the environmental obligations, it is not a legal instrument to enforce these obligations.



### Sydney Water's compliance during the 2019-2024 operating licence term

We audited Sydney Water's compliance with the operating licence requirements for these MoUs in 2023 for the first time in the current 2019-2024 licence term and found Sydney Water compliant. We identified no compliance issues that need to be addressed through specific operating licence conditions.

## Box 6.1 Recommended licence conditions for MOUs with WAMC, NSW Health and EPA

### 28 Memoranda of understanding with WAMC, NSW Health and EPA

(1) Sydney Water must:

(a) maintain the memoranda of understanding entered into under section 35 of the Act with:

- (i) the Water Administration Ministerial Corporation (WAMC),
- (ii) the Secretary of the Ministry of Health (NSW Health), and
- (iii) the Environment Protection Authority (EPA),

(b) make the memoranda of understanding publicly available, and

(c) comply with the memoranda of understanding.

(2) The purpose of the memoranda of understanding referred to in clause 28(1) is to:

(a) form the basis for cooperative relationships between the parties,

(b) recognise the role of WAMC in regulating water access, use and management and Sydney Water's right to use water vested in WAMC,

(c) recognise the role of NSW Health in advising the NSW Government on drinking water quality standards and the supply of safe drinking water, and

(d) recognise the role of the EPA as the environment regulator of New South Wales.

Note: The Act, section 36 sets out procedures that must be followed if the memoranda of understanding are amended.

#### In these clauses:

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

### Box 6.1 Recommended licence conditions for MOUs with WAMC, NSW Health and EPA

**drinking water** means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering, whether or not the water is used for other purposes.

**Environment Protection Authority** or **EPA** means the Environment Protection Authority established under section 5 of the *Protection of the Environment Administration Act 1991*.

**NSW Health** means the Ministry of Health.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**WAMC** means the Water Administration Ministerial Corporation.

Note: WAMC is supported in the exercise of its functions by the Department, the Natural Resources Access Regulator and Water NSW

## 6.1.2 Fire and Rescue NSW

### Memorandum of Understanding with FRNSW

Our recommendations for the operating licence

62. Retain the current licence conditions requiring Sydney Water to maintain and comply with a MoU with Fire and Rescue NSW (FRNSW) but remove the 'best endeavours' clause.
63. Include a new operating licence condition requiring Sydney Water to publish its MoU with FRNSW on its website.

FRNSW is Sydney's urban fire and rescue service. Its purpose is to enhance community safety, quality of life and confidence by minimising the impacts of hazards and emergency incidents on the people, property, environment and economy of NSW.<sup>180</sup>

Sydney Water's water supply network is one of several mechanisms affecting water availability for urban firefighting. The Act does not require a MoU between Sydney Water and FRNSW. However, the current licence requires it:<sup>181</sup> recognising the need for Sydney Water and FRNSW to work together collaboratively to meet community needs for firefighting. We recommend retaining this requirement in the new operating licence.<sup>182</sup> It is one of Sydney Water's principal objectives under the Act to exhibit a sense of social responsibility by having regard to the interests of the communities (such as firefighting) in which it operates.<sup>183</sup>

The MoU provides a flexible mechanism for Sydney Water and FRNSW to:

- set out the roles and responsibilities of the parties as they relate to each other
- identify the needs and constraints of the parties as they relate to each other
- identify and develop strategies for efficient and effective provision of firefighting water consistent with the goals of each party.

As with the other MoUs, we recommend including requirements to maintain and comply with the MoU<sup>184</sup> but removing the current 'best endeavours' clause. We also recommend that the operating licence should require Sydney Water to publish the MoU on its website for transparency and make the MoU available on request through its contact centre.<sup>185</sup>



#### **Sydney Water's compliance during the 2019-2024 operating licence term**

We audited Sydney Water's compliance with the operating licence requirements for this MoU in 2023 for the first time in the current 2019-2024 licence term and found Sydney Water compliant with minor shortcomings. These shortcomings do not need to be addressed through specific operating licence conditions and can be managed through our compliance monitoring function.

FRNSW has shared its difficulties with obtaining information that it requires from Sydney Water in a timely manner. We discuss our recommended operating licence conditions to address this in the next section

## Box 6.2 Recommended licence conditions for the MoU with FRNSW

### **29 Memorandum of understanding with FRNSW**

(1) Sydney Water must:

- (a) maintain a memorandum of understanding with FRNSW,
- (b) make the memoranda of understanding publicly available, and
- (c) comply with the memorandum of understanding.



### Box 6.2 Recommended licence conditions for the MoU with FRNSW

(2) The purpose of the memorandum of understanding with FRNSW is to:

- (a) form the basis for cooperative relationships between the parties,
- (b) set out the roles and responsibilities of the parties as they relate to each other,
- (c) identify the needs and constraints of the parties as they relate to each other, and
- (d) identify and develop strategies for efficient and effective provision of firefighting water consistent with the goals of each party.

(3) The memorandum of understanding with FRNSW must establish and maintain a working group that:

- (a) includes representatives from Sydney Water and FRNSW,
- (b) may include representatives from other organisations such as the NSW Rural Fire Service, and
- (c) considers, at a minimum:
  - (i) information sharing arrangements between Sydney Water and FRNSW,
  - (ii) agreed timelines and a format for Sydney Water to provide a report to FRNSW detailing the network performance with regard to availability of water for firefighting (taking into account the minimum available flow and pressure in localised areas of the network),
  - (iii) arrangements for Sydney Water to consult with FRNSW in the design of new assets and planning of system maintenance, where planning indicates that minimum available flow and pressure may unduly affect firefighting in the network section under consideration, and
  - (iv) other matters as agreed by both Sydney Water and FRNSW.

#### **In these clauses:**

**assets** mean the land, structures, plant, equipment, corporate and business systems of Sydney Water that enable Sydney Water to undertake its functions, deliver its services and further its objectives.

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**FRNSW** means Fire and Rescue NSW.

### Box 6.2 Recommended licence conditions for the MoU with FRNSW **publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

## Information sharing between Sydney Water and FRNSW

### Our recommendation for the operating licence

64. Include new operating licence conditions requiring Sydney Water to provide water pressure, flow rate and other information about all fire hydrants in its water supply network to FRNSW by the end of the 2024-2028 operating licence term

There are parts of Sydney Water's area of operations where the water pressure at fire hydrants in Sydney Water's water supply network does not meet the fire standard.<sup>P</sup> This is because of increased building development in parts of Sydney Water's area of operations which reduces the overall water pressure in Sydney Water's supply network.

We do not recommend requiring Sydney Water to upgrade its network to resolve these issues as this would be expensive and would result in an increased cost to Sydney Water's customers. We consider that a preferable alternative is to require Sydney Water to provide FRNSW with information about the available flow rates and water pressures at all the fire hydrants in Sydney Water's network. FRNSW could then be prepared with alternative water for firefighting purposes before it attends an emergency site as it would be aware if the flow rates and pressures in the water supply network near the emergency site are inadequate.

To do this, Sydney Water would have to update its current hydraulic models to include information about fire hydrants in its water supply networks. Sydney Water's hydraulic models simulate its supply network and includes information about its assets necessary for modelling purposes such as the size of water mains, valves, flow meters, etc. It does not currently include information about fire hydrants. This means that Sydney Water does not currently have information about the fire hydrants on hand to provide to FRNSW.

To fill this gap, we recommend including new operating licence conditions requiring Sydney Water to update its hydraulic models to include information about the fire hydrants in its network to be able to provide the same information to FRNSW.<sup>186</sup> Alternatively, FRNSW could request the information it requires about hydrants through the MoU with Sydney Water (discussed in the previous section). However, we consider that enforceable licence conditions are beneficial.

<sup>P</sup> The fire standard is separate to the water pressure standards in the current operating licence, which are intended to meet domestic water needs. The fire standard referred to here is *Australian Standard 2419.1:2021: "Fire hydrant installations System design, installation and commissioning."*

FRNSW has informed us that it has been trying to acquire information through the MoU for the last 2 operating licence terms. Due to other conflicting organisational priorities and difficulties with funding, there have been ongoing delays with Sydney Water providing this information to FRNSW. While the delays have been largely justifiable, given they have been ongoing for 2 licence terms, we consider that it would be beneficial to move away from relying on the MoU for this matter. Enforceable licence conditions would ensure that Sydney Water prioritises providing this data and it can be adequately funded to do so. It will also provide assurance to FRNSW and the community that this action will be completed in the next operating licence period.

We recommend that Sydney Water should be required to include the following minimum information about its fire hydrants in its hydraulic models.<sup>187</sup> These requirements are informed by what FRNSW has informed us it needs to undertake its function effectively:

- hydrant ID,
- model name,
- water main size, date and type,
- water supply zone,
- land zoning, and
- fire flows (litres per second) at 95th percentile / 4 m head of pressure.

If FRNSW requires any further information, it can request this from Sydney Water directly. For example, we recommend that Sydney Water must provide the hydrant ID when it provides information about a hydrant, so that the hydrant is identifiable. If FRNSW needs further identifying information such as the mapping location of the hydrant, it can request this from Sydney Water directly. We consider that the hydrant ID is the minimum information necessary for FRNSW to identify the hydrant that Sydney Water is providing information about to undertake its role.

As these are new requirements, we recommend including transitional arrangements requiring Sydney Water to update its models progressively over the licence term, so that all its models are updated with this information by 30 June 2028, the end of the new licence term.<sup>188</sup> We have recommended flexibility in the new operating licence for IPART to approve other dates, if required.

We do not recommend prescribing in the operating licence which hydrants Sydney Water must provide the information for. We consider it more appropriate for Sydney Water to agree a list of fire hydrants or hydraulic models with FRNSW that Sydney Water should prioritise and provide the information according to the agreed priorities, data type and format.<sup>189</sup> We understand through communications with Sydney Water and FRNSW that they both support this recommended approach.

## Box 6.3 Recommended licence condition for information sharing with FRNSW

### 30 Information to be provided to FRNSW

(1) Sydney Water must, in accordance with this clause 30, provide the following information to FRNSW about fire hydrants in its water supply network:

- (a) hydrant ID,
- (b) model name,
- (c) water main size, date and type,
- (d) water supply zone,
- (e) land zoning, and
- (f) fire flows (litres per second) at 95th percentile / 4 m head of pressure.

(2) Sydney Water must update its hydraulic models to include the information about fire hydrants in clause 30(1) for:

- (a) 30% of its hydraulic models by 30 June 2025 (or another date nominated by Sydney Water and approved by IPART),
- (b) 65% of its hydraulic models by 30 June 2026 (or another date nominated by Sydney Water and approved by IPART),
- (c) 85% of its hydraulic models by 30 June 2027 (or another date nominated by Sydney Water and approved by IPART),
- (d) 100% of its hydraulic models by 30 June 2028 (or another date nominated by Sydney Water and approved by IPART).

(3) Sydney Water must:

- (a) use its best endeavours to agree with FRNSW on:
  - (i) a list of fire hydrants or hydraulic models that Sydney Water will prioritise when providing the information in clause 30(1), and
  - (ii) the data type and format to provide the information,
- (b) prioritise providing the information in clause 30(1) for the fire hydrants or areas agreed with FRNSW, and
- (c) provide the information in the data type and format agreed with FRNSW.

### 45 Timeframe for Sydney Water to take action

(1) [...]

### Box 6.3 Recommended licence condition for information sharing with FRNSW

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

#### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**FRNSW** means Fire and Rescue NSW.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## 6.2 Dealing fairly with competitors

We recommend retaining the current licence conditions that seek to protect competitors and encourage competition for Sydney Water's services.<sup>190</sup>

The *Water Industry Competition Act 2006* (WIC Act) and *Water Industry Competition (General) Regulation 2021* (WIC Regulation) were introduced to encourage private sector participation and competition in supplying water and providing sewerage services in NSW. This regulatory framework enabled a new type of water supplier to emerge – WIC Act licensees. WIC Act licensees are private water utilities that can provide drinking water, recycled water and/or wastewater services to end-use (or 'retail') customers within their defined areas of operation.

The private water utilities are Sydney Water's customers when they receive a connection to Sydney Water's services (to then on-sell to residential customers) and they should be adequately protected. As a monopoly supplier, Sydney Water is often the only option for a private water utility to connect to for additional or supplementary capacity. If Sydney Water were to refuse to deal with its competitors (current or potential), there is a risk that they could be discouraged from entering the market to supply water or provide sewerage services. This in turn can reduce the ability of the competitors to effectively compete with Sydney Water and provide alternative services for residential customers.

## Providing connections to WIC Act licensees to Sydney Water's network

### Our recommendations for the operating licence

65. Retain the current licence conditions for Sydney Water to make services available on request to licensees under the *Water Industry Competition Act 2006* (NSW) (WIC Act).
66. Include a new clause in the operating licence authorising Sydney Water to provide access to sewer mining but do not require Sydney Water to provide such access.

We recommend retaining the current licence condition requiring Sydney Water to make services for the supply of drinking water and disposal of wastewater available on request to WIC Act licensees (currently the only competitors to Sydney Water in its area of operations).<sup>191</sup> Sydney Water is only able to refuse to connect requested services if it can demonstrate that a connection to its water supply or wastewater system is not available.<sup>192</sup>

To ensure that the obligations placed on Sydney Water are fair and reasonable, we also recommend retaining the allowance in the current licence for Sydney Water to impose any reasonable conditions for the safe, reliable and financially viable supply of its services.<sup>193</sup>

WIC Act licensees sometimes access Sydney Water's network to extract wastewater or stormwater which they then treat and distribute to their customers as recycled water. This is acknowledged in the Customer Contract as a service Sydney Water provides under a standard sewer mining agreement, but sewer mining is not explicitly authorised as a service in the current licence. We recommend including a new clause in the operating licence explicitly authorising Sydney Water to provide sewer mining access to customers.<sup>194</sup> This does not impose any additional burden on Sydney Water. While this authorisation clause recognises the treatment of wastewater and stormwater for reuse, it does not exclude other potential sources for treatment and reuse.

We do not recommend also *requiring* Sydney Water to provide access for sewer mining as this would mean that Sydney Water would be required to provide WIC Act licensees this access at any part of its sewerage network. This may not always be feasible. We consider that it remains appropriate for Sydney Water to assess where it can provide access to sewer mining before agreeing to provide this service. Sydney Water notes that some areas of the wastewater system are closed to sewer mining. This may be because there are other sewer mining or recycling schemes already in place and there is no further wastewater available for sewer mining. Other areas of the wastewater system may have insufficient wastewater available to accommodate any sewer mining schemes at all.<sup>195</sup>

As the recommended operating licence does not require Sydney Water to provide access for sewer mining, we have also not recommended any conditions that sewer mining would be subject to. Currently, any WIC Act licensees extracting wastewater or stormwater for sewer mining purposes must comply with the standard terms and conditions of Sydney Water's sewer mining agreement. This arrangement will be unaffected by our recommended changes to the operating licence. We have been alerted to concerns from a WIC Act licensee that the terms and conditions of this sewer mining agreement favour Sydney Water and could potentially inhibit competition. We have not reviewed the terms and conditions of the sewer mining agreement as it is outside the scope of the operating licence. However, we will review Sydney Water's compliance with requirements of the operating licence to negotiate services, including sewer mining under the recommended operating licence, to competitors in 'good faith' (discussed in the next section of this report) during the 2024-2028 operating licence term.

#### Box 6.4 Recommended Licence requirements for providing connections to WIC Act licensees and negotiating the provision of services with them

##### **8 Licence authorisation**

(1) [...]

(2) This licence authorises (but does not require) Sydney Water to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services:

(a) for treating wastewater and stormwater for reuse, including allowing third parties to access wastewater and stormwater for treatment and reuse.

##### **9 Obligation to make services available**

(1) Sydney Water must provide services for the supply of drinking water on request to:

(a) [...]

(b) WIC Act licensees that operate water industry infrastructure connected to, or for which a connection is available to, Sydney Water's water supply system.

(2) Sydney Water must provide services for the disposal of wastewater on request to:

(a) [...]

(b) WIC Act licensees that operate water industry infrastructure connected to, or for which a connection is available to, Sydney Water's wastewater system.

(3) In complying with the obligations under clause 9(1) and clause 9(2), Sydney Water may impose reasonable conditions to ensure the safe, reliable and commercially viable supply of water and disposal of wastewater.

## Box 6.4 Recommended Licence requirements for providing connections to WIC Act licensees and negotiating the provision of services with them

### In these clauses:

**drinking water** means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering, whether or not the water is used for other purposes.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**services** means the services authorised by clause 8.

**third party** means a person who is not employed, contracted by or working on behalf of Sydney Water.

**wastewater** means an effluent stream comprising elements such as sewage, trade waste discharges and grey water.

**wastewater services** means sewerage services and includes the collection, storage, treatment and reticulation of wastewater.

**WIC Act** means the *Water Industry Competition Act 2006*.

**WIC Act licensee** means a person that holds a licence under the WIC Act.

## Negotiating the provision of services to competitors in 'good faith'

### Our recommendations for the operating licence

67. Retain the current licence conditions for Sydney Water to negotiate the provision of services to WIC Act licensees and potential competitors in 'good faith'. This includes the water and wastewater services authorised by the operating licence, which would now also include sewer mining.
68. Update the definition of 'good faith' in the current licence to clarify that when Sydney Water negotiates with a WIC Act licensee or potential competitor, it should act:
  - a. honestly (including not providing false information or concealing material facts)
  - b. fairly and reasonably, having regard to the interests of the other party (but not to the extent of Sydney Water subordinating the interests, including long-term interests, of the community, customers, consumers, or the community)
  - c. consistently with the objectives of the licence, including the objective of providing services in a way that does not prevent or hinder competition.



To support fair competition, consistent with the licence objectives, the current licence requires Sydney Water to act in 'good faith' when negotiating the provision of services to licensees under the *Water Industry Competition Act 2006* (WIC Act) or potential new competitors who are seeking connections to Sydney Water's services.<sup>196</sup>

We recommend retaining this condition in the new operating licence with no material changes except to update the definition of 'good faith' to mean acting:<sup>197</sup>

- honestly (including not providing false information or concealing material facts)
- fairly and reasonably, having regard to the interests of the other party (but not to the extent of Sydney Water subordinating of its customers, consumers or the community)
- consistently with the objectives of the licence, including the objective of providing services in a way that does not prevent or hinder competition.

Refining this definition would assist to ensure the licence condition to negotiate in good faith achieves its objective and is enforceable.

As mentioned in the previous section, we will audit Sydney Water's compliance with this licence condition during the 2024-2028 operating licence term as part of our compliance monitoring function. We take a risk-based approach to compliance. We audit most obligations in the operating licence at least once in the operating licence term. We consult stakeholders when deciding how often to audit each licence condition. As a WIC Act licensee has already raised concerns that Sydney Water is not negotiating the provision of sewer mining access in good faith, we will monitor Sydney Water's compliance with this licence condition if our recommendation to include sewer mining as one of the 'services' authorised by the operating licence is accepted. We note that sewer mining is not one of the services authorised in the current licence and, Sydney Water is not required by the licence to provide sewer mining access in 'good faith'. Therefore, we will not consider Sydney Water's performance during the current 2019-2024 term. We will consider its compliance with the new operating licence requirements.

## Box 6.5 Recommended Licence requirements for negotiating the provision of services with competitors

### 33 Negotiations with WIC Act licensees and potential competitors

(1) Sydney Water must negotiate the provision of services to WIC Act licensees and potential competitors in good faith.

(2) In this clause 33, **good faith** means acting:

(a) honestly (including not providing false information or concealing material facts),

(b) fairly and reasonably, having regard to the interests of the other party (but not to the extent of Sydney Water subordinating the interests, including long-term interests, of customers, consumers or the community), and

## Box 6.5 Recommended Licence requirements for negotiating the provision of services with competitors

(c) consistently with the objectives of this licence, including the objective of providing services in a way that does not prevent or hinder competition.

### In these clauses:

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**customer means** any person who:

(a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,

(b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,

(c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or

(d) owns a property within the Rouse Hill stormwater catchment area.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**potential competitor** means a person who informs Sydney Water that they intend to carry out activities that would require a licence or approval under the WIC Act.

**Rouse Hill stormwater catchment area** means the area of land located in the Rouse Hill stormwater catchment as identified in any determination made by IPART of maximum prices that may be levied by Sydney Water for stormwater services.

**services** means the services authorised by clause 8.

**WIC Act** means the *Water Industry Competition Act 2006*.

**WIC Act licensee** means a person that holds a licence under the WIC Act.

## Cooperating with WIC Act licensees about a code of conduct

### Our recommendations for the operating licence

69. For codes of conduct with WIC Act licensees:
- a. retain the current licence condition requiring Sydney Water to cooperate with WIC Act licensees to establish a code of conduct if sought by the WIC Act licensee in writing
  - b. remove the 'best endeavours' clause for establishing the code of conduct
  - c. include a new operating licence condition requiring Sydney Water to comply with the code of conduct
  - d. remove the current licence condition which assumes Sydney Water has entered into a code of conduct with a WIC Act licensee where it applies to an industry code established by the Minister, under the WIC Regulation.

We recommend retaining the current licence condition requiring Sydney Water to cooperate with WIC Act licensees seeking to establish a code of conduct required by a WIC Act licence.<sup>198</sup> Establishing a code of conduct is intended to encourage ongoing cooperation and fair competition between Sydney Water and WIC Act licensees. We also recommend retaining the requirement that such a code of conduct must be provided in writing.<sup>199</sup>

We recommend removing the current 'best endeavours' clause. The operating licence only requires Sydney Water to cooperate with WIC Act licensees to establish a code of conduct. It does not require establishment of the code. This allows Sydney Water to not establish the code if it is not practical. A further 'best endeavours' clause does not provide benefit.

Once a code of conduct has been established, we recommend that the operating licence should require Sydney Water to comply with it.<sup>200</sup> A code of conduct will only be effective if the parties involved comply with it.

Finally, we recommend removing the condition in the current licence which states that where the Minister has established a code of conduct under the WIC Regulation, Sydney Water will be taken to have entered into a code of conduct with a WIC Act licensee by applying that code of conduct to that WIC Act licensee.<sup>201</sup> As most of the WIC Act licences require codes of conduct and do not rely on one being established by the Minister, we consider that this requirement is redundant.

### Box 6.6 Recommended Licence requirements for establishing and complying with codes of conduct with WIC Act licensees

#### 32 Code of conduct with WIC Act licensees

(1) Sydney Water must cooperate with any WIC Act licensee that seeks to establish with Sydney Water a code of conduct required by an approval or licence under the WIC Act.

### Box 6.6 Recommended Licence requirements for establishing and complying with codes of conduct with WIC Act licensees

(2) Sydney Water must comply with a code of conduct established with a WIC Act licensee.

**In these clauses:**

**WIC Act** means the *Water Industry Competition Act 2006*.

**WIC Act licensee** means a person that holds a licence under the WIC Act.

## Publishing servicing information

Our recommendations for the operating licence

70. Retain the current licence requirements for Sydney Water to publish servicing information about its water and wastewater systems and update the minimum requirements in the operating licence for what this information should include.
71. Include a new operating licence condition requiring Sydney Water to:
  - a. Consult with WIC Act licensees to understand what additional servicing information they require to make informed investment decisions.
  - b. Publish a report which identifies 3 categories of servicing information sought by its competitors to make informed investment decisions:
    - Information held by Sydney Water and Sydney Water's timeframe for publishing such information
    - information that Sydney Water can reasonably be determine or derive by from current information, and Sydney Water's timeframe for publishing such information
    - information that is not readily available or cannot reasonably be derived from current information
  - c. Publish the additional servicing information by the dates in the report.
72. Include a new operating licence condition exempting Sydney Water from publishing the required servicing information in relation to a particular major water system or wastewater system if at least 10 years of the required servicing information is included in a Development Servicing Plan covering that system.
73. Retain the current licence condition exempting Sydney Water from publishing the required servicing information to the extent that doing so would be inconsistent with its obligations under the *Security of Critical Infrastructure Act 2018* (Cth) (SOCI Act).

We recommend retaining the current licence requirements for Sydney Water to publish servicing information for each of its major water and wastewater systems<sup>202</sup> as it provides Sydney Water's existing and potential competitors with information necessary to make investment decisions.

The purpose of this licence condition is to promote equality of opportunity for market participants to provide water infrastructure so that the most efficient servicing solution can be implemented. Sydney Water holds most of the information that new entrants will require to identify investment opportunities, and to the extent that information is not made available, competition will be constrained. Requiring Sydney Water to publish servicing information allows for the most cost-effective servicing solution to be implemented, whether that solution is provided by Sydney Water or one of its competitors. This is an important part of how Sydney Water meets its objective under the current licence to not hinder competition.<sup>203</sup>

We recommend that the new operating licence should exempt Sydney Water from publishing the required servicing information in relation to a particular major water system or wastewater system if at least 10 years of the required servicing information is included in a Development Servicing Plan covering that system.<sup>204</sup> We also recommend retaining the current licence exemption to publish the required information if it gives rise to critical infrastructure security concerns and Sydney Water has documented those concerns.<sup>205</sup>

### **Additional operating licence requirements that we recommend**

The current licence requires Sydney Water to publish servicing information covering at least 10 years' worth of data which includes, at minimum:

- current and projected demand
- current and projected capacity constraints
- indicative costs of alleviating or deferring capacity constraints
- locations where further investigation is needed
- key sources of information used to develop the servicing information where those sources are publicly available.<sup>206</sup>

During the Review, we investigated whether these licence requirements were adequate to meet the intended objective. We concluded that they partly met the needs of WIC Act licensees seeking to make investment decisions, but not entirely.

To address the gap in information, we recommend that the minimum requirements in the operating licence for the servicing information that Sydney Water publishes should be extended to include the following information:<sup>207</sup>

- **Publishing demand in Equivalent Tenements:** We recommend including new operating licence conditions requiring Sydney Water to publish the current and projected demand in terms of Equivalent Tenements.<sup>9</sup> The current licence requires Sydney Water to publish the current and projected demand but it does not specify the units in which Sydney Water must publish this information. Prescribing that the information must be published in terms of Equivalent Tenements in the new operating licence will result in no additional costs or burden to Sydney Water. Sydney Water has told us that it already publishes demand in Equivalent Tenements in most, if not all, of its development servicing plans.
- **Publishing Sydney Water's planned expenditure to alleviate infrastructure capacity constraints:** We recommend including new operating licence conditions requiring Sydney Water to publish information on its planned expenditure to alleviate or defer infrastructure capacity constraints (to service current and growing demand).

Sydney Water already publishes the expected costs of alleviating or deferring capacity constraints under its current licence requirements. We understand that this is an estimate of costs irrespective of who may provide a solution to alleviate these constraints, whether that may be Sydney Water or one of its competitors. Publishing Sydney Water's planned expenditure to meet these costs will signal to competitors the areas where Sydney Water has not planned investment. This may indicate where there are better opportunities for investment than where Sydney Water has already planned works.

Requiring Sydney Water to publish its planned expenditure would not be a substantial additional burden. Sydney Water has not expressed any concerns with this proposal.

We do not recommend any further prescription for the information Sydney Water must publish. Instead, we recommend that by 30 June 2025, Sydney Water should be required to:<sup>208</sup>

- Consult with WIC Act licensees to understand what additional servicing information they require to make informed investment decisions.
- Publish a report which identifies 3 categories of servicing information sought by its competitors to make informed investment decisions:
  - information held by Sydney Water and Sydney Water's timeframe for publishing such information
  - information that can reasonably be determined or derived by Sydney Water from current information, and Sydney Water's timeframe for publishing such information
  - information that is not readily available or cannot reasonably be derived from current information
- Publish the additional servicing information (that it holds or can reasonably be determined or derived from current information) by the timeframe/dates Sydney Water has proposed in the report.

<sup>9</sup> Equivalent Tenements are a measure of how much Sydney Water's services will be used by a development. One Equivalent Tenement is equal to the annual total water demand of an average detached, single residential dwelling.

We consider that this approach will help address any information gaps while allowing Sydney Water a year to identify the most cost-effective options for meeting the information needs. It will also allow time for Sydney Water to identify any risks or unintended consequences of publishing any additional information sought, and ways to minimise these. Recommending more prescriptive licence conditions could be a more effective way to meet the intended outcome of levelling the playing field for Sydney Water's competitors. However, we consider that our recommended approach outlined here is a more prudent option than prescribing requirements in the operating licence without further investigation.

In the next end-of-term licence review, we will consider if our recommended consultative approach is effective in meeting the intended objective, or if any of the information sought by competitors during the licence term should be prescribed in the licence. We can also consider it in our next review of the Development Servicing Plans to determine if we should require that information through the developer charges determinations.

### **Additional information that we considered in this Review but do not recommend prescribing in the operating licence**

We considered whether the operating licence should require Sydney Water to publish the following additional servicing information. However, we have not recommended it as do not have enough evidence at this stage to conclude that the benefits of requiring Sydney Water to publish this information will outweigh the costs. We still expect Sydney Water to consider this information when developing its plans and consider including some of it in future publications:

- **Publishing demand in volumes:** If Sydney Water publishes demand information in Equivalent Tenements, as we have recommended in the new operating licence, competitors can use this information to calculate the demand in volumes. We consider that the operating licence does not need to require Sydney Water to do these calculations.

Sydney Water has explained that it does not currently publish demand in volumes. Substantial changes to its planning and publishing processes would be required if it were to be required to do so, resulting in additional costs. Sydney Water includes [guidance](#) for competitors to calculate the demand in volumes themselves using the demand Sydney Water publishes in Equivalent Tenements.

From this [guidance](#), we understand that 1 Equivalent Tenement for drinking water demand is equal to 0.43kL/day and 1 Equivalent Tenement of forecast wastewater service usage is equal to 0.38 kL/day. Water utilities can calculate the expected demand using these conversions.

- **Publishing demand on an annual basis:** The current licence does not require Sydney Water to publish demand annually. Instead, Sydney Water can estimate demand over a timeframe that it considers appropriate. We propose to retain the current approach as we consider that year-on-year demand estimation is not likely to be accurate enough to provide value for most competitors, and it could suggest a misleading level of precision.

Sydney Water explained to us that it estimates projected demand on a 5-yearly basis. We consider that this continues to be reasonable given that long-term growth projections, which affect demand estimates, include a high degree of variability.



- **Publishing estimates of the current and projected infrastructure capacity to meet demand:** Sydney Water does not currently calculate current or projected infrastructure capacity and is not required to do so. Sydney Water told us that it would cost \$0.5-1 million to investigate how to update its current systems and models to calculate current and projected infrastructure capacity, with additional costs for then doing the calculations and publishing it.

The current licence requires Sydney Water to publish the current and projected capacity constraints.<sup>209</sup> To do this, Sydney Water has told us it does not estimate the actual capacity. Instead, Sydney Water forecasts demand for a period of around 5 years and compares it with the projected network performance over that period for meeting that demand. If this analysis predicts that there may be a decline in network performance, Sydney Water concludes that the network may not have adequate capacity to meet predicted demand. This high-level approach to analysing whether the infrastructure will be able to meet growing demand is reasonable to signal to competitors where there could be capacity constraints and opportunities to invest. However, it would not accurately generate specific capacity data for publishing.

- **Publishing more detailed information, such as at the sub-catchment level:** Sydney Water explained that being required to provide such detailed information would require substantial changes to its current planning and information publishing systems, and consequently increased costs.

Sydney Water explained to us that it does not currently have information at a sub-catchment level. It does publish some information for investment decision making purposes for its 'water supply zones' in the registered drinking water development service plans. These zones are largely delineated by the reservoirs that service those zones. Sydney Water does not currently publish more detailed information for its wastewater systems.

### Obtaining information through a feasibility application

Competitors may be able to request any information it needs through a feasibility application (part of the [development application process](#)). In a feasibility application, developers and competitors can request advice about charges and the potential requirements Sydney Water may set for a proposed development. Sydney Water will then issue a feasibility letter explaining any requirements and conditions. This process is available until a clearer process for identifying competitors' needs and addressing them is implemented under our recommended licence conditions. However, it does come at a cost. Our recommended licence conditions seek to make more information available in the public domain for free.

It may not currently be clear to competitors that they can seek servicing information about Sydney Water's network through the feasibility application process. Highlighting this process in this report to the Minister on our recommendations for the operating licence will increase competitors' awareness of the process.



Competitors can continue to use the feasibility application process to seek information after our recommended licence conditions come into effect (if approved). However, we expect competitors would only use it to request any additional information that Sydney Water does not publish for free. We consider this to be appropriate as under our recommended licence conditions, Sydney Water would only not publish additional information if it does not currently hold the sought information, or if it cannot reasonably determine or derive the additional information from currently held information. It is appropriate that if competitors require information above this, they provide the cost of deriving that information.

## Box 6.7 Recommended licence condition for publishing servicing information

### 34 Publication of servicing information

- (1) Subject to clause 34(5), Sydney Water must, for each major water system and wastewater system, make at least 10 years of servicing information publicly available.
- (2) The servicing information must include, at a minimum:
  - (a) current and projected demand, in equivalent tenements,
  - (b) current and projected capacity constraints,
  - (c) indicative costs of, and planned expenditure for, alleviating or deferring capacity constraints,
  - (d) locations where further investigation is needed, and
  - (e) key sources of information used to develop the servicing information, where those sources are publicly available.
- (3) Sydney Water must review and update the servicing information at least once before:
  - (a) 30 June 2028, or
  - (b) another date nominated by Sydney Water and approved by IPART.
- (4) Sydney Water must:
  - (a) by 30 June 2025:
    - (i) consult with WIC Act licensees or potential competitors to identify what information, in addition to the information specified in clause 34(2), they need to make informed investment decisions,
    - (ii) make publicly available a report identifying the broad types of servicing information requested by WIC Act licensees or potential competitors, and classifying that information in the following categories:

### Box 6.7 Recommended licence condition for publishing servicing information

(A) information that Sydney Water currently holds and Sydney Water's timeframe for publishing such information,

(B) information that Sydney Water can reasonably determine or derive from current information, and Sydney Water's timeframe for publishing such information, and

(C) information that is not readily available or cannot reasonably be derived from current information,

(iii) publish the additional servicing information referred to in clause 34(4)(a)(ii)(A) and (B) by the dates in the report.

(5) Sydney Water is not required to comply with this clause 34:

(a) in relation to a particular major water system or wastewater system, if at least 10 years of servicing information of the type specified in clause 34(2) is included in a development servicing plan covering that system, or

(b) to the extent that to do so would not be consistent with its obligations under the *Security of Critical Infrastructure Act 2018* (Cth).

(6) In this clause 34, **development servicing plan** means a development servicing plan registered by IPART under:

(a) clause 2(e) of Schedule 4 to IPART's October 2018 determination of the maximum prices for connecting, or upgrading a connection, to a water supply, sewerage, or drainage system for Sydney Water, Hunter Water and Central Coast Council published in New South Wales, *Gazette*, No 126, 23 November 2018 or an equivalent provision in any replacement determination, or

(b) clause 2(e) of Schedule 3 to IPART's July 2019 determination of the maximum prices for connecting to a recycled water system for Sydney Water, Hunter Water and Central Coast Council published in New South Wales, *Gazette*, No 73, 12 July 2019 or an equivalent provision in any replacement determination.

### 45 Timeframe for Sydney Water to take action

(1) [...]

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

## Box 6.7 Recommended licence condition for publishing servicing information

### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**contact centre** means the call centre that Sydney Water's customers and consumers may contact for assistance.

**Gazette** means the New South Wales Government Gazette.

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**potential competitor** means a person who informs Sydney Water that they intend to carry out activities that would require a licence or approval under the WIC Act.

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

**services** means the services authorised by clause 8.

**WIC Act** means the *Water Industry Competition Act 2006*.

**WIC Act licensee** means a person that holds a licence under the WIC Act.

## Chapter 7 >>

### Critical infrastructure security

Protecting Sydney Water's critical assets which impact economic and social wellbeing

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In this chapter, we discuss our recommendations for the 2024-2028 operating licence (new operating licence) to include conditions regulating how Sydney Water manages its critical infrastructure and protects it from security attacks.

These operating licence conditions should remain in place until requirements under the *Security of Critical Infrastructure Act 2018* (Cth) (SOCI Act) come into effect on 18 August 2024.<sup>210</sup> After that, the licence conditions will no longer be necessary. We recommend retiring them on 18 August 2024 to minimise duplication with the SOCI Act.

## 7.1 Critical infrastructure security

### Our recommendation for the operating licence

74. Retain the following current licence conditions, until 18 August 2024, requiring Sydney Water to maintain:
- a. as well as implement and comply with a cyber security management system
  - b. a critical infrastructure compliance manager responsible for implementing the cyber security management system
  - c. security clearances for certain senior employees responsible for certain matters.

Sydney Water is the largest operator of water and wastewater services in Sydney, Illawarra and the Blue Mountains. To protect Sydney Water's critical assets from security attacks, the 2019-2024 operating licence (current licence) requires Sydney Water to:

- Maintain, implement and comply with a cyber security management system.
- Nominate a dedicated compliance manager who is:
  - responsible for compliance with Sydney Water's obligations under the SOCI Act and the critical infrastructure security conditions in the operating licence
  - to act as a contact person for the Commonwealth Representative.
- Ensure certain senior employees responsible for certain matters hold appropriate security clearances so that they are appropriately vetted and the security of sensitive information is maintained.<sup>211</sup>

Since July 2018, Sydney Water has been regulated as a 'responsible entity' under the SOCI Act. The SOCI Act provides a risk-based regulatory framework to manage risks to, and strengthen the security of, Australia's critical infrastructure assets. When the SOCI Act first commenced, it did not specify how responsible entities were to secure information. As information is a high-risk area for cyber related harm, the current licence sought to fill this gap by requiring a cyber security management system and a compliance manager to manage the system.

In March 2022, the SOCI Act was amended to introduce enhanced critical infrastructure security obligations on responsible entities.<sup>212</sup> The SOCI Act now requires responsible entities, including Sydney Water, to develop, implement and comply with a Critical Infrastructure Risk Management Program.<sup>213</sup>

As the Critical Infrastructure Risk Management Program provides the same function as we expect from the current cyber security management system and Sydney Water is now also required to identify persons responsible for developing and implementing the Critical Infrastructure Risk Management Program,<sup>214</sup> we consider that there is no longer a gap to be filled by the operating licence. The current licence conditions will become redundant and we do not recommend retaining them in the new operating licence in the long-term. However, we do recommend retaining them until 18 August 2024 as Sydney Water has until that date to comply with the cyber and information security framework requirements of the amended SOCI Act.<sup>215</sup> This will avoid a gap developing if the current licence requirements are removed immediately.

We also recommend retaining the current licence requirements for Sydney Water employees to hold security clearances, until the changes to the SOCI Act come into effect on 18 August 2024. Currently, Sydney Water employees participating in classified discussions hold negative vetting level (NV1) clearance. Sydney Water should be required to retain the NV1 clearances until 18 August 2024 so that the licence conditions can be phased out simultaneously. In the next box, we explain the background checks that Sydney Water will have to undertake for its employees under the CIRMP rules.

We have developed these recommendations informed by input from the Cyber and Infrastructure Security Centre.



#### **CIRMP Rules for background checks**

The CIRMP Rules require Sydney Water to identify individuals who have ongoing access to sensitive aspects of its business including employees, contractors and agents. Sydney Water's CIRMP will need to include processes and procedures to minimise or eliminate material risks that critical personnel may pose. Background checks are one method of managing these risks.

The SOCI Act enables AusCheck and other providers to provide background checking. Responsible entities are not required to use background checking services in managing personnel risks if they can manage the risk in another way.<sup>216</sup> Further information on using the AusCheck background checking function is available to Sydney Water at <https://www.auscheck.gov.au/critical-infrastructure>.

<sup>r</sup> The purpose of the security vetting process is to determine whether an individual is suitable to hold a security clearance. NV1 security clearance holders can be provided with temporary access to TOP SECRET classified resources in certain circumstances.

## Box 7.1 Recommended licence conditions for managing critical infrastructure security

### 35 Cyber security management system

- (1) Subject to clause 38, Sydney Water must maintain a cyber security management system.
- (2) Sydney Water must implement and comply with the cyber security management system.
- (3) The cyber security management system must cover:
  - (a) information technology environments, hardware and systems, and
  - (b) operational technology environments, hardware and systems.

### 36 Critical infrastructure compliance manager

- (1) Subject to clause 38, Sydney Water must have a manager responsible for compliance with:
  - (a) Part 9 of the licence, and
  - (b) Sydney Water's obligations under the *Security of Critical Infrastructure Act 2018* (Cth).
- (2) The manager must be:
  - (a) an executive level employee,  
Note: The reference to an executive level employee is a reference to a Level 3 employee or above under Sydney Water's structure on the date this licence commences.
  - (b) nominated by notice to:
    - (i) IPART, and
    - (ii) the Commonwealth Representative, and
  - (c) the contact person for the Commonwealth Representative.

(3) In this clause 36, **Commonwealth Representative** means the First Assistant Secretary with responsibility for critical infrastructure security within the Commonwealth Department of Home Affairs.

### 37 National security clearances

- (1) Subject to clause 38, Sydney Water must ensure that national security clearances are held by the manager referred to in clause 36, 2 board members and the executive level employees responsible for each of the following matters:

### Box 7.1 Recommended licence conditions for managing critical infrastructure security

- (a) operational technology security (including cyber security strategy, managing remote access to assets and delivery of supervisory control and data acquisition capability),
- (b) network operations security (including operation, maintenance and physical security of assets), and
- (c) personnel security operations (including security of personnel and security risks posed by personnel).

(2) In this clause 37, **national security clearance** means national security clearance of not less than Negative Vetting Level 1 (or equivalent) granted by the Assistant Secretary Vetting (ASV) or their delegate on advice from the Australian Government Security Vetting Agency.

### 38 Exemption from Part 9

Sydney Water is not required to comply with this Part 9 from:

- (a) 18 August 2024, or

Note: From 18 August 2024, Sydney Water will be required to implement all aspects of its critical infrastructure risk management program under the *Security of Critical Infrastructure Act 2018* (Cth) and the *Security of Critical Infrastructure (Critical infrastructure risk management program) Rules 2023* (Cth).

- (b) another date nominated by Sydney Water and approved by IPART.

### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

#### In these clauses:

**Licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.



Box 7.1 Recommended licence conditions for managing critical infrastructure security

**management system** means a structured system to manage and document Sydney Water's policies, processes, procedures and governance arrangements to enable it to undertake its functions, deliver its services and further its objectives.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

## Chapter 8 >>

### Administration

This chapter discusses the operating licence objectives, term of the licence, requirements to comply with pricing determinations and other administrative matters.



In this chapter, we discuss our recommendations for the 2024-2028 operating licence (new operating licence) to retain and update conditions in the 2019-2024 operating licence (current licence) that:

- Authorise, and in some cases require, Sydney Water to undertake activities specified in the operating licence.
- Set out the operating licence context, including the licence objectives and the terms and conditions for other administrative parts licence.
- Specify Sydney Water's obligations for performance monitoring and reporting.
- Explain a new miscellaneous part of the operating licence which is intended for better structuring of the operating licence and to reduce repetition.

## 8.1 Activities authorised and required by the operating licence

### Our recommendations for the operating licence

75. Include operating licence conditions authorising Sydney Water to store and supply water, provide wastewater services, dispose of wastewater, provide access to the wastewater network for sewer mining purposes and manage a stormwater drainage system.

76. Retain current licence conditions requiring Sydney Water to provide services where a connection is available.

The licence authorisation clause in the current licence<sup>217</sup> specifies what the licence authorises, and in some cases requires, Sydney Water to do. Specifically, the licence authorises Sydney Water to be able to undertake its functions for storing and supplying water, providing wastewater services, disposing of wastewater and managing a stormwater drainage system.

We recommend retaining this authorisation clause in the new operating licence. We also recommend that the operating licence should authorise Sydney Water to allow third parties to access wastewater and stormwater from its network for treatment and reuse (i.e. to authorise sewer mining).<sup>218</sup> However, we do not recommend *requiring* Sydney Water to provide access for sewer mining. We discussed this in greater detail in section 6.2 of this report.

Further, we recommend that the licence authorisations should enable Sydney Water to engage in stormwater catchment management, including coordination with councils and other parties responsible for stormwater management in Sydney Water's area of operations.

Finally, we recommend retaining the current licence conditions requiring Sydney Water to provide services to customers, where a connection to Sydney Water's water supply or wastewater system is available. Sydney Water is only able to refuse to connect requested services if it can demonstrate that a connection to its water supply or wastewater system is not available.<sup>219</sup> To ensure that the obligations placed on Sydney Water are fair and reasonable, we also recommend retaining the allowance in the current licence for Sydney Water to impose any reasonable conditions for the safe, reliable and financially viable supply of its services.<sup>220</sup>

## Box 8.1 Recommended licence conditions on the services authorised by the operating licence and services that Sydney Water must make available

### 8 Licence authorisation

(1) This licence authorises and requires Sydney Water to provide, construct, operate, manage and maintain in the area of operations:

(a) efficient, co-ordinated and commercially viable systems and services for:

- (i) storing and supplying water,
- (ii) providing wastewater services, and
- (iii) disposing of wastewater,

(b) a stormwater drainage system as described in section 14(1)(b) of the Act, except to the extent that the Minister is satisfied under sections 14(4) and 14(5) of the Act that satisfactory arrangements have been made for the applicable service to be provided by another appropriate body.

(2) This licence authorises (but does not require) Sydney Water to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services:

(a) for treating wastewater and stormwater for reuse, including allowing third parties to access wastewater and stormwater for treatment and reuse.

(b) in excess of the stormwater drainage system referred to in clause 8(1)(b), including (for the avoidance of doubt) to:

- (i) enhance, expand and add capacity to the stormwater drainage system described in section 14(1)(b) of the Act,
- (ii) engage in stormwater quality management as necessary to manage impacts of stormwater on waterway health, and
- (iii) engage in stormwater catchment management, including co-ordination with councils and other parties responsible for stormwater management in the area of operations.

(3) This licence authorises Sydney Water to provide facilities or services that are necessary, ancillary or incidental to the matters referred to in clauses 8(1)-(2).

### 9 Obligation to make services available

(1) Sydney Water must provide services for the supply of drinking water on request to:

### Box 8.1 Recommended licence conditions on the services authorised by the operating licence and services that Sydney Water must make available

- (a) each property in the area of operations for which a connection is available to Sydney Water's water supply system, and
  - (b) WIC Act licensees that operate water industry infrastructure connected to, or for which a connection is available to, Sydney Water's water supply system.
- (2) Sydney Water must provide services for the disposal of wastewater on request to:
- (a) each property in the area of operations for which a connection is available to Sydney Water's wastewater system, and
  - (b) WIC Act licensees that operate water industry infrastructure connected to, or for which a connection is available to, Sydney Water's wastewater system.
- (3) In complying with the obligations under clause 9(1) and clause 9(2), Sydney Water may impose reasonable conditions to ensure the safe, reliable and commercially viable supply of water and disposal of wastewater.

#### In these clauses:

**Act** means the *Sydney Water Act 1994*.

**area of operations** means the area of operations to which this licence applies set out in Schedule A.

**drinking water** means water intended primarily for human consumption and other personal, domestic or household uses such as bathing and showering, whether or not the water is used for other purposes.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**Minister** means the Minister responsible for administering Part 5 of the Act.

**property** means any real property that is:

- (a) connected to, or for which a connection is available to Sydney Water's water supply system or wastewater system,
- (b) within an area of land declared by an order of the Governor to be a stormwater drainage area under section 65 of the Act, or
- (c) within the Rouse Hill stormwater catchment area.

Note: For the purpose of the dry weather wastewater overflow standard, a multiple occupancy property may be counted as a single property.

**services** means the services authorised by clause 8.

### Box 8.1 Recommended licence conditions on the services authorised by the operating licence and services that Sydney Water must make available

**stormwater drainage system** includes any artificial channel by which surface water is carried off, land and natural and modified waterways for drainage, stormwater pipes, stormwater detention structures, stormwater quality improvement devices, equipment for stormwater harvesting and reuse systems, and green infrastructure assets that retain stormwater in the landscape and improve the water quality, for the provision of stormwater services.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

**third party** means a person who is not employed, contracted by or working on behalf of Sydney Water.

**wastewater** means an effluent stream comprising elements such as sewage, trade waste discharges and grey water.

**wastewater services** means sewerage services and includes the collection, storage, treatment and reticulation of wastewater.

**WIC Act licensee** means a person that holds a licence under the WIC Act.

## 8.2 Licence context

### 8.2.1 Operating licence objectives

#### Our recommendations for the operating licence

77. Include objectives in the new operating licence that:
  - a. are linked to Sydney Water's principal functions under the Act.
  - b. reflect the social, economic and environmental objectives outlined in section 8 of the *State Owned Corporations Act 1989* (NSW).
  - c. promote the sustainable supply of services with the long-term interests of the community in mind
  - d. encourage Sydney Water to conduct its activities in a manner that considers the impacts of climate change and equity within and between generations in its activities.
  - e. provide clarity about Sydney Water's objective to supply or provide services in a way that does not prevent or hinder competition.

78. Include a new operating licence condition requiring Sydney Water to consider the operating licence objectives when doing anything authorised or required by the operating licence.

Any licence (or other regulatory instrument) should clearly set out its objectives which describe the outcomes that the operating licence is intended to achieve. This helps people understand why specific conditions have been included in the operating licence.

We recommend that the new operating licence should retain the current licence objectives with some changes to be clear about public and government expectations for Sydney Water to<sup>221</sup>

- Align the objectives more closely to Sydney Water's principal functions, as prescribed in the *Sydney Water Act 1994 (NSW)* (the Act) and the *State Owned Corporations Act 1989*.<sup>222</sup>
- Provide greater certainty and establish clear expectations for Sydney Water to consider sustainability for its services, and climate change risks and actions, by conducting its activities in a manner that:
  - is efficient, resilient, reliable, sustainable and equitable, when supplying its services
  - supports the long-term interests of customers, consumers and the community
  - considers the impact on the environment
  - considers the impacts of climate change
  - considers equity within and between generations, to be able to continue to supply services into the future. We would expect Sydney Water to engage with customers and the wider community, stakeholders and regulators about future challenges and promote conversations that balance risk, costs and interests in both the short and longer term.
- Clarify that Sydney Water must consider the operating licence objectives when doing anything authorised or required by the licence.

## Box 8.2 Recommended licence conditions on the objective of the licence

### 1 Objective of this Licence

(1) The objectives of this licence are to:

(a) authorise and require Sydney Water to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for:

- (i) storing and supplying water that is fit for purpose,
- (ii) providing wastewater services,
- (iii) providing stormwater drainage systems, and

## Box 8.2 Recommended licence conditions on the objective of the licence

- (iv) disposing of wastewater and supporting the treatment and reuse of wastewater,
  - (b) require Sydney Water to conduct these activities in a manner that:
    - (i) is efficient, resilient, reliable, sustainable and equitable,
    - (ii) supports the long-term interests of customers, consumers and the community,
    - (iii) protects the environment,
    - (iv) considers the impacts of climate change, and
    - (v) considers equity within and between generations, and
  - (c) set efficient and effective terms and conditions, including quality and performance standards, that Sydney Water must meet when supplying or providing services in a way that:
    - (i) supports its principal objectives under the Sydney Water Act 1994 (**Act**) and the State Owned Corporations Act 1989, and
    - (ii) does not prevent or hinder competition.
- (2) Sydney Water must consider these objectives when it does anything authorised or required by this licence.

### In this clause:

**Act** means the *Sydney Water Act 1994*.

**consumer** means any person who consumes or uses the services and includes a tenant or occupier.

**customer** means any person who:

- (a) is taken (under section 55(1) of the Act) to have entered into a Customer Contract,
- (b) is taken (under section 55(2) of the Act) to have entered into a Customer Contract with Sydney Water on terms and conditions relating to the imposition and payment of charges imposed under sections 64 or 65 of the Act,
- (c) has entered into a contract or other arrangement with Sydney Water for the provision of services on terms and conditions specifically agreed to by the person and Sydney Water under section 57(1) of the Act, or
- (d) owns a property within the Rouse Hill stormwater catchment area.



### Box 8.2 Recommended licence conditions on the objective of the licence

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**services** means the services authorised by clause 8.

**stormwater drainage system** includes any artificial channel by which surface water is carried off, land and natural and modified waterways for drainage, stormwater pipes, stormwater detention structures, stormwater quality improvement devices, equipment for stormwater harvesting and reuse systems, and green infrastructure assets that retain stormwater in the landscape and improve the water quality, for the provision of stormwater services.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

**wastewater** means an effluent stream comprising elements such as sewage, trade waste discharges and grey water.

**wastewater services** means sewerage services and includes the collection, storage, treatment and reticulation of wastewater.

## 8.2.2 Other administrative parts of the operating licence

### Our recommendations for the operating licence

79. Include operating licence conditions:

- a. stating that the area of operations is specified in Schedule A of the licence and requiring Sydney Water to maintain a map of its area of operations on its website at all times
- b. specifying the term of the operating licence
- c. specifying how the licence may be amended
- d. specifying that the licence does not prohibit another person from providing services in Sydney Water's area of operations that are the same as, or similar to, Sydney Water's services
- e. requiring Sydney Water to set prices subject to the terms of the operating licence, the Act and IPART determinations.

We recommend retaining the following parts of the current licence, with minimal changes, as we consider they are working effectively:

- Area of Operations<sup>223</sup> – We recommend retaining the current licence condition stating that the operating licence applies to the whole area of operations specified in Schedule A of the operating licence and that Sydney Water must maintain a map of its area of operations on its website.<sup>224</sup> We do not propose material changes to this condition. However, we do recommend updating the current requirement Sydney Water to publish the map, which Sydney Water has done, with a requirement to maintain the map on Sydney Water's website at all times.
- Term of the Licence<sup>225</sup> – We recommend a 4-year operating licence term to allow a 2-year gap between the next end-of-term review of the operating licence and price review. The 2-year gap will allow for better customer engagement and resourcing for Sydney Water to inform both the operating licence and price reviews.

Typically, we would recommend 5-year licence terms, which is the maximum term allowable under the Act, to minimise costs associated with frequent licence reviews. However, our intention with the 4-year licence and 2-year gap between operating licence and price reviews is for this gap to be retained in future with a return to 5-year terms for the operating licence.

Licence amendment<sup>226</sup> – the current licence states the Governor may amend the operating licence by publishing notice of the amendment in the NSW Government Gazette.<sup>227</sup> We recommend retaining this licence condition in the new operating licence but clarifying that the Governor may publish such notices of amendments after following the procedural requirements in section 16(2) of the Act.<sup>228</sup>

The current licence also states that the Minister must provide reasonable notice of a proposed amendment to allow Sydney Water time to comply with the amendment.<sup>229</sup> We recommend removing this requirement as consider that it is not necessary or appropriate in Sydney Water's operating licence. The provisions in section 16(2) of the Act provide adequate notice of any amendments for Sydney Water, before the amendments will come into effect.

The Act specifies that a proposed amendment will not take effect until the Minister has laid written notice of the proposed amendment and a copy of the proposed amendment before both Houses of Parliament. Further, 15 sitting days of each House of Parliament must have passed without a notice of motion to disallow the proposed amendment being given, or if a notice of motion to disallow the proposed amendment has been given, the motion has lapsed or been withdrawn or defeated.<sup>230</sup>

- Non-exclusive Licence<sup>231</sup> – the current licence states that the operating licence does not prohibit another person from providing services in Sydney Water's area of operations that are the same as, or similar to, Sydney Water's services, if the person is lawfully entitled to do so.<sup>232</sup> We recommend retaining this licence condition with no material changes.

- Complying with IPART price determinations<sup>233</sup> - we recommend retaining the current licence condition requiring Sydney Water to set prices subject to the terms of the operating licence, the Act and IPART determinations.<sup>234</sup> We recommend a minor change to clarify that while Sydney Water's prices cannot be set above the price set by IPART's price determination, it can be below it with appropriate approvals.<sup>235</sup> This does not present any practical changes to the current licence condition.

### Box 8.3 Recommended licence conditions on the administrative parts of the operating licence

#### 2 Definitions and interpretation

(1) Part 11 (Miscellaneous) contains overarching rules and principles that apply to the obligations in this licence.

(2) Part 12 (Interpretation and Dictionary) contains interpretation rules and a dictionary defining words used in this licence.

#### 3 Area of operations

(1) This licence applies to the area of operations specified in Schedule A.

(2) Sydney Water must maintain a map of its area of operations on its website at all times.

#### 4 Term of this licence

The term of this licence is 4 years from 1 July 2024.

#### 5 Licence amendment or substitution

(1) The Governor may, after following the procedural requirements in section 16(2) of the Act, amend or substitute this licence by notice in the Gazette.

(2) The amendment or substitution will take effect on the date the notice is published in the Gazette, or on such later date specified in the notice.

Note: The Customer Contract may be varied by Sydney Water in accordance with section 59 of the Act and clause 2.6 of the Customer Contract. Such a variation is not an amendment to this licence for the purpose of section 16 of the Act.

#### 6 Non-exclusive licence

This licence does not prohibit any other person from providing services in the area of operations that are the same as, or similar to, the services provided by Sydney Water.

#### 7 Pricing

(1) Sydney Water must fix, and impose, fees and charges payable for its services in accordance with:

- (a) the terms of this licence,

### Box 8.3 Recommended licence conditions on the administrative parts of the operating licence

(b) the Act, and

(c) maximum prices or methodologies for fixing maximum prices determined for its services under the Independent Pricing and Regulatory Tribunal Act 1992 (**IPART Act**).

(2) Sydney Water may fix, and impose, fees and charges for its services that are lower than the maximum prices determined under the IPART Act:

(a) with the approval of the Treasurer under section 18 of the IPART Act, or

(b) in accordance with concessions provided for by the Customer Contract.

#### **In these clauses:**

**Act** means the *Sydney Water Act 1994*.

**area of operations** means the area of operations to which this licence applies set out in Schedule A.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**Gazette** means the New South Wales Government Gazette.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**services** means the services authorised by clause 8.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 8.3 Performance monitoring and reporting

### Our recommendation for the operating licence

80. Include operating licence conditions:

- a. specifying Sydney Water's role and responsibilities for IPART's audits of its compliance with the operating licence and providing necessary compliance information to IPART, NSW Health and auditors acting on behalf of IPART
- b. requiring Sydney Water to comply with its obligations in the reporting manual
- c. requiring Sydney Water to compile indicators of the direct impact of its activities on the environment.

We recommend retaining the following parts of the current licence, with minimal changes, as we consider they are working effectively:

- Operational audits and providing information to IPART, auditors or other external stakeholders related to Sydney Water's operational performance<sup>236</sup> - we recommend retaining the current licence conditions related to operational audits.<sup>237</sup> We regularly undertake operational audits of the 3 public water utilities that we regulate (i.e. Sydney Water, Hunter Water and WaterNSW) as part of our function to monitor the utilities' compliance with their operating licences. Operational audits are an important part of our compliance monitoring function.

The Act states that IPART must ensure that Sydney Water's operational audits are prepared in accordance with the operating licence.<sup>238</sup> This means that the operating licence must include terms and conditions for the operational audits. Monitoring utilities' compliance with their operating licence obligations helps ensure that the utility is on track to deliver on its objectives, which are primarily to protect customers, consumers, public health and the environment.

We recommend minor changes to the current licence to reflect that since the COVID-19 pandemic commenced, we have in some instances been undertaking the operational audits remotely, including the field verification site visits.

- Complying with the Reporting Manual<sup>239</sup> - we recommend retaining the current licence condition to comply with the Reporting Manual to ensure that Sydney Water meets its reporting requirements<sup>240</sup> and provides information for performance reporting. These reporting requirements support IPART's function in monitoring Sydney Water's compliance with its operating licence (together with the operational audits discussed above).
- Providing information to IPART, NSW Health, or auditors acting on IPART's behalf<sup>241</sup> - we recommend retaining the current licence conditions requiring Sydney to support the audit and review processes.<sup>242</sup> The information that Sydney Water is required to provide could be reporting information, compliance and performance information to support the operational audit process, water quality information to NSW Health, or other information that IPART may request to support our reviews under the operating licence.
- Compiling indicators on the direct impact of Sydney Water's activities on the environment<sup>243</sup> - we recommend retaining the current licence condition requiring Sydney Water to compile these indicators, as this is a requirement of the Act.<sup>244</sup> However, we recommend minor amendments to the current licence condition to enable Sydney Water to compile and report on environmental indicators prescribed in the Reporting Manual but not restrict Sydney Water to only these indicators. Sydney Water can include other Indicators if it considers beneficial. The environmental indicators in the reporting manual are the minimum that we consider necessary. As the reporting manual is an IPART document, we may review these indicators from time to time for currency and relevance.

## Box 8.4 Recommended licence conditions on the performance and reporting requirements of the operating licence

### 39 Operational audits

(1) Sydney Water must cooperate with an audit undertaken by IPART, or an auditor engaged by IPART, of Sydney Water's compliance with this licence, including the Customer Contract and the reporting manual (the operational audit).

(2) For the purpose of any operational audit or verifying a report on an operational audit, Sydney Water must:

(a) provide IPART or the auditor with any information in Sydney Water's possession or control that is:

- (i) necessary to conduct the operational audit, and
- (ii) reasonably requested by IPART or the auditor,

(b) subject to clause 39(3), permit IPART or the auditor to:

- (i) access any works, premises or offices occupied by Sydney Water,
- (ii) carry out inspections, measurements and tests on, or in relation to, any such works, premises or offices,
- (iii) take on to any such premises or offices any person or equipment necessary for the purpose of performing the operational audit or verifying any report on an operational audit,
- (iv) inspect and make copies of, and take extracts from, any documents, records and systems of Sydney Water that are maintained in relation to the performance of Sydney Water's obligations under this licence (including the Customer Contract and the reporting manual), and
- (v) discuss matters relevant to the operational audit or any report on the operational audit with Sydney Water's personnel.

(3) The activities in clause 39(2)(b) may be carried out remotely:

(a) with IPART's approval, or

(b) where state or federal government restrictions:

- (i) prohibit access to any works, premises or offices occupied by Sydney Water, or
- (ii) limit the movement of IPART staff, the auditor or Sydney Water's personnel.

## Box 8.4 Recommended licence conditions on the performance and reporting requirements of the operating licence

### **40 Reporting**

- (1) Sydney Water must comply with its reporting and auditing obligations set out in the reporting manual.
- (2) Sydney Water must ensure all reports required under the reporting manual are approved by Sydney Water's Managing Director and that its annual statement of compliance is approved by both Sydney Water's Managing Director and a board member.
- (3) Sydney Water must maintain sufficient record systems to enable it to report accurately in accordance with this licence, including the reporting manual.
- (4) In the case of any ambiguity in the interpretation or application of any requirements in the reporting manual, Sydney Water must refer the issue to IPART for clarification.

### **41 Provision of information for performance monitoring**

- (1) Sydney Water must provide IPART or an auditor any information reasonably requested by IPART or an auditor to enable IPART to review or investigate Sydney Water's compliance with its obligations under this licence.
- (2) If Sydney Water engages any person (including a subsidiary) to undertake any activities on its behalf, it must take all reasonable steps to ensure that such persons:
  - (a) provide information to IPART or an auditor on request, and
  - (b) do the things specified in clauses 39 and 40 as if that person were Sydney Water.
- (3) If IPART or an auditor requests information from Sydney Water that is confidential, Sydney Water must provide that information, subject to entering reasonable confidentiality arrangements with IPART or an auditor directed at protecting confidential information.
- (4) Sydney Water must provide NSW Health with information relating to water quality in the manner and form specified by NSW Health.

Note: Under section 19 of the Public Health Act 2010, the Secretary of NSW Health may require Sydney Water to produce certain information.

### **42 Environmental performance indicators**

Sydney Water must:

### Box 8.4 Recommended licence conditions on the performance and reporting requirements of the operating licence

(a) monitor and compile indicators of the direct impact on the environment of Sydney Water's activities, including, at a minimum, indicators consistent with the environmental performance indicators in the reporting manual (the environmental performance indicators), and

Note: The reporting manual identifies these with an indicator number starting with 'E'.

(b) report on the environment performance indicators consistent with the reporting manual and in a way that allows a year-to-year comparison of the indicators.

#### In these clauses:

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**NSW Health** means the Ministry of Health.

**operational audit** has the meaning given in clause 39.

**personnel** includes Sydney Water's board members, employees and contractors.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## 8.4 Miscellaneous

### Our recommendation for the operating licence

81. Include a new part in the operating licence setting out 'miscellaneous' matters, including the following:
  - a. requirements for Sydney Water to make a copy of the operating licence available to any person free of charge, on its website and upon request
  - b. the timeframe for Sydney Water to take actions required in the operating licence
  - c. requirements for approvals and notices to be in writing and send to the intended recipient



- d. specifying when IPART intends to begin the next review of the operating licence and the purpose of the review
- e. IPART's functions (for information purposes only).

We recommend including a new miscellaneous part in the operating licence for better structuring of the licence. It does not have a material impact on the terms and conditions of the licence but seeks to reduce some repetition and contain clauses that do not need to be in the first part of the operating licence. The miscellaneous part of the operating licence contains the following clauses:

- Availability of Licence<sup>245</sup> – the current licence requires Sydney Water to make a copy of the operating licence available to any person free of charge, on its website and upon request.<sup>246</sup> We recommend retaining the current licence requirement without material changes as we consider that the current requirement is working effectively.
- Timeframe for Sydney Water to take actions<sup>247</sup> - this is a new condition that we recommend in the new operating licence but it does not impose new obligations. Rather, it seeks to consolidate requirements scattered throughout the current licence.

Instead of stating the timeframe for updating documents or information in every condition of the operating licence where Sydney Water is required to take action (e.g. update a published map or a policy), this clause sets out that Sydney Water must make all updates within 10 business days, unless the licence specifies a different deadline.

For other actions (e.g. respond to requests for information in IPART's operational audits), Sydney Water must respond within a reasonable period.

Finally this conditions clarifies that if the operating licence states that Sydney Water must maintain a system, or similar, or publish a document by a certain date, Sydney Water must have developed it ready for maintenance/publishing by the end of the preceding day.

- Approvals and notices<sup>248</sup> - this is a new condition that we recommend in the new operating licence but it does not impose new obligations. Again, it seeks to consolidate requirements scattered throughout the current licence.

The condition requires that any approval, notice, exemption, request, guidance or other communication given under the licence must be in writing and delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual. Further, the condition requires that any nomination by Sydney Water for an alternate date or standard under the operating licence must come from Sydney Water's Managing Director.

- End of Term Review<sup>249</sup> – the current licence specifies when IPART intends to begin the next review of the operating licence and the purpose of the review.<sup>250</sup> We recommend retaining the current licence requirement without material changes as we consider that the current requirement is working effectively.
- IPART functions<sup>251</sup> – this is an information clause in the new operating licence setting out IPART's audit functions and responsibilities. It does not impose obligations on Sydney Water. It provides context for Sydney Water's obligations to participate in these audits and provide information.

## Box 8.5 Recommended licence conditions on the miscellaneous part of the operating licence

### 44 Availability of licence

Sydney Water must make a copy of this licence publicly available.

### 45 Timeframe for Sydney Water to take action

(1) If a clause of this licence requires Sydney Water to:

- (a) publish on its website or make publicly available a map, plan, policy or other document or information, Sydney Water must, if it updates the relevant document or information, publish the updated document or information within 10 business days unless this licence specifies an alternative period of time, and
- (b) take other action, but does not specify a period of time in which Sydney Water must act, Sydney Water must take the relevant action within a reasonable period.

(2) If a clause of this licence requires Sydney Water to maintain or publish a management system, program, policy, procedure, summary or other system or document from a specified date, Sydney Water must have developed the relevant system or document by the end of the preceding day.

### 46 Approvals and notices

(1) Any approval, notice, exemption, request, guidance or other communication given under this licence must be:

- (a) in writing addressed to the intended recipient, and
- (b) delivered or sent to the address (electronic or postal) last notified by the recipient or otherwise specified for the intended recipient in the reporting manual.

(2) Any nomination by Sydney Water for an alternate date or standard under this licence must be made by Sydney Water's Managing Director.

### 47 End of term review

(1) IPART intends to review this licence in its final year to investigate:

### Box 8.5 Recommended licence conditions on the miscellaneous part of the operating licence

- (a) whether this licence is fulfilling its objectives, and
- (b) any issues that have arisen during the term of this licence that may impact its effectiveness.

(2) Sydney Water must provide IPART with information reasonably requested by IPART as part of the review by the date specified by IPART.

#### 48 IPART functions

(1) IPART has the following functions:

- (a) to determine Sydney Water's reporting and auditing obligations in relation to operational standards and other requirements imposed on Sydney Water under this licence and to publish those requirements in a reporting manual,
- (b) to determine audit scope for each annual operational audit, including the clauses of this licence to be audited,
- (c) to approve alternate dates and standards under this licence and to determine audit compliance with this licence by reference to those approved dates and standards,
- (d) to appoint auditors to conduct operational audits of Sydney Water,
- (e) to do any of the following (or appoint an auditor or other person to do any of the following) for the purposes of allowing IPART to monitor Sydney Water's compliance with this licence or in connection with an operational audit:
  - (i) access any works, premises or offices occupied by Sydney Water,
  - (ii) carry out inspections, measurements and tests on, or in relation to, any such works, premises or offices,
  - (iii) take on to any such premises or offices any person or equipment necessary for the purpose of performing the operational audit or verifying any report on an operational audit,
  - (iv) inspect and make copies of, and take extracts from, any documents, records or systems of Sydney Water that are maintained in relation to the performance of Sydney Water's obligations under this licence (including the Customer Contract and the reporting manual),
  - (v) discuss matters relevant to the operational audit or any report on the operational audit with Sydney Water's personnel, and
  - (vi) direct Sydney Water to:

### Box 8.5 Recommended licence conditions on the miscellaneous part of the operating licence

- (A) provide records or information to IPART,
- (B) answer questions orally or in writing, and
- (C) make relevant personnel available to answer questions.

(2) This clause 48 does not limit any of IPART's functions under the Act or any other legislation.

#### **In these clauses:**

**Act** means the *Sydney Water Act 1994*.

**business day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**Customer Contract** means the Customer Contract as set out in Schedule B of this Licence.

**licence** means this operating licence granted under section 12 of the Act to Sydney Water or any renewal of it, as in force for the time being.

**operational audit** has the meaning given in clause 39.

**personnel** includes Sydney Water's board members, employees and contractors.

**reporting manual** means the reporting manual published by IPART under clause 48(1)(a).

**publicly available** means available to any person, free of charge:

- (a) on Sydney Water's website, and
- (b) on request to the contact centre.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the Act.

## Chapter 9

### Full list of recommendations

This chapter includes a full list of our recommendations made in this report for the operating licence.



## 9.1 Our recommendations

1.	Include new operating licence conditions requiring Sydney Water to:	10
a.	maintain, implement and comply with a water conservation plan, replacing the current licence requirements for a water conservation program	10
b.	make its conservation plan consistent with the NSW Water Efficiency Framework	10
c.	consider in the plan, the strategic context of the Greater Sydney Water Strategy in the water conservation plan and any guidance the Minister provides to Sydney Water	10
d.	demonstrate in the plan, Sydney Water's contribution to the water conservation and efficiency goals and how Sydney Water contributes to any subsequent monitoring, evaluation, reporting or annual reviews of the Greater Sydney Water Strategy	10
e.	consider in the plan a range of options for water conservation, and identify proposed water conservation programs and projects over the life of the plan	10
f.	assess those programs and projects against the current economic method and other factors, and explain its decision making for selecting water conservation options for implementation	11
g.	consider the previous year's water conservation activities and then update the plan for the next 5 years	11
h.	submit a copy of the updated plan to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) and IPART and publish it on Sydney Water's website by 30 November every year.	11
2.	Provide a transition period for Sydney Water to maintain, implement and comply with its existing water conservation plan, until it has developed the water conservation plan required by the new operating licence by 1 December 2024.	11
3.	Retain the current licence conditions requiring Sydney Water to make its current economic method, a plain English summary of the method, and the economic level of water conservation calculated using this method, publicly available.	17
4.	Include a new operating licence condition requiring Sydney Water to make changes to the current economic method at any time with the Minister's approval (i.e. allowing Sydney Water to initiate the changes after it has sought the Minister's approval).	17
5.	Amend the current licence condition which states that the Minister may direct Sydney Water to amend the current economic method at any time, to a requirement for Sydney Water to review and update the method on request from the Minister.	17
6.	Retain the current licence condition requiring Sydney Water to update the economic level of water conservation annually to inform its economic assessments of water conservation programs and projects.	18
7.	Remove the current licence condition requiring Sydney Water to re-calculate and publish the economic level of water conservation monthly.	18
8.	Include new operating licence conditions requiring Sydney Water to:	21
a.	engage in water planning for Greater Sydney that is consistent with the priorities of the Greater Sydney Water Strategy	21
b.	cooperate with the Department of Climate Change, Energy, the Environment and Water (DCCEEW) in any review of the Greater Sydney Water Strategy.	21
9.	Remove the current licence condition requiring Sydney Water to implement any action under the then Metropolitan Water Plan (replaced by the Greater Sydney Water Strategy) or that the Minister directs in writing.	21

10.	Retain requirements in the operating licence to maintain and comply with the data sharing agreement.	21
11.	Remove the current licence condition requiring Sydney Water to develop an emergency drought response plan that addresses written guidance by the Minister.	24
12.	Include new operating licence conditions requiring Sydney Water to:	24
	a. cooperate with WaterNSW to jointly review the Greater Sydney Drought Response Plan with WaterNSW, every year, and consult with DCCEEW on the review of the plan	24
	b. use its best endeavours to develop with DCCEEW and WaterNSW an agreed approach to the review	24
	c. by 31 December each year, or another date approved by IPART in writing, jointly (with WaterNSW) submit an updated Greater Sydney Drought Response Plan and report on the review	24
	d. make a summary of the updated plan publicly available by 31 January of the following year.	24
13.	Include new operating licence conditions requiring Sydney Water to engage in ongoing water supply augmentation planning for its area of operations.	27
14.	Include new operating licence conditions requiring Sydney Water to maintain and comply with a memorandum of understanding (or other agreement) with WaterNSW to work cooperatively to undertake water supply augmentation planning for Greater Sydney.	27
15.	Include a new operating licence condition requiring the memorandum of understanding (or other agreement) to include processes for:	27
	a. how WaterNSW assists Sydney Water with water supply augmentation planning	27
	b. how Sydney Water consults WaterNSW on system yield calculations	27
	c. notifications to WaterNSW and the Minister if Sydney Water considers future demand for bulk water may exceed the system yield and when this exceedance might occur.	27
16.	Include a new operating licence condition requiring Sydney Water to make production requests to the Sydney Desalination Plant (SDP) in accordance with the <i>Decision Framework for SDP Operation</i> (Decision Framework).	30
17.	Remove the current licence condition requiring Sydney Water to develop a long-term capital and operational plan.	31
18.	Include a new operating licence condition requiring Sydney Water to maintain a Long-Term Capital and Operational Plan that:	31
	a. identifies future water supply, wastewater and stormwater needs	31
	b. identifies and assess long-term investment options for meeting the identified future water needs	31
	c. considers any guidance from the Minister.	31
19.	Include a new operating licence condition requiring Sydney Water to review and update the Long-Term Capital and Operational Plan at least once during the operating licence term and submit the updated plan, and a report on the review of the plan, to the Minister.	32
20.	Include a new operating licence condition requiring Sydney Water to consult with and consider WaterNSW's input in its review of its plan.	32

21.	Include a new operating licence condition requiring Sydney Water to cooperate with WaterNSW as required in reviewing WaterNSW's Long-Term Capital and Operational Plan	32
22.	Remove the current licence conditions requiring Sydney Water to:	35
	a. participate in any government reviews of the Priority Sewerage Program	35
	b. implement and comply with any outcomes of any NSW Government review of the Priority Sewerage Program, if required by the Minister.	35
23.	Do not include operating licence conditions for climate change abatement.	39
24.	Do not include operating licence conditions for climate change resilience and adaptation.	40
25.	Include a new operating licence condition requiring Sydney Water to engage in an ongoing climate risk assessment and management process that is consistent with the NSW Government's Climate Risk Ready Guide.	41
26.	Include a new operating licence condition requiring Sydney Water to achieve a climate-risk maturity level of 'embedded', as defined in the Climate Risk Ready Guide, by 30 June 2027 or another date nominated by Sydney Water and approved by IPART in writing and make reasonable progress to achieving a climate-risk maturity level of 'advanced' by 30 June 2028, or another date nominated by Sydney Water and approved by IPART in writing.	44
27.	Include a new operating licence condition requiring Sydney Water to publish annual climate-related disclosures consistent with the IFRS S2 climate-related disclosures standard, or an Australian equivalent, from FY2025-26 onwards, if not already published such as if required by other legislation.	46
28.	Retain the water quality standards in the current licence which require Sydney Water to maintain, implement and comply with water quality management systems consistent with the Australian Drinking Water Guidelines and the Australian Guidelines for Water Recycling.	51
29.	Retain the requirements in the current licence for Sydney Water's water quality management systems to also be consistent with NSW Health's requirements but clarify that these requirements will be health related and specified in writing.	51
30.	Include new operating licence conditions (currently reporting requirements in the subordinate Reporting Manual) requiring Sydney Water to:	51
	a. Consult with NSW Health about any significant changes that it proposes to make to the water quality management systems and then notify NSW Health and IPART of these significant changes in accordance with the reporting manual.	51
	b. Immediately notify NSW Health of water quality incidents in accordance with the processes in its water quality management systems (and accordingly, include such processes in its water quality management system).	51
	c. Submit quarterly water quality monitoring reports to IPART and NSW Health in accordance with the reporting manual.	51
31.	Retain the current licence condition requiring Sydney Water to comply with the <i>NSW Code of Practice for Fluoridation of Public Water Supplies</i> .	56
32.	Retain the system performance standards in the current licence for unplanned interruptions to water continuity and water pressure and for managing excessive dry weather wastewater overflows onto private properties with no changes to the levels of service required by these standards.	58



33.	Remove the optimal level and tolerance band in the current licence for the water continuity standard.	58
34.	Retain the current licence condition requiring Sydney Water to detect service interruptions to properties. Update the licence condition to require Sydney Water to maintain and implement monitoring systems or processes to enable it to identify the properties that have experienced an unplanned water supply interruption, water pressure failure or uncontrolled wastewater overflow.	58
35.	Retain the current licence conditions requiring Sydney Water to maintain, implement and comply with an asset management system consistent with <i>Australian Standard AS ISO 55001:2014</i> .	67
36.	Include flexibility in the operating licence for Sydney Water's asset management system to be consistent with another standard if nominated by Sydney Water and approved by IPART in writing.	67
37.	Include a new operating licence condition requiring Sydney Water to submit biennial asset management reports to IPART in accordance with the 2024-2028 reporting manual.	67
38.	Retain the current licence conditions for Sydney Water to make its customer contract, and a summary of it, publicly available on its website and on request through its contact centre.	74
39.	Include a new operating licence condition requiring Sydney Water to publish the most up-to-date version of the Customer Contract, if it is varied.	74
40.	Include a new operating licence condition requiring Sydney Water to notify its residential customers that a summary of the Customer Contract is available on Sydney Water's website and on request through its contact centre.	74
41.	Retain the current licence conditions that extend protections under the Customer Contract to consumers (e.g. tenants), with changes to extend additional protections to these consumers.	78
42.	Include a new condition requiring Sydney Water to publish information on its website specifically for tenants which sets out their rights and responsibilities, by 30 November 2024.	80
43.	Retain and update the current licence conditions requiring Sydney Water to maintain, implement and comply with a payment assistance policy that must, at a minimum, provide for:	83
	a. assistance to residential customers experiencing payment difficulties to better manage their current and future bills	83
	b. procedures for residential customers to enter a payment plan where they are experiencing payment difficulties	83
	c. procedures for identifying the circumstances under which Sydney Water may disconnect or restrict a supply of water to a property	83
	d. processes for self-identification, identification by community welfare organisations and identification by Sydney Water of customers and consumers experiencing payment difficulties.	83
44.	Retain and update the current licence conditions requiring Sydney Water to provide its payment assistance policy:	83
	a. to customers as soon as Sydney Water has identified them as facing payment difficulty	83
	b. on the Sydney Water website	83
	c. on request through Sydney Water's contact centre.	84

45.	Include a new operating licence condition requiring Sydney Water to notify its residential customers, at least annually with their bills, that the payment assistance policy is publicly available.	84
46.	Define 'family violence' in the new operating licence to align with the definition in the <i>Intervention Orders (Prevention of Abuse) Act 2009 (SA)</i> .	87
47.	Retain the current licence condition requiring Sydney Water to implement a family violence policy and include a new requirement to also maintain and comply with the policy.	87
48.	Retain the current licence condition requiring Sydney Water's family violence policy to cover the following matters, at minimum:	87
	a. the protection of private and confidential information	87
	b. access to payment assistance options	87
	c. processes that minimise the reliance on individuals to disclose their family violence	87
	d. processes for referrals to specialist services.	87
49.	Include new operating licence conditions requiring Sydney Water to cover the following additional matters in its family violence policy:	87
	a. identifying customers and consumers experiencing family violence	87
	b. ensuring customers and consumers can nominate their preferred method of communication and when they can be contacted	87
	c. clarifying that individuals experiencing family violence will not face consequences for not paying their bills.	87
50.	Include new operating licence conditions requiring Sydney Water to:	87
	a. publish its family violence policy on its website and provide it on request through its contact centre	87
	b. notify residential customers at least annually with their bills that the family violence policy is publicly available	87
	c. keep the information it provides about its family violence policy up to date.	87
51.	Retain and update the current licence conditions requiring Sydney Water to:	91
	a. Maintain, implement and comply with an internal complaints handling procedure consistent with <i>Australian Standard AS/NZS 10002:2014- Guidelines for complaint management in organisations</i> until 30 June 2025.	91
	b. publish a summary of its internal complaints handling procedure on Sydney Water's website and on request through its contact centre.	91
52.	Include new operating licence conditions requiring Sydney Water, from 1 July 2025, to maintain, implement and comply with an internal complaints handling procedure consistent with the 2022 version of the Australian Standard (i.e. <i>Australian Standard AS 10002:2022 - Guidelines for complaint management in organizations</i> ).	92
53.	Include a new operating licence condition requiring Sydney Water to notify its residential customers, at least annually with their bills, that the summary of its internal complaints handling procedure is publicly available.	92
54.	Retain the current licence conditions requiring Sydney Water to:	94
	a. facilitate the resolution of disputes between Sydney Water and its customers and consumers by being a member of the Energy and Water Ombudsman NSW (EWON) as an external dispute resolution provider	94
	b. publish a summary about EWON, including information about EWON's services and how customers can contact EWON.	94

55.	Include new operating licence conditions allowing Sydney Water to be a member of an alternative dispute resolution scheme if it meets the minimum requirements specified in the licence, and with IPART's written approval.	94
56.	Include new operating licence conditions requiring Sydney Water to keep the summary of its external dispute resolution on its website up to date.	95
57.	Retain and update the current licence conditions requiring Sydney Water to maintain and consult with its customer council (known as the Customer and Community Reference Group)	97
58.	Remove prescription in the current licence about how Sydney Water is to use this Customer and Community Reference Group.	97
59.	Retain the current licence conditions requiring Sydney Water to engage its customers to understand their preferences and willingness to pay for service levels provided by Sydney Water and to better inform Sydney Water's systems and processes and IPART reviews of the operating licence and price determination.	100
60.	Retain the current licence conditions requiring Sydney Water to maintain MoUs with the Water Administration Ministerial Corporation (WAMC), NSW Health and the Environment Protection Authority (EPA).	104
61.	Include new operating licence conditions requiring Sydney Water to comply with the MoUs with WAMC, NSW Health, and the EPA and publish them on Sydney Water's website.	104
62.	Retain the current licence conditions requiring Sydney Water to maintain and comply with a MoU with Fire and Rescue NSW (FRNSW) but remove the 'best endeavours' clause.	107
63.	Include a new operating licence condition requiring Sydney Water to publish its MoU with FRNSW on its website.	107
64.	Include new operating licence conditions requiring Sydney Water to provide water pressure, flow rate and other information about all fire hydrants in its water supply network to FRNSW by the end of the 2024-2028 operating licence term	110
65.	Retain the current licence conditions for Sydney Water to make services available on request to licensees under the <i>Water Industry Competition Act 2006</i> (NSW) (WIC Act).	114
66.	Include a new clause in the operating licence authorising Sydney Water to provide access to sewer mining but do not require Sydney Water to provide such access.	114
67.	Retain the current licence conditions for Sydney Water to negotiate the provision of services to WIC Act licensees and potential competitors in 'good faith'. This includes the water and wastewater services authorised by the operating licence, which would now also include sewer mining.	116
68.	Update the definition of 'good faith' in the current licence to clarify that when Sydney Water negotiates with a WIC Act licensee or potential competitor, it should act:	116
a.	honestly (including not providing false information or concealing material facts)	116
b.	fairly and reasonably, having regard to the interests of the other party (but not to the extent of Sydney Water subordinating the interests, including long-term interests, of the community, customers, consumers, or the community)	116

c.	consistently with the objectives of the licence, including the objective of providing services in a way that does not prevent or hinder competition.	116
69.	For codes of conduct with WIC Act licensees:	119
a.	retain the current licence condition requiring Sydney Water to cooperate with WIC Act licensees to establish a code of conduct if sought by the WIC Act licensee in writing	119
b.	remove the 'best endeavours' clause for establishing the code of conduct	119
c.	include a new operating licence condition requiring Sydney Water to comply with the code of conduct	119
d.	remove the current licence condition which assumes Sydney Water has entered into a code of conduct with a WIC Act licensee where it applies to an industry code established by the Minister, under the WIC Regulation.	119
70.	Retain the current licence requirements for Sydney Water to publish servicing information about its water and wastewater systems and update the minimum requirements in the operating licence for what this information should include.	120
71.	Include a new operating licence condition requiring Sydney Water to:	120
a.	Consult with WIC Act licensees to understand what additional servicing information they require to make informed investment decisions.	120
b.	Publish a report which identifies 3 categories of servicing information sought by its competitors to make informed investment decisions:	120
	– Information held by Sydney Water and Sydney Water's timeframe for publishing such information	120
	– information that Sydney Water can reasonably be determine or derive by from current information, and Sydney Water's timeframe for publishing such information	120
	– information that is not readily available or cannot reasonably be derived from current information	120
c.	Publish the additional servicing information by the dates in the report.	120
72.	Include a new operating licence condition exempting Sydney Water from publishing the required servicing information in relation to a particular major water system or wastewater system if at least 10 years of the required servicing information is included in a Development Servicing Plan covering that system.	120
73.	Retain the current licence condition exempting Sydney Water from publishing the required servicing information to the extent that doing so would be inconsistent with its obligations under the <i>Security of Critical Infrastructure Act 2018</i> (Cth) (SOCI Act).	120
74.	Retain the following current licence conditions, until 18 August 2024, requiring Sydney Water to maintain:	129
a.	as well as implement and comply with a cyber security management system	129
b.	a critical infrastructure compliance manager responsible for implementing the cyber security management system	129
c.	security clearances for certain senior employees responsible for certain matters.	129
75.	Include operating licence conditions authorising Sydney Water to store and supply water, provide wastewater services, dispose of wastewater, provide access to the wastewater network for sewer mining purposes and manage a stormwater drainage system.	135
76.	Retain current licence conditions requiring Sydney Water to provide services where a connection is available.	135
77.	Include objectives in the new operating licence that:	138
a.	are linked to Sydney Water's principal functions under the Act.	138

b.	reflect the social, economic and environmental objectives outlined in section 8 of the <i>State Owned Corporations Act 1989</i> (NSW).	138
c.	promote the sustainable supply of services with the long-term interests of the community in mind	138
d.	encourage Sydney Water to conduct its activities in a manner that considers the impacts of climate change and equity within and between generations in its activities.	138
e.	provide clarity about Sydney Water's objective to supply or provide services in a way that does not prevent or hinder competition.	138
78.	Include a new operating licence condition requiring Sydney Water to consider the operating licence objectives when doing anything authorised or required by the operating licence.	139
79.	Include operating licence conditions:	141
a.	stating that the area of operations is specified in Schedule A of the licence and requiring Sydney Water to maintain a map of its area of operations on its website at all times	141
b.	specifying the term of the operating licence	141
c.	specifying how the licence may be amended	141
d.	specifying that the licence does not prohibit another person from providing services in Sydney Water's area of operations that are the same as, or similar to, Sydney Water's services	141
e.	requiring Sydney Water to set prices subject to the terms of the operating licence, the Act and IPART determinations.	141
80.	Include operating licence conditions:	144
a.	specifying Sydney Water's role and responsibilities for IPART's audits of its compliance with the operating licence and providing necessary compliance information to IPART, NSW Health and auditors acting on behalf of IPART	144
b.	requiring Sydney Water to comply with its obligations in the reporting manual	144
c.	requiring Sydney Water to compile indicators of the direct impact of its activities on the environment.	144
81.	Include a new part in the operating licence setting out 'miscellaneous' matters, including the following:	148
a.	requirements for Sydney Water to make a copy of the operating licence available to any person free of charge, on its website and upon request	148
b.	the timeframe for Sydney Water to take actions required in the operating licence	148
c.	requirements for approvals and notices to be in writing and send to the intended recipient	148
d.	specifying when IPART intends to begin the next review of the operating licence and the purpose of the review	149
e.	IPART's functions (for information purposes only).	149

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- 1 2019-2024 Sydney Water Operating Licence, cl. 1.8.
- 2 2019-2024 Sydney Water Operating Licence, cl. 3.1.1 and 3.1.2.
- 3 Recommended 2024-2028 operating licence, cl. 10.1.
- 4 NSW Department of Planning and Environment, *Greater Sydney Water Strategy, Implementation Plan 2022-2025*, August 2022 action 2.1.
- 5 Recommended 2024-2028 operating licence cl 10.1(5).
- 6 Recommended 2024-2028 operating licence, cl. 10.1(1) and (4).
- 7 Recommended 2024-2028 operating licence, cl. 10.1(1).
- 8 2019-2024 Sydney Water Operating Licence, cl. 3.1.2.
- 9 NSW Department of Planning and Environment, *Greater Sydney Water Strategy, Implementation Plan 2022-2025*, August 2022; Recommended 2024-2028 operating licence, cl. 10.1(1)(c).
- 10 Recommended 2024-2028 operating licence, cl 10.1(2).
- 11 Recommended 2024-2028 operating licence, cl 10.1(2)(a)(iii).
- 12 2019-2024 Sydney Water Operating Licence, cl 3.1.1.
- 13 Recommended 2024-2028 operating licence, cl. 10.1(2)(a)(iv).
- 14 Recommended 2024-2028 operating licence, cl 10.1(2)(a)(i) and (ii).
- 15 Recommended 2024-2028 operating licence, cl 10.1(2)(b).
- 16 Recommended 2024-2028 operating licence, cl. 10.1(2)(c).
- 17 Recommended 2024-2028 operating licence, cl. 10.1(2)(d).
- 18 Recommended 2024-2028 operating licence cl 10.1(3)(a).
- 19 Recommended 2024-2028 operating licence cl 10.1(3)(a)(i).
- 20 Recommended 2024-2028 operating licence cl 10.1(3)(a)(iv).
- 21 Recommended 2024-2028 operating licence cl 10.1(3)(a)(ii) and (iii).
- 22 Recommended 2024-2028 operating licence cl 10.1(3)(b).
- 23 Recommended 2024-2028 operating licence cl 10.1(3)(c).
- 24 Recommended 2024-2028 operating licence, cl. 10.1(2)(a).
- 25 Recommended 2024-2028 operating licence cl 10.2(1); 2019-2024 Sydney Water Operating Licence, cl 3.1.3.
- 26 Recommended 2024-2028 operating licence cl 10.2(3).
- 27 Recommended 2024-2028 operating licence cl 10.2(2)(b) and (c).
- 28 2019-2024 Sydney Water Operating Licence, cl 3.1.5 and 3.1.6.
- 29 *State Owned Corporations Act 1989*, section 7A.
- 30 Recommended 2024-2028 operating licence cl 45(1)(a).
- 31 Recommended 2024-2028 operating licence cl 10.2(2)(a).
- 32 2019-2024 Sydney Water Operating Licence, cl 3.1.4(b).
- 33 2019-2024 Sydney Water Operating Licence, cl 3.1.4(a).
- 34 Recommended 2024-2028 operating licence cl 10.2(2)(a).
- 35 Recommended 2024-2028 operating licence cl 11.1(1).
- 36 Recommended 2024-2028 operating licence cl 11.1(2).
- 37 2019-2024 Sydney Water Operating Licence, cl 3.2.5.
- 38 2019-2024 Sydney Water Operating Licence, cl 3.2.4.
- 39 *State Owned Corporations Act 1989*, section 7A.
- 40 Recommended 2024-2028 operating licence, cl 31; 2019-2024 Sydney Water Operating licence, cl 3.2.6 to 3.2.9.
- 41 Recommended 2024-2028 operating licence, cl 31.
- 42 2019-2024 Sydney Water Operating Licence, cl 3.2.1(b).
- 43 Recommended 2024-2028 operating licence, cl 11.2(a).
- 44 *State Owned Corporations Act 1989*, section 7A..
- 45 Recommended 2024-2028 operating licence, cl 11.3.
- 46 Recommended 2024-2028 operating licence, cl 11.3(2).
- 47 Recommended 2024-2028 operating licence, cl 11.4.
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- 55 Recommended 2024-2028 operating licence, cl 11.5(3) and (4).
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- <sup>63</sup> United Nations, [What is Climate Change?](#) accessed 13 November 2023; NSW Department of Planning, Industry and Environment, *Climate Risk Ready NSW Guide, Practical guidance for NSW Government sector to assess and manage climate change risks*, 2021, p7.
- <sup>64</sup> Sydney Water, [Energy management and climate change](#), accessed 1 November 2023.
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- <sup>78</sup> NSW Department of Planning, Industry and Environment, *Climate Risk Ready NSW Guide, Practical guidance for NSW Government sector to assess and manage climate change risks*, 2021, p 74.
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- <sup>87</sup> *Sydney Water Act 1994* (NSW), s 14(1)(c).
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- <sup>89</sup> Recommended 2024-2028 operating licence, cl. 12.
- <sup>90</sup> Recommended 2024-2028 operating licence, cl. 12.
- <sup>91</sup> 2019-2024 Sydney Water Operating Licence, cl 4.1.1 and 4.2.1.
- <sup>92</sup> Recommended 2024-2028 operating licence, cl 12(1)(a) and 12(2)(a).
- <sup>93</sup> Recommended 2024-2028 operating licence, cl 46(1)(a).
- <sup>94</sup> Recommended 2024-2028 operating licence, cl 12(4).
- <sup>95</sup> Recommended 2024-2028 operating licence, cl 12(5) and (6).
- <sup>96</sup> Recommended 2024-2028 operating licence, cl 12(7).
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- <sup>99</sup> *Fluoridation of Public Water Supplies Regulation 2022*, cl 5.6 and 8.
- <sup>100</sup> NSW Govt Gazette No. 101 of 23 Sept 1966, p 3864.
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- <sup>102</sup> *Sydney Water Act 1994* (NSW), s 14(1)(c).
- <sup>103</sup> 2019-2024 Sydney Water Operating Licence cl 5.1, 5.2 and 5.3.
- <sup>104</sup> Recommended 2024-2028 operating licence, cl 14-18.
- <sup>105</sup> 2019-2024 Sydney Water Customer Contract, clause 3.4.3.
- <sup>106</sup> 2019-2024 Sydney Water Operating Licence, definition of 'planned water interruption'.
- <sup>107</sup> Recommended 2024-2028 operating licence, cl 15(3).
- <sup>108</sup> 2019-2024 Sydney Water Operating Licence cl 5.3.
- <sup>109</sup> 2019-2024 Sydney Water Operating Licence, cl 5.1.2 and 5.1.3.
- <sup>110</sup> 2019-2024 Sydney Water Operating Licence, cl 5.1.4.
- <sup>111</sup> Recommended 2024-2028 operating licence, cl 17(a).
- <sup>112</sup> Recommended 2024-2028 operating licence, cl 17(b).
- <sup>113</sup> 2019-2024 Sydney Water Operating Licence cl 5.5.
- <sup>114</sup> Recommended 2024-2028 operating licence, cl 19.
- <sup>115</sup> Recommended 2024-2028 operating licence, cl 19(1)(b) 46(1)
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- <sup>117</sup> IPART, [Sydney Water 2021 Operational Audit: Report to the Minister](#), February 2022.
- <sup>118</sup> IPART, [Sydney Water 2022 Operational Audit: Report to the Minister](#), February 2023.
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- <sup>122</sup> Recommended 2024-2028 operating licence, cl 20(3).
- <sup>123</sup> Recommended 2024-2028 operating licence, cl 22.
- <sup>124</sup> *Sydney Water Act 1994* (NSW) s 55.
- <sup>125</sup> 2019-2024 Sydney Water Operating Licence cl 6.3.1.
- <sup>126</sup> Recommended 2024-2028 operating licence, cl 21.
- <sup>127</sup> Recommended 2024-2028 operating licence, cl 21(2).
- <sup>128</sup> Recommended 2024-2028 operating licence, cl 21(2).
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- <sup>130</sup> Recommended 2024-2028 operating licence, cl 24; 2019-2024 Sydney Water Operating Licence cl 6.5.
- <sup>131</sup> Recommended 2024-2028 operating licence, cl 26; 2019-2024 Sydney Water Operating Licence cl 6.7.
- <sup>132</sup> Recommended 2024-2028 operating licence, cl 27; 2019-2024 Sydney Water Operating Licence cl 6.8.
- <sup>133</sup> Recommended 2024-2028 operating licence, cl 23(1) and (2); 2019-2024 Sydney Water Operating Licence cl 6.4.1.
- <sup>134</sup> 2019-2024 Sydney Water Operating Licence cl 6.4.1.
- <sup>135</sup> Recommended 2024-2028 operating licence, cl 23(3).
- <sup>136</sup> Recommended 2024-2028 operating licence, cl 23(4).
- <sup>137</sup> Recommended 2024-2028 operating licence, cl 45(1)(a)
- <sup>138</sup> 2019-2024 Sydney Water Operating Licence cl 6.5.1.
- <sup>139</sup> Recommended 2024-2028 operating licence, cl 24(1) and (2).
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- <sup>147</sup> Recommended 2024-2028 operating licence, cl 24(4)(b).
- <sup>148</sup> Recommended 2024-2028 operating licence, cl 45(1)(a)
- <sup>149</sup> Recommended 2024-2028 operating licence, cl 26; 2019-2024 Sydney Water Operating Licence cl 6.7.
- <sup>150</sup> 2019-2024 Sydney Water Operating Licence cl 6.7.1.
- <sup>151</sup> Recommended 2024-2028 operating licence, cl 26(1) and 46(1)(a).
- <sup>152</sup> Recommended 2024-2028 operating licence, cl 26(2).
- <sup>153</sup> Recommended 2024-2028 operating licence, cl 26(3).
- <sup>154</sup> Recommended 2024-2028 operating licence, cl 26(4)(a).
- <sup>155</sup> Recommended 2024-2028 operating licence, cl 26(4)(b).
- <sup>156</sup> Recommended 2024-2028 operating licence, cl 45(1)(a).
- <sup>157</sup> Recommended 2024-2028 operating licence, cl 27(1); 2019-2024 Sydney Water Operating Licence cl 6.8.1.
- <sup>158</sup> Recommended 2024-2028 operating licence, cl 27(4) and cl 45(1)(a).
- <sup>159</sup> Recommended 2024-2028 operating licence, cl 27(2)(a).
- <sup>160</sup> Recommended 2024-2028 operating licence, cl 27(2)(b).
- <sup>161</sup> Recommended 2024-2028 operating licence, cl 45(1)(a).
- <sup>162</sup> Recommended 2024-2028 operating licence, cl 27(3).
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- 223 Recommended 2024-2028 operating licence, cl 3.
- 224 2019-2024 Sydney Water Operating Licence cl 1.2.
- 225 Recommended 2024-2028 operating licence, cl 4.
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- 227 2019-2024 Sydney Water Operating Licence cl 1.4.1.
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- 238 *Sydney Water Act 1994*, s 31(1).
- 239 Recommended 2024-2028 operating licence, cl 40.
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- 241 Recommended 2024-2028 operating licence, cl 41.
- 242 2019-2024 Sydney Water Operating Licence cl 10.3.
- 243 Recommended 2024-2028 operating licence, cl 42.
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- 245 Recommended 2024-2028 operating licence, cl 44.
- 246 2019-2024 Sydney Water Operating Licence cl 1.6.
- 247 Recommended 2024-2028 operating licence, cl 45.
- 248 Recommended 2024-2028 operating licence, cl 46.
- 249 Recommended 2024-2028 operating licence, cl 47.
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- 251 Recommended 2024-2028 operating licence, cl 48.

# Appendices

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Appendix A >>

Recommended changes to the  
Customer Contract



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In this appendix, we explain our recommended changes to the 2019-2024 (current) customer contract.

## A.1 Summary of our recommended changes to the current customer contract

Our recommendations for the customer contract reflect our analysis of:

- the current customer contract
- Sydney Water's legal obligations
- Sydney Water's proposed changes to the current customer contract included in its [response](#) to our Issues Paper, provided on 1 September 2023 and Sydney Water's feedback on our proposed draft customer contract, provided on 8 March 2024
- submissions to the Issues Paper made by Sydney Water and other stakeholders
- information provided by Sydney Water at our request
- our recent review of the Hunter Water Customer Contract 2022-2026
- other relevant information.

In Table 1, we have itemised the clauses of the current customer contract and our recommended changes in the 2024-2028 customer contract. In the table, we have listed all clauses, including where we are recommending no material changes to note where the clause numbers have changed.

The table only explains the material changes we have recommended. It does not explain minor editorial or structural changes that we have proposed to improve readability and clarity.

Table A.1 Summary of our recommended changes to Sydney Water's current customer contract

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
<b>Foreword</b>	<b>Foreword</b>	<b>No material changes proposed to the title.</b>	<b>Nil</b>	<b>N/A</b>
Foreword text	Foreword text	Our recommended changes are to include all the services that Sydney Water provides (including recycled water and trade waste services). Some of these services may be provided under a separate agreement, but they are part of Sydney Water's services.	Nil	No
<b>1. Introduction</b>	<b>1. Introduction</b>	<b>No material changes proposed to the title.</b>	<b>Nil</b>	<b>N/A</b>
1.1 Words used in this Customer Contract	1.1 Words used in this contract	No material changes proposed.	Nil	No
1.2 Understanding the Customer Contract	1.2 Understanding the contract	No material changes proposed.	Nil	No
<b>2. What is this Customer Contract and who is covered by it?</b>	<b>2. What is this contract and who is covered by it?</b>	<b>We recommend changing the title to identify that this is customer contract.</b>	<b>Nil</b>	<b>No</b>
2.1 What is this contract?	2.1 What is this contract?	No material changes proposed.	Nil	No
2.2 Who is covered by this contract?	2.2 Who is covered by this contract?	We recommend removing references to tenants in the Customer Contract. In the current customer contract, this clause explains which parts of the contract apply to tenants. However, we do not consider this an appropriate approach for the Customer Contract. The Customer Contract is between Sydney Water and customers, who are landholders connected to a water main or sewer main owned by Sydney Water, as set out in the Act. It is not intended to include tenants.	Sydney Water raised concerns with this approach when we consulted on it in the draft customer contract. Sydney Water stated that removing definitions or references to the tenants in the customer contract would have flow on impacts to the payment assistance and courtesy repair services that Sydney Water provides and the way that Sydney Water bills some customer types, such as commercial/business customers.	Yes

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
		<p>However, it is still important to ensure that tenants are aware of the rights and protections available to them. We recommend in the operating licence that Sydney Water should be required to publish information on its website specifically targeting tenants explaining how Sydney Water will act in its dealings with tenants who are consumers and explain the matters of the Customer Contract applicable to tenants. This must include, at minimum, the level of detail in the Customer Contract, so that tenants can know all the protections that are available to them. This will be more accessible to tenants than working out which parts of the Customer Contract that apply to them.</p> <p>We recommend that the Customer Contract should refer tenants and other occupiers to the information on Sydney Water's website specifically targeted at them.</p>	<p>We have not proposed that protections that Sydney Water currently provides for its tenants be minimised. On the contrary, we recommend that Sydney Water should publish information that includes all the information in the current customer contract that explains the protections and services available to tenants. Sydney Water can and should publish information about any additional protections and services are available to tenants and in a way that continues to support its own billing systems.</p> <p>Our recommended licence condition does not require Sydney Water to publish this information for all categories of consumers, as defined in the operating licence. It focuses on tenants, which is similar to the approach in the current customer contract.</p>	
2.3 Other agreements with us	2.3 Other agreements with us	<p>This clause of the Customer Contract sets out that Sydney Water may enter into a separate agreement (to the Customer Contract) with customers for services additional to those that are covered by the Customer Contract or for different service levels. We recommend clarifying which of these additional services apply to non-residential customers, and which do for residential customers.</p> <p>The current customer contract states that before entering into a separate agreement with a non-residential customer, Sydney Water will provide the customer with an estimate of the costs to supply the customer with the services requested and advise the customer of any difference from the standards of service set out in this Customer Contract. We recommend that Sydney Water should provide this information to all customers before they enter into a separate agreement to ensure customers are aware before entering into that agreement.</p>	Nil	Yes

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
2.4(1)-(2) When does this Customer Contract commence?	2.4 When does this contract commence?	We recommend clearly stating that the customer contract commences on 1 July 2024. Any amendments to the Customer Contract would need to include commencement date of the amended contract. We also recommend clarifying that while new versions of the Customer Contract replace previous ones, any separate agreements will continue to remain in effect.	Sydney Water raised concerns with specifying the date of commencement of the Customer Contract in case there will be delays with the new operating licence and Customer Contract being granted. However, we consider that the risk of this occurring is low. The current licence and customer contract will expire on 30 June 2024. To enable Sydney Water to continue operating and supplying services to Greater Sydney, the new operating licence will have to be granted by 1 July 2024. We have consulted widely during this licence review and provided regular updates to the Minister's office to enable efficient consideration and approval of our final recommendations before 1 July 2024.  We consider that stating that the customer contract commences on 1 July 2024, rather than more generally stating that it commences on the date that it is granted is more informative for customers using the contract.	No
2.5 When does this Customer Contract end	14.1 Termination of this contract	We recommend clarifying that the Customer Contract will no longer cover customers if they cease to receive services from Sydney Water. This is a drafting change that reflects the status quo operation.	Nil	No
2.6 Variation of this Customer Contract	14.2 Variation of this contract	We recommend clarifying the process by which Sydney Water may vary the Customer Contract and the notice that Sydney Water will provide before making changes to the Customer Contract. This is a non-material drafting change that reflects what Sydney Water is required to do under the <i>Sydney Water Act 1994</i> (NSW).	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
<b>3. What services do we provide?</b>	<b>3. What services does Sydney Water provide?</b>	<b>Minor title changes proposed only.</b>	<b>Nil</b>	<b>No</b>
3.1 Water services	3.1 Water supply services	Minor title changes proposed only.	Nil	No
3.1(1)-(2) Supply of drinking water	3.1.1 Supply of water 3.1.2 Drinking water quality	We recommend separating the current clause 3.1.1 about supply of water to be clear about a customer's rights and obligations for supply of drinking water vs recycled water (discussed below).  We recommend minor changes to the current customer contract to make the words in the Customer Contract consistent with Sydney Water's requirements for managing drinking water quality under the operating licence. That is, Sydney Water will supply customers with drinking water that complies with the Australian Drinking Water Guidelines and any other health-based requirements related to drinking water that NSW Health specifies in writing.	Nil	No – structural changes
3.1(3)-(6) Supply of recycled water	3.1.1 Supply of water 3.1.3 Recycled water quality	We recommend separating the current clause to be clear about a customer's rights and obligations for drinking water vs for recycled water supply.  We recommend minor changes to make the words in the Customer Contract consistent with Sydney Water's requirements for managing recycled water quality under the operating licence. That is, Sydney Water will supply customers with recycled water that complies with the Australian Guidelines for Water Recycling and any other health-based requirements related to recycled water that NSW Health specifies in writing.	Nil	No



Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
3.1(7)-(9) Health or special needs	3.1.5 Health or special needs	<p>We recommend changes to clarify that:</p> <ul style="list-style-type: none"> <li>information about a water allowance that is free of cost for customers who rely on drinking water for health or special needs is available on Sydney Water's website</li> <li>such customers should have other contingencies in place in case of any supply interruptions.</li> </ul> <p>These changes do not materially impact these clauses but seek to increase customers' awareness of the protections available to them if they are especially reliant on a continuous drinking water supply, and of their responsibilities.</p>	<p>In this licence review, we considered changes to the Customer Contract to state that it was the customer's responsibility to notify Sydney Water if they rely on drinking water for health or special needs. Given this is a contract with the customer, outlining the customer's direct responsibilities seems appropriate. However, Sydney Water advised that it is customers' health care providers that contact Sydney Water with this information. Sydney Water then provides the relevant customers with the free water allowance. As this system appears to be working effectively, we recommend that it should be retained with no changes. Increasing these customers' responsibilities is not in their best interest.</p>	No
3.1(10) Drinking water pressure	3.1.4 Drinking water pressure	<p>The current customer contract states that Sydney Water will ensure that the drinking water supplied to customers' properties is at a minimum of 15m head of pressure. We recommend changes to acknowledge that Sydney Water will make every reasonable effort to ensure this, but that this may not be achievable 100% of the time. This is consistent with the water pressure standard in the operating licence that does not require Sydney Water to ensure that 15m of drinking water pressure is supplied 100% of the time.</p>	Nil	No
3.1(11)-(15) Water restrictions	3.4.4 Water restrictions	<p>We recommend modifying the existing clause in the Customer Contract to clarify customers' rights and obligations of Sydney Water and customers when drinking water restrictions are imposed by the Minister. We recommend retaining the current provisions in the Customer Contract, with minor drafting changes. It is important customers are well informed of water restrictions for water conservation measures to be effective.</p> <p>We also recommend including a new provision to clarify that water restrictions will override any inconsistent provisions in the Customer Contract.</p>	Nil	Yes

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
3.1(16)-(17) Emergency notices limiting drinking water use	<i>New</i>	<p>We recommend including a new clause notifying customers that if a disaster event has occurred that has or may affect the drinking water supply, Sydney Water may send customers notices requiring them to limit drinking water usage, which customers must comply with. The notice will include the terms of the limitation including the volume which can be used (if any), the purpose of use, and the period or likely period of the limitation.</p> <p>While this is a material addition to the Customer Contract, we consider that it will not impose substantial burden. Sydney Water already provides alerts for other unplanned service interruptions. This is not substantially different.</p>	Nil	Yes
3.2 Wastewater services	3.2 Wastewater services	No material changes proposed to the title.	Nil	No
3.2(1) Supply of wastewater services	3.2.1 Supply of wastewater services	We recommend clarifying that Sydney Water does not restrict wastewater services because of non-payment of bills or improper use. However, we recommend retaining the right for Sydney Water disconnect wastewater services in some circumstances, as set out in clause 7 of the recommended Customer Contract.	In this review, we considered changing the reference to the discharge of 'domestic wastewater' in this clause to 'residential wastewater' as we consider this more easily understood in plain English. However, Sydney Water provided feedback that this clause covers discharge from commercial buildings where the discharge is similar in nature to residential discharge, though they are non-residential properties. Therefore, we consider that retaining the term 'domestic wastewater' remains appropriate in the Customer Contract.	No
3.2(2)-(3) Wastewater overflow	3.2.2 Wastewater overflow	No material changes proposed.	Nil	No
3.2(4) Sewer mining	3.2.4 Sewer mining and stormwater harvesting	We recommend clarifying that in addition to having a valid agreement with Sydney Water for sewer mining, the customer may need approval from other authorities. Customers can contact Sydney Water for further information and assistance. This change will not materially impact the clause but seeks to provide greater clarity to customers about the approval process for sewer mining.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
3.2(5)-(8) Trade waste services	3.2.3 Trade waste	<p>We recommend non-material changes to clarify that to discharge trade waste into Sydney Water's wastewater infrastructure, customers must have <i>prior</i> written consent from Sydney Water and, where required, have a separate trade waste agreement. If they do, the customer must discharge in accordance with Sydney Water's trade waste acceptance standards (published on its website) and/or the terms of the separate agreement.</p> <p>Further, we recommend that the Customer Contract should be clear that Sydney Water will not accept trade waste if by accepting it Sydney Water will be at risk of breaching its environmental protection licences issued under the <i>Protection of the Environmental Operations Act 1997</i> (NSW) (as well as its operating licence, the <i>Sydney Water Act 1994</i> or any other relevant legislation).</p>	Nil	No
3.3(1)-(3) Stormwater services  3.3(4) Stormwater harvesting	3.3 Stormwater services	We recommend dividing stormwater services into 2 separate clauses: Stormwater services and Stormwater harvesting. This will more clearly distinguish between the stormwater services that Sydney Water provides, versus when customers take stormwater from Sydney Water's stormwater drainage system, and the requirements on customers associated with both.	Nil	No
<b>4. Factors affecting service</b>	<b>3.4 Factors affecting service</b>	<b>We recommend separating Factors affecting service into its own section.</b>	<b>Nil</b>	<b>No</b>
4.1(1)-(3) Unplanned interruptions	3.4.2 Unplanned interruptions	We recommend clarifying that Sydney Water will provide information about unplanned service interruptions on its website and customers can subscribe for water outage alerts impacting their property. Sydney Water's website allows customers to check if there are any current service outages by typing in their residential address.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
4.2(1)-(4) Planned interruptions	3.4.3 Planned interruptions	<p>We recommend clarifying that Sydney Water will provide at least 2 days written notice of any planned service interruptions to residential customers, consistent with our recommendations for the operating licence. Similarly, we recommend clarify that Sydney Water will provide 7 days written notice to non-residential customers.</p> <p>Further, we recommend that by 1 February 2025, Sydney Water should be required to provide information about planned service interruptions on its website and customers can subscribe for water outage alerts impacting their property.</p>	We understand that Sydney Water is considering updates to its website to list areas where work is planned and there are going to be planned service interruptions and this is expected to be completed before 1 February 2025.	No
4.3 Force majeure	<i>New</i>	<p>We recommend including a new clause clarifying that Sydney Water's services may be affected by events beyond Sydney Water's control such as severe weather conditions and natural disasters.</p> <p>We consider that this is a non-material addition that does not change the status quo.</p>	Nil	No
<b>5. What you pay</b>	<b>4. What you pay</b>	<b>No title changes proposed.</b>	<b>Nil</b>	<b>N/A</b>
5.1 How charges are set	4.9 How prices are determined	<p>We recommend including wording which identifies that charges will be varied on a daily 'pro-rata' basis. This change will account for mid-cycle changes to the billing amounts.</p> <p>We have also recommended including a provision that a customer may be entitled to an exemption from service charges based on the use of their land. This is not a new inclusion. It is contained in another part of the current customer contract. We recommend stating this here so that customers looking at the Customer Contract for information about payment have all the information that they would need in one place.</p>	Nil	No – structural change

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
5.2 Publication of charges	4.2 Publication of charges 4.10 Notification of price variations	<p>We recommend clarifying that Sydney Water will provide information about charging policies, current charges and concessions free of charge. We also recommend that this should be provided in in languages other than English (i.e. in Mandarin, Cantonese, Arabic, Vietnamese and Hindi, which the last census demonstrated are the top 5 most commonly used languages in Sydney other than English). Sydney Water already provides this information on its website under the current customer contract. If Sydney Water does not already provide this information in other languages, this may be a material change, however, we consider that it is a beneficial one.</p> <p>We recommend clarifying that Sydney Water will publish any variations of its charges on its website and provide that information to customers with their bills, so that they are aware that the variation is occurring and when it will take effect. This is already contained in the current customer contract and is not a new addition. However, we note it here as we have recommended restructuring the Customer Contract so all relevant clauses about publishing information about charges are together. This makes it easier for customers to locate the information that they seek.</p>	Nil	Yes
5.3 Responsibility to pay the bill	4.1 Responsibility to pay the account	We recommend clarifying that new property owners must pay any outstanding charges for water supply to the land. We consider that this is not a material change as this clarifies current expectations.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
5.4 Concessions	4.3 Concessions	<p>We recommend clarifying that Sydney Water will provide information about a customer's eligibility for a concession free of charge and in languages other than English (i.e. in Mandarin, Cantonese, Arabic, Vietnamese and Hindi). This is available in English on Sydney Water's website.</p> <p>We also recommend including a new provision which provides that by applying for a concession, the customer is authorising Sydney Water to make enquiries with external authorities to confirm their eligibility. We consider that it is important to make customers aware of this process before it occurs.</p>	In this licence review, we considered whether Sydney Water should apply any concessions retrospectively from the beginning of a billing cycle, if they are granted mid-way through the cycle. However, Sydney Water explained that this would require substantial changes to their current billing system and result in significant costs. Given these costs are ultimately borne by customers, we recommend no changes to the current customer contract which states that concessions are applied from the beginning of the next billing cycle. As each billing cycle is only 3 months in duration, we consider that the benefits of applying a concession earlier does not outweigh the costs.	Yes
5.5 Your bill	4.4 Your bill	No title changes proposed	Nil	N/A
5.5(1)-(3) When will your bill be sent?	4.4.1 When will your bill be sent?	<p>We recommend clarifying that Sydney Water will issue bills to all customers every 3 months as a norm, before explaining that Sydney Water may issue non-residential customers with monthly bills for high water usage and wastewater disposal.</p> <p>This is a non-material change to clarify the status quo.</p>	Nil	No
5.5(4) What information is on your bill?	4.4.2 What information is on your bill	We recommend that customer bills also include the most recent meter reading (where the property has an individual meter) in addition to the information that Sydney Water's current customer contract already states will be included. We consider that it is important that customers can see that their water bill matches their recorded water usage, on their bill. We consider that this is a non-material change as Sydney Water already reads the meters. The change is so that the customer's bills include that information for transparency about charges.	Nil	Yes
5.5(5)-(8) How bills are issued?	4.4.3 How bills are sent	We recommend changes to the current customer contract to clarify for customers who have chosen to receive electronic bills and other communications, that if an email cannot be delivered, the customer's bill will sent to the postal address that Sydney Water has on record.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
		<p>We also recommend clarifying that once a bill is sent to the customer, either electronically or by post, it is considered delivered. Therefore, it is the customer's responsibility to ensure that Sydney Water has their accurate contact details on record.</p> <p>We consider that these changes are non-material and clarify current arrangements. They do not substantially change the status quo.</p>		
5.6 How can payment be made?	4.4.4 How to make a payment	<p>We recommend clarifying that information about how customers can pay their bills will be contained in their bill and on Sydney water's website. This is to ensure that customers are aware of the options available to them. Ensuring customers are aware of their options is important, particularly if they are dissatisfied with the service levels or require payment assistance. It allows customers to make informed financial choices which do not negatively disadvantage them. We consider that this is a non-material change because Sydney Water already provides information on its website and with customer bills.</p> <p>We recommend clarifying that Sydney Water will not accept payment if it suspects that the customer is using fraudulent or unauthorised means.</p> <p>Finally, we also recommend clarifying here that if Sydney Water incorrectly processes a payment, it will reverse the payment to the customer and will notify the customer. This is not a new inclusion. It is contained in another part of the current customer contract. We recommend stating this here so that customers looking at the Customer Contract for information about payment have all the information that they would need in one place.</p>	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
5.7 Dishonoured or declined payments	4.11.1 Dishonoured or declined payments	We recommend changes to clarify that if a customer's payment is declined or dishonoured, Sydney Water will charge an administration fee consistent with the maximum charge specified by IPART. This is not a material change as Sydney Water already charges an administration fee. Our proposed change is to clarify that the maximum fee will be charged.	Nil	No
5.8 Overdue account balances	4.4.5 Overdue account balances  6.10 Cost for debt recovery activities	<p>We recommend clarifying that any interest that Sydney Water may charge customers for overdue account balances, will accrue daily, commencing on the first day after the bill due date until the date that the customer pays the bill. This is a non-material change. Sydney Water's current customer contract states that interest will be charged. Our proposed change clarifies how it will be charged. We recommend clarifying that customers on a payment arrangement with Sydney Water due to payment difficulties are not charged interest if they are honouring that arrangement.</p> <p>We also recommend clarifying here that if customers do not pay their bill on time, Sydney Water will send them a reminder notice. If the customer fails to comply with the reminder notice, Sydney Water may take legal action to recover the debt and/or restrict or disconnect the customer's drinking water service. However, Sydney Water will not take recovery action or restrict/disconnect services where the customer has entered into a payment arrangement and is honouring that arrangement. This is not a new clause. It is currently contained in other parts of the current customer contract. We recommend stating this here so that customers looking at the Customer Contract for information about payment have all the information that they would need in one place.</p>	During this licence review, we considered that Sydney Water should take the customer's payment history into account before sending payment reminders. That is, customers with good payment history should not be sent a payment reminder as soon as their payment is late, they should be allowed a grace period to make the payment. However, Sydney Water explained that its current billing system is not set up to accommodate this. We consider that the benefits to customers of our proposed approach may not outweigh the costs. Customers are able to contact Sydney Water if they cannot make payments to avoid recovery actions. Delaying the reminder notice does not provide substantial additional benefit.	No



Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
		Finally, we recommend including a note for customers experiencing family violence to contact Sydney Water to understand special payment allowances available to them. In the operating licence, we have recommended that Sydney Water must provide allowances for customers experiencing family violence to miss some payments without charging them late or dishonoured payment fees, taking legal action or restricting/disconnecting their services.		
5.9 Undercharging	4.5 Undercharging	We recommend updating the list of circumstances where the customer would be required to immediately pay the correct amount for a previously undercharged bill to include when customers have not provided up-to-date information about a change of use of the property or number of dwellings on the property. We consider that this is a non-material change that will provide greater clarity on the circumstances when customers must immediately pay undercharged bills.	Nil	No
5.10 Overcharging	4.6 Overcharging	We recommend including a provision to set out the circumstances where Sydney Water would not apply a credit to a customer bill, after the customer has been overcharged. We consider this is a non-material change that seeks to clarify that Sydney Water would not correct an overcharged amount if the fault was with the customer. It does not substantially change the status quo.	Nil	No
5.11 Account queries and billing disputes	4.7 Billing dispute	We recommend clarifying the conditions relating to account queries and disputes to ensure that customers are aware that they must raise disputes about bills directly with Sydney Water, and then pay the amount determined in Sydney Water's favour once the dispute has been resolved. We consider that these are non-material changes that do not substantially change the status quo.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
5.12 Wastewater usage charge	4.8 Wastewater usage charges	We recommend clarifying how wastewater usage discharge factors will be applied to determine wastewater usage charges for non-residential customers that do not have a wastewater meter. We consider that these are non-material changes that do not substantially change the status quo.	Nil	No
5.13 Costs for installing and connecting to our systems	4.11.3 Costs for installing and connecting services	We recommend clarifying that when the Customer Contract states that customers are responsible for all costs associated with an authorised connection to Sydney Water's infrastructure, this includes construction of the works necessary to connect from the customer's property to Sydney Water's water infrastructure. We consider that these are non-material changes that do not substantially change the status quo.	Nil	No
5.14 Charges for other matters	4.11.4 Charges for other services	No material changes proposed.	Nil	No
<b>6. What you can do if you are unable to pay your bill</b>	<b>5. What can I do if I am unable to pay my bill?</b>	<b>No material changes proposed.</b>	Nil	<b>No</b>
6.1 Payment difficulties and assistance options	5.1 Payment difficulties and assistance options for all customers  5.2 Payment arrangements	We recommend changes to the current customer contract to direct customers to notify Sydney Water if they are unable to meet their scheduled payment plan to renegotiate the payment plan and prevent recovery action. We also recommend reiterating here that Sydney Water will not take actions to remedy non-payment if the customer is on a payment arrangement and honouring that arrangement.	In this licence review, we considered Sydney Water's view that it is important that tenants are recognised in the Customer Contract to outline the payment assistance options available to them. However, we consider that this is better communicated in information specifically targeted at tenants, in plain English.	Yes

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
		The recommended clause explains the rights and protections available to customers facing payment difficulty. The current customer contract explains here which protections are available to tenants. As we recommend that the Customer Contract should not include references to tenants, Sydney Water should explain the protections for tenants in separate information published on its website. We do not recommend any reduction in protection to tenants that Sydney Water already provides under the current customer contract.		
<b>7. Restriction or disconnection of services</b>	<b>6. Restriction or disconnection of water supply and wastewater services</b>	<b>No material changes proposed.</b>	Nil	<b>No</b>
7.1 Restriction or disconnection of services for non-payment	<p>6.1 Restriction or disconnection</p> <p>6.2 Notice of restriction or disconnection of supply of water for non-payment by customers</p> <p>6.3 Conditions for restriction or disconnection of supply of water for non-payment by customers</p> <p>6.5 Occupiers (tenants) may pay charges to avoid restriction or disconnection</p> <p>6.7 Limitations on restriction or disconnection</p>	<p>The recommended clause refers to Sydney Water's restriction or disconnection process if customers do not pay for their services. Sydney Water will only restrict or disconnect customers' water services due to non-payment.</p> <p>The current customer contract explains that Sydney Water will send a reminder notice if customers fail to pay their bills by the due date, and then a restriction or disconnection notice that it will restrict or disconnect the property's water service if the customer has still not paid after receiving the reminder notice. We recommend minor structural changes to the Customer Contract so that information about the payment reminder notice is contained in clause 5.8 of the recommended Customer Contract which explains customer's responsibilities for overdue payments. Clause 7.1 of the recommended Customer Contract focuses on the restriction or disconnection notice of water services for non-payment.</p>	Nil	No – this clarifies intent and includes additional details about the notices but does not substantially change the status quo. Sydney Water's payment assistance policy sets this out.

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
		<p>We recommend clarifying here that if Sydney Water intends to restrict or disconnect a property it knows is tenanted, Sydney Water will send the restriction or disconnection notice to both the nominated address it has on record as well as the occupied property. This provides the tenant the opportunity to make payments to avoid restriction or disconnection as permitted under the Act. We recommend clarifying that if Sydney Water has still not received payment, from either the property owner or tenant, 10 business days after it has issued the notice, Sydney Water may restrict or disconnect water services to the property.</p> <p>These are non-material changes to clarify the status quo.</p>		
7.2 Restriction or disconnection of our services for other reasons	6.4 Restriction or disconnection for other reasons	<p>We recommend clarifying all the circumstances where Sydney Water may restrict or disconnect services. This includes disconnection of wastewater services.</p> <p>We recommend including the following reasons that customers' services may be disconnected, in addition to what is already set out in the current customer contract:</p> <ul style="list-style-type: none"> <li>• if customers connect their stormwater pipes to Sydney Water's wastewater infrastructure</li> <li>• if serious health or environmental risk is posed by backflow of any substance from a customer's water infrastructure into Sydney Water's network</li> <li>• if the customer is a corporation and a non-residential customer and an insolvency event occurs.</li> </ul> <p>We also recommend including new provisions to specify that Sydney Water may:</p> <ul style="list-style-type: none"> <li>• restrict or disconnect services if at least 5 business days have passed since it issued the notice and the issue has not been resolved to its satisfaction, and</li> <li>• disconnect services without giving notice if it considers a delay would pose a serious risk to its systems, public health or the environment.</li> </ul>	Nil	Yes

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
7.3 Occupiers (tenants) may pay charges to avoid restriction or disconnection	6.5 Occupiers (tenants) may pay charges to avoid restriction or disconnection	We have made some minor drafting changes but have not proposed to amend the substance of this provision.	Nil	No
7.4 Minimum drinking water flow rate	6.6 Minimum flow rate during restriction	No material changes proposed.	Nil	No
7.5 Limitations on restriction or disconnection	6.7 Limitations on restriction or disconnection	We recommend minor changes to clarify the circumstances where Sydney Water will not restrict or disconnect its services.  This clause applies to all actions for restriction or disconnection, regardless of the reason for such action.	Nil	No
7.6 Disconnection by a customer	6.8 Disconnection by a customer	We recommend minor changes to clarify that customers can only disconnect from Sydney Water's services after a customer, or their licensed plumber, have provided 10 business days' notice, disconnecting would not prevent access to or delivery of Sydney Water's services to other parties connected to a joint privately-owned service, and returned any Sydney Water infrastructure (e.g. meters). We recommend retaining the other conditions contained in the current customer contract.  We consider that these are non-material changes to clarify expectations of customers and they do not substantially change the status quo.	Nil	No
7.7 Restoration of water services	6.9 Restoration of water supply after restriction or disconnection	We recommend clarifying that Sydney Water will make reasonable efforts to restore drinking water services on the same business day, if the customer meets the requirements set out in this clause before 3PM. If the required conditions are met after 3PM, and Sydney Water cannot meet the suggested timeframe, Sydney Water will restore services the next business day.  We recommend clarifying that arrangements for restoring recycled water will be agreed between Sydney Water and the customer.	In this licence review, we considered conditions for restoration of wastewater services. However, Sydney Water explained that it would typically only disconnect wastewater services when it is no longer required or not appropriate, as it is not easy to reconnect wastewater services, once disconnected. Therefore, this clause only relates to restoration of water services.	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
		We consider that these are non-material changes to clarify Sydney Water's current process. They do not substantially change the status quo.		
<b>8. Responsibilities for connections, maintenance and repair</b>	<b>8. Responsibilities for maintenance</b>	<b>We recommend including the words 'connection' and 'repair' in the title because this section of the Customer Contract also deals with connecting, and the repair of, infrastructure.</b>	Nil	<b>No</b>
8.1 Diagrams	8.3 System diagrams	No material changes proposed.	Nil	No
8.2 Our responsibilities regarding our systems	8.1 Water pipes 3.4.1 Repairs and maintenance	No material changes proposed - this clause clarifies that Sydney Water is only responsible for maintaining and repairing its own infrastructure.	Nil	No
8.3 Your responsibilities regarding your water systems	8.1 Water pipes	We recommend structural changes to the current customer contract to clarify customers' responsibilities for maintaining and repairing their own water systems (including both drinking water and recycled water systems). Infrastructure downstream of a customer's connection point to Sydney Water's infrastructure is not Sydney Water's property or responsibility. We recommend clarifying that the customer's water system may extend beyond their property boundary.  This is not a material change. It clarifies customers' responsibilities under the current customer contract. It does not add burden on customers.	Nil	No
8.4 Our courtesy repair for your water system	8.1 Water pipes	We recommend structural changes to the current customer contract to clarify the circumstances when Sydney Water may investigate and repair any failures of a customer's water infrastructure (i.e. it is not Sydney Water's infrastructure), free of charge, and the circumstances it will not undertake free repairs. The changes we have recommended seek to increase readability and ease of understanding without adding burden on customers.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
8.5 Your responsibilities regarding your wastewater system	8.2 Wastewater pipes	We recommend structural changes to the current customer contract to clarify customers' responsibilities for maintaining and repairing their own wastewater infrastructure. Infrastructure downstream of a customer's connection point to Sydney Water's infrastructure is not Sydney Water's responsibility. This is not a material change. It clarifies customers' responsibilities under the current customer contract. It does not add burden on customers.	Nil	No
8.6 Our courtesy repair service of a collapse in your wastewater system	8.2 Wastewater pipes	We recommend structural changes to the current customer contract to clarify the circumstances when Sydney Water may repair collapsed wastewater pipes that form part of a customer's wastewater system (i.e. it is not Sydney Water's infrastructure), free of charge. We recommend a new clause clarifying that any free repairs that Sydney Water may undertake for customers' wastewater systems is only available to residential customers (at Sydney Water's discretion). We consider that this is also a non-material change that clarifies the status quo.	Nil	No
8.7 Pressure sewerage equipment	8.4 Pressure sewerage equipment	We have only proposed non-material changes to clarify to customers what pressure sewerage equipment is.	Nil	No
8.8 Private joint services	8.5 Private joint water or wastewater pipes	No material changes proposed.	Nil	No
8.9 Your responsibilities regarding stormwater drainage systems	8.6 Stormwater connections, coverings and bridges	No material changes proposed (other than the title change).	Nil	No
8.10 Water efficiency	8.7 Water efficiency	We recommend changes to clarify that for non-residential properties connected to Sydney Water's wastewater infrastructure, Sydney Water may require the wastewater discharge to be metered where rainwater tanks with a volume exceeding 20,000 L is used to supply plumbing facilities.	Nil	Yes
8.11 Notify us of system failures	8.9 Giving notice of system failures	No material changes proposed.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
8.12 Removal of trees	8.13 Removal of trees	No material changes proposed.	In this licence review, we considered a minor change to specify that Sydney Water will give customers 10 business days' written notice if it requires them to remove trees. The current customer contract states that Sydney Water will give customers notice to remove trees within a 'reasonable period'. We concluded that the current drafting remains in the customer's best interests as the time needed to remove trees can vary.	No
8.13 Defects with your systems	8.8 Defective work	We recommend minor changes to clarify that Sydney Water will provide customers notice to fix defects in the customer's systems that impacts or poses risks to Sydney Water's systems within a reasonable time. However, Sydney Water may restrict or disconnect the customer's systems without this notice if the defect with the customer's system presents a risk to Sydney Water's people or its infrastructure. We consider that this is a non-material change that clarifies the status quo.	Nil	No
8.14 Building, landscaping and other construction work	8.10 Building work	<p>We recommend changes to the current customer contract to clarify the conditions for customers undertaking building works on their properties, where these works may have an impact on Sydney Water's services or access to services. If customers do not comply with this, those works will be considered unauthorised works. Sydney Water may remove unauthorised works and charge customers for the cost of that work.</p> <p>We also recommend changes to clarify that Sydney Water may require customers to remove work on a customer's property that interferes with Sydney Water's infrastructure at the customer's cost, even if those works existed prior to the customer acquiring ownership of the property. We consider that this is a non-material change to clarify Sydney Water's expectations and it does not change the status quo.</p>	Nil	No



Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
<b>9. Authorised and unauthorised connections</b>	<b>8. Responsibilities for maintenance</b>	<b>We recommend separating the clauses of the Customer Contract that deal with unauthorised connections specifically for ease of understanding</b>	<b>Nil</b>	<b>No</b>
9.1 Authorised connections	8.11 Connections to services	<p>We recommend clarifying that customers must apply to Sydney Water for approval to connect their property to Sydney Water's systems. If customers connect without Sydney Water's approval, or without complying with the requirements of Sydney Water's connection approval, this would be an 'unauthorised connection'.</p> <p>Properties that were connected to Sydney Water's network before Sydney Water's connection requirements came into effect are still authorised connections. We have clarified this in our recommended definition for 'authorised connection'.</p>	During the Review, Sydney Water advised that there are properties in its area of operations that are connected to its network, and provided with services, that pre-date Sydney Water and these connection requirements. These should not be considered unauthorised connections. We have reflected this feedback in our recommended definition for the term 'authorised connection'.	Yes
9.2 Unauthorised connections	<i>New</i>	<p>We recommend clarifying that Sydney Water may request customers to rectify unauthorised connections, if identified. This means that customers must apply for connection approval and ensure that the connection is consistent with Sydney Water's requirements. If customers do not do this, Sydney Water may restrict or disconnect their services. Sydney Water may also do this without notice if the unauthorised connection presents a health or physical hazard to its people, systems, or the community.</p> <p>We consider that this is a non-material change to clarify Sydney Water's expectations and it does not change the status quo.</p>	Nil	Yes
9.3 Altering and unauthorised connection or use	8.12 Altering connections and unauthorised connection or use	No material changes proposed.	Nil	No
<b>10. Entry onto your property</b>	<b>9. Entry onto a customer's property</b>	<b>No material changes proposed.</b>	<b>Nil</b>	<b>No</b>
10.1 Access to our systems	9.1 Access to Sydney Water's systems	We recommend minor changes to clarify all the circumstances where Sydney Water may need access to a customer's property.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
10.2 Our identification and authorisation	9.2 Identification	We recommend minor changes to clarify that Sydney Water must provide identification and a certificate of authority to a customer when entering their property, consistent with the requirements of the <i>Sydney Water Act 1994</i> (NSW). The identification and certificate of authority can be contained in the same document.	Nil	No
10.3 Notice of property access	9.3 Notice of access	We recommend clarifying the circumstances when Sydney does not need to provide notice of entry to their property where they are not required to under law. We recommend removing the following reasons for not providing notice of entry from the current customer contract to align the Customer Contract better with the <i>Sydney Water Act 1994</i> (NSW): <ul style="list-style-type: none"> <li>to fit, exchange or maintain a water meter</li> <li>to conduct a water restriction investigation on the property</li> <li>to investigate a non-urgent health or safety issue</li> <li>to conduct a general property inspection such as verifying connection installation, meter, plumbing or a backflow prevention device inspection.</li> </ul>	Nil	Yes
10.4 Impact on customer's property	9.4 Impact on customer's property	No material changes proposed.	Nil	No
<b>11. Water meters and backflow prevention</b>	<b>10. Water meter reading, installation, testing and maintenance</b>	<b>No material changes proposed.</b>	<b>Nil</b>	<b>No</b>
11.1 Installing and maintaining the water meter	10.1 Installing and maintaining a meter	We recommend changes to further clarify customers' responsibilities around water meters. This will ensure that customers do not reduce Sydney Water's access to these meters unknowingly or otherwise obstruct accurate metering of their water usage.	Nil	Yes
11.2 Backflow prevention devices	10.1 Installing and maintain a meter	We recommend making a structural change only to separate provisions relating to fitting an approved backflow prevention device from the clause in the current customer contract...	Nil	No – structural only

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
11.3 Access to the water meter	10.4 Access to the water meter	<p>We recommend clarifying that Sydney Water may enter a customer's property to read a meter, but not to test, inspect, maintain or replace the meter as set out in the current customer contract to better align the Customer Contract with the <i>Sydney Water Act 1994</i> (NSW).</p> <p>We recommend clarifying that Sydney Water may charge customers a fee for installing digital water meters. This incorporates the new technology Sydney Water is using and allows Sydney Water to recover costs associated with installation if necessary.</p>	Nil	Yes
11.4 Measuring water supply	10.2 Measuring water supplied	No material changes proposed.	Nil	No
11.5 Meter testing	10.3 Meter testing	<p>We recommend changes to clarify that customers must pay for meter testing where they suspect that the meter is not accurately recording. We consider that this is a non-material change to clarify Sydney Water's expectations and it does not change the status quo.</p> <p>We have also adjusted the threshold for over-recording to 4%. We have retained the provisions in the current customer contract that where this threshold is met, Sydney Water will repair or replace the water meter, refund the costs of the test and recalculate the bill.</p>	Nil	No
11.6 Meter replacement	10.5 Meter replacement	<p>We recommend changes to clarify that customers may be required to pay for the costs of replacing stolen meters. Further, we recommend clarifying that customers must fix any pipework on either side of the meter damaged during the theft before the meter is replaced. As set out in clause 11.1(4), customers are responsible for the pipework on either side of the meter.</p> <p>We have also recommend including wording which clarifies the metering requirements in multi-level buildings and the replacement of a meter in the case of theft.</p>	Nil	Yes
<b>12. Redress</b>	<b>7. Redress</b>	<b>No material changes proposed.</b>	<b>Nil</b>	<b>No</b>
12.1 Notification	7.1 Notification	No material changes proposed.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
12.2(1)-(4) Rebates	7.2 Rebates	We recommend minor changes to clarify when customers are eligible for rebates. We also recommend clarifying that the rebates in the Customer Contract represent the rebate for the first year of the contract, and they will increase in line with CPI annually for the duration of the Customer contract.	Nil	No
12.2(5)-(6) Unplanned interruptions	7.2.2 Unplanned interruption 7.3 Rebates for recurring unplanned interruptions	We recommend increasing the rebates to customers for the first and 2 <sup>nd</sup> unplanned water interruptions exceeding 5 hours that they may face in a 12-month rolling period to \$46 per event, reflecting customer expectations, expressed to Sydney Water in 2023. We also recommend clarifying that these rebates are for interruptions to the drinking water supply only. Customers will have access to drinking water if there is only an interruption to recycled water supply.	Nil	No – only the value of the rebate has changed. The clause is substantially the same.
12.2(7) Planned interruptions	7.2.1 Planned interruption	We recommend increasing the rebate to \$23 per planned interruption faced by the customer, reflecting customer expectations, expressed to Sydney Water in 2023. We also recommend clarifying that these rebates are for interruptions to the drinking water supply. Customers will have access to drinking water if there is only an interruption to recycled water supply.	Nil	No – only the value of the rebate has changed. The clause is substantially the same.
12.2(8)-(9) Low water pressure	7.2.3 Low water pressure	We recommend a minor change to increase the rebate to \$46 for one low water pressure event experienced by a customer in a quarter, reflecting customer expectations, expressed to Sydney Water in 2023.  We also recommend clarifying that these rebates are for interruptions to the drinking water supply pressure only. Customers will have access to drinking water if there is only an interruption to recycled water supply pressure.	Nil	No – only the value of the rebate has changed. The clause is substantially the same.

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
12.2(10)-(12) Wastewater overflows	7.2.4 Wastewater overflow 7.4 Rebates for recurring wastewater overflows	We recommend a minor change to increase the rebate to \$87 for the first wastewater overflow event experienced on a customer's private property and a rebate of \$174 after the second event in a rolling 12-month period, reflecting customer expectations, expressed to Sydney Water in 2023.	Nil	No – only the value of the rebates has changed. The clause is substantially the same.
12.2(13)-(14) Discoloured water	7.2.5 Dirty water	We recommend increasing the rebate for discoloured water to \$46. However, unlike currently, where it is paid for every time a customer experiences such an event, customers will only get rebates for one event per quarter. This reflects customer expectations and we consider that this is reasonable given discoloured water is not, on its own, a substantial health risk.  We also recommend clarifying that Sydney Water will investigate the discoloured water event before providing the rebate as rebates will not be provided if the fault is with the customer's water system.	Nil	Yes
12.2(15) Boil water alerts	7.2.6 Boil water incidents	We recommend a minor change to increase the rebate for boil water alerts to \$58, reflecting customer expectations, expressed to Sydney Water in 2023.	Nil	No – only the value of the rebates has changed. The clause is substantially the same.
12.2(16) Exception for disaster events	7.5 Exception for disaster events	We recommend clarifying that the existing exception for rebates discussed above does not apply during disaster events. We consider that this is a non-material change that does not change the status quo.	Nil	No
12.3 Forms of redress	7.6 Redress	No material changes proposed. We recommend clarifications about when customers may be entitled to redress, how they should refer matters about redress to Sydney Water and what they should do if they are not satisfied with the forms of redress offered by Sydney Water. We consider that this is a non-material change that does not change the status quo.	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
12.4 Claim for monetary compensation	7.7 Claim for damages	<p>We recommend changes to allow Sydney Water greater flexibility in dealing with claims from customers for monetary compensation. Under the current customer contract, Sydney Water provides customers an estimate of when an investigation related to their claim may be resolved and by that date, will notify them of the outcome of that investigation.</p> <p>We recommend that the Customer Contract should be clear that Sydney Water will advise customers about the outcome of the investigation once it has been completed.</p> <p>To protect customers from investigations being extended indefinitely without Sydney Water undertaking adequate steps to resolve the matter, we recommend stating the Sydney Water will provide customers regular updates with the first update within 30 days of receiving the customer's claim. Further, Sydney Water will provide customers with a claim reference number to track the status of their claim.</p> <p>If customers are not satisfied with Sydney Water's decisions, they can seek a review (either an internal review or refer it for an external review).</p>	Nil	Yes
12.5 Guarantees and assurance	7.8 Guarantees and assurances	No material changes proposed.	Nil	No
<b>13. What you can do if you are unhappy with our services</b>	<b>12. If I am unhappy with the service provided by Sydney Water what can I do?</b>	<b>No material changes proposed.</b>	<b>Nil</b>	<b>Nil</b>

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
13.1 Customer complaints	12.1 Customer complaints	We recommend changes to clarify that Sydney Water will make every reasonable effort to resolve customers' complaints as soon as possible. Sydney Water will provide customers with a case identification number to track their complaints. We consider that this is not a material change but will promote accountability to customers.	During the Review, we considered clarifying that Sydney Water will resolve customers' complaints within 3 months. However, to prevent Sydney Water from being non-compliant with its responsibilities under this Customer Contract, we concluded that prescribing a time limit to resolve complaints would have unintended consequences. While Sydney Water should use its best endeavours to resolve the complaint quickly, there may be circumstances when complaints can take longer. Complaints are not a significant known issue about Sydney Water that needs resolving.	No
13.2 Complaints review	12.2 Complaints review	No material changes proposed.	Nil	No
13.3 Resolution of complaints	12.3 Resolution of complaints	We recommend changes to clarify that a complaint will be considered resolved by Sydney Water if it has been resolved through an external dispute resolution process. This is a non-material change that does not substantially change the status quo.	Nil	No
13.4 External dispute resolution	12.4 External dispute resolution	<p>We recommend clarifying that customer should try to resolve issues and complaints with Sydney Water before escalating the matter to the external dispute resolution service provider. Currently that provider is the Energy and Water Ombudsman NSW (EWON). We also recommend including a note that Sydney Water may become a member of an alternative service provider with IPART's approval to reflect our recommendation for the Customer Contract. If an alternative scheme is approved, Sydney Water will update the Customer Contract to explain which service customers can contact to escalate their complaints.</p> <p>We recommend clarifying in the Customer Contract that customers can choose whether or not to accept EWON's decision. If they decide to accept it, then the decision will be final and binding on Sydney Water, but if they do not accept it, Sydney Water is not bound by the decision.</p>	Nil	No

Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
<b>14. Who you should contact</b>	<b>11. Who can I speak to if I have any questions or want to make enquiries</b>	<b>No material changes proposed.</b>	<b>Nil</b>	<b>No</b>
14.1 Emergency assistance (faults and leaks assistance)	11.4 Leaks and faults assistance	No material changes proposed. We have proposed some minor structural changes.	Nil	No
14.2 General enquiries	11.1 Telephone enquiries	No material changes proposed. We recommend clarifying the ways that customers can contact Sydney Water and access its services over the telephone or internet.	Nil	No
	11.2 Internet enquiries	No material changes proposed. We recommend clarifying the types of information customers can find on Sydney Water's website.	Nil	No
	11.3 Written enquiries	No material changes proposed.  We recommend that Sydney Water should provide a service request number for customers to call to follow up on written enquiries.	Nil	No
14.3 Free interpreter and TTY services	11.5 Interpreter and TTY services	We recommend minor changes to provide information on the types of services available for customers with a hearing or speech impairment and how they can access them.	Nil	No
<b>15. Consultation, information and privacy</b>	<b>13. Consultation, information and privacy</b>	<b>No material changes proposed.</b>	<b>Nil</b>	<b>No</b>
15.1 Community involvement	13.1 Involving customers in service planning	We recommend minor changes to remove specific references to using Sydney Water's "Customer Council" for customer engagement. Instead, the Customer Contract should generally state that Sydney Water will engage with its customers and the community on issues relevant to its programs, services and decision-making processes, consistent with the less prescriptive approach we have recommended for the operating licence.	Nil	No
15.2 Providing information	13.2 Providing information	No material changes proposed.	Nil	No



Clause in the recommended 2024-2028 Customer Contract	Clause in current 2019-2024 Customer Contract	IPART's recommended changes to the current customer contract	Relevant matters that informed our recommendations for the 2024-2028 Customer Contract	Do we consider this a material change?
15.3 Privacy	13.3 Privacy 4.12 Exchange of information	<p>We recommend non-material changes to clarify Sydney Water's use of electronic communications with customers. The change acknowledges that customers may choose to be contacted electronically and it provides information on the conditions Sydney Water can communicate using this method. Customers may also opt out of receiving certain electronic communications.</p> <p>We recommend moving the clause detailing the exchange of information under related clauses on privacy. We have proposed minor changes which clarify which authorities qualify under the exchange of information.</p>	Nil	No
<b>16. Definitions, interpretation and policies</b>	<b>15. Definitions and Interpretation</b>	<b>We have recommended definitions in this clause to reflect all the terms used in the draft recommended Customer Contract</b>	<b>Nil</b>	<b>Yes</b>
Appendix A. Operation and maintenance obligations for pressure sewerage equipment	Appendix A. Operations and Maintenance Obligations for Pressure Sewerage Equipment	We have recommended clarifications about Sydney Water's and customers' responsibilities for pressure sewerage equipment.	Nil	Nil
Appendix B. Diagrams	Appendix B. System Diagrams	We have incorporated Sydney Water's updated diagrams in the recommended customer contract.	Nil	Nil

Appendix B >>

Cost-benefit analysis

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In this appendix, we have discussed our conclusions of the cost-benefit analysis (CBA)

## B.1 Water quality, system performance standards and asset management

### B.1.1 Drinking and recycled water quality management

We consider that the benefit of requiring consistency with the Australian Drinking Water Guidelines when managing the quality of drinking water supplied to customers outweighs the costs.

We have not been able to conclude quantifiably that the benefits of supplying recycled water to customers outweighs the costs. However, our qualitative analysis concludes that the operating licence should include recycled water quality standards to meet the requirements of the *Sydney Water Act 1994* (NSW) (the Act) and because recycled water is not regulated elsewhere.

In the 2019 review of the 2019-2024 Sydney Water operating licence (current licence), we assessed the costs and benefits of retaining the conditions setting the drinking and recycled water quality standards in the operating licence against the costs and benefits of the counterfactual. As including water quality standards in the operating licence is required by the Act, the counterfactual would not be to remove them, but to recommend alternative water quality standards to the Australian Drinking Water Guidelines and Australian Guidelines for Water Recycling. We have not reassessed the costs and benefits for this Review as we consider it unlikely that they have significantly changed since 2019.

The benefit of the Australian Drinking Water Guidelines/ Australian Guidelines for Water Recycling is that they are well understood, and they set out a process for developing a preventative risk management framework to achieve health-based targets. These targets are consistent with those adopted by the World Health Organisation (WHO) and by more than 93 other countries. Alternative standards could potentially present a more cost-effective option for ensuring health and environmental outcomes and allow for innovation. However, we consider that they could also lead to undesirable outcomes. A more cost-effective option would likely mean a standard that prescribes a health-based target lower than the current level of tolerable risk for Sydney Water's customers and lower than the standard accepted by the WHO. In practice, it is likely it could also result in different water quality standards being applied across NSW.

We came to the same conclusion in the 2022 review of the Hunter Water operating licence.

### B.1.2 System performance standards for service interruptions

We undertook a comprehensive cost-benefit analysis in the 2019 review of the current licence before recommending the service levels specified by the system performance standards. We consider that the service levels remain appropriate and reflect customers' expectations.

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We have not reassessed the costs and benefits for this licence review. However, Sydney Water did provide information on its customer consultation results to us as part of this Review. Sydney Water tested with its customers whether they would be willing to pay for higher levels of service or willing to accept lower levels of service. Sydney Water demonstrated to their customers the impact to customer bills with increasing or lowering current service levels and attempted to describe the impact that would be felt by customers.

The consultation results showed that most of Sydney Water's customers prefer to retain the current service levels and consider that Sydney Water is already providing a high quality of service. Some were willing to pay for a slightly higher level of service, but not substantially higher. Most did not wish to accept a lower level of service for any of the standards, and in particular the water continuity and dry weather wastewater overflow standards. Retaining the current service levels is consistent with the general feedback from most customers.

Overinvestment by Sydney Water in its asset maintenance would exceed the cost that customers are willing to pay - a risk with high standards. Conversely, the cost savings associated with reducing performance are valued by customers far less than the disbenefits that customers would suffer.

### B.1.3 Requiring asset management in the operating licence

Given the benefits described in the report, we conclude that there are net benefits to recommending an operating licence condition for asset management.

As we undertook a comprehensive cost-benefit analysis during our 2019 review of the current licence, we have not reconsidered this cost-benefit analysis. It is our view that the costs of retaining the current licence condition requiring the asset management system are modest. They consist only of the compliance-related costs for Sydney Water and IPART, which we expect would be small.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

## B.2 Water conservation, efficiency and long-term planning

### B.2.1 Requiring a 5-year water conservation plan in the operating licence

The benefit of having a 5-year water conservation plan is that more water would be conserved than if the plan was not required by the operating licence. In reply to our information request, Sydney Water estimated that it could save 11,220 ML of water from FY25 to FY29 with a Water Conservation Plan, compared to the likely water savings without such a plan.

This water savings could be quantified by multiplying it by the Long Run Marginal Cost of water, which is approximately \$2.6/kL. The 11.2 GL water savings would therefore be valued at approximately \$29.2m over 5 years.

Sydney Water estimates that the additional investment and operating expenses required under the proposed licence condition would be \$2.7m per annum over the 5-year period.

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Based on these estimates of costs and benefits, the licence requirement for a 5-year water conservation plan appears to easily pass a cost-benefit test.

### B.2.2 Requiring an economic approach including applying the current economic method in the operating licence

The current economic method applies an economic level of water conservation (ELWC) to determine which water conservation activities Sydney Water should undertake. The ELWC framework compares the economic benefit of conserving a given quantity of water to the cost of achieving that conservation. Under the current economic method, those activities where the benefit exceeds the cost would be prioritised.

Economic benefit is estimated by applying the Long Run Marginal Cost (LRMC) per kilolitre to the number of kilolitres conserved. LRMC estimates the avoided cost of augmenting water supply to produce the quantity of water that is conserved.

The current economic method based on ELWC has a built-in cost-benefit analysis. Setting a conservation target that is either higher or lower than the ELWC-based target would result in a loss of net economic benefit compared to the ELWC target. In other words, requiring the current economic method (based on ELWC) to be applied will maximise net benefits as long as it is applied correctly and the chosen activities are undertaken.

### B.2.3 Requiring a Greater Sydney Drought Response Plan in the operating licence

We have not performed a quantitative cost-benefit analysis on this requirement given that it is focused on processes rather than outcomes. However, qualitatively, we consider that this requirement would create net benefits. Planning investments usually create net economic benefits because poor planning, or a lack of planning, can be extremely serious.

### B.2.4 Requiring Sydney Water to engage in ongoing water supply augmentation planning for Greater Sydney

We have not performed a quantitative cost-benefit analysis on this requirement, given that it is focused on processes rather than outcomes. However, it is possible to say in general that undertaking planning functions and working cooperatively with other supply chain partners are not particularly high-cost activities.

In contrast, the consequences of making a sub-optimal investment choice in multi-billion dollar assets such as a new dam, water recycling or desalination plant would likely be of a similar order of magnitude to these investments themselves.

It seems very likely that the requirements to plan and work cooperatively with WaterNSW would deliver net economic benefits that are potentially large.

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## B.3 Climate risk readiness

In the factual, the operating licence would require Sydney Water to develop and maintain a climate-related risk management program consistent with the NSW Guide. In the counterfactual, Sydney Water would not maintain a climate-related risk management program. Instead, these risks would be managed through other management systems and under other obligations. There would be no one centralised climate-related risk management program.

Under the factual scenario, Sydney Water would incur costs for developing and maintaining a climate-related risk management program.

The benefit of a climate risk management program could be that it would address climate-related risks specifically, including identifying priority risks and mitigative actions. It could ensure that all climate-related risks are clearly identified, visible and appropriately addressed. It could also provide a mechanism for IPART to review and audit Sydney Water's management of climate-related risk driving greater transparency and accountability. Requiring Sydney Water to develop and maintain a program that is consistent with the Guide provides certainty to Sydney Water and sets a standard that ensures a comprehensive risk management program that is consistent with NSW Government expectations.

Sydney Water estimated that having a climate risk management program in place would save them \$150m over 20 years because of the reduction in the value-at-risk carried by its existing asset base.

Sydney Water told us that their costs to establish a climate risk management program would be \$770,000 in the first year, \$660,000 in the second year, and then between \$300,000 and \$380,000 per year thereafter. Their potential costs for likely program elements were said to be \$800,000 in year 2, \$750,000 in year 3 and in each subsequent year.

The costs add up to approximately \$1.5m to establish the program and \$1.1m per annum thereafter. The benefits average \$7.5m per annum. These figures indicate a benefit-cost ratio significantly in excess of 1, meaning that the licence condition would create net benefits.

## B.4 Sydney Water's obligations to its customers

### B.4.1 Providing payment assistance

We conclude that an operating licence requirement for a payment assistance policy would take Sydney Water further in the direction of leniency than they might choose to go based on commercial considerations alone.

The essence of this requirement is leniency toward customers who may struggle to pay bills on time. The counterfactual scenario would involve an absence of leniency. This could involve harsh measures for customers facing payment difficulties, including disconnection or restriction of water supply. Therefore, we consider that this licence requirement generates net economic benefits.

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The leniency provided to customers experiencing hardship is of benefit to them. By forming part of the general social safety net, this type of leniency policy provides wider benefits to the community. That is to say that there is a public benefit to the hardship policy.

A leniency policy might encourage some customers to refuse to pay their bills, even in situations that do not involve financial hardship. Sydney Water rarely takes the action to disconnect a property (even a non-residential property). It may be conducted if a property poses a threat to the integrity of Sydney Water's water supply system, such as a backflow prevention device issue or having no backflow prevention device fitted. Non-residential customers are required to install and annually test backflow prevention devices as a measure. Sydney Water does not see a cost saving for disconnection/restriction of properties for non-payment. These actions present additional costs such as debt recovery fees, meter maintenance fees, legal costs, resource costs and loss of revenue in some instances. We conclude from this response that a non-lenient counterfactual scenario does not generate cost savings for Sydney Water.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

#### B.4.2 Family violence policy

This provision imposes modest costs on Sydney Water, but it potentially provides vital protection to customers who may be vulnerable to or because of family violence. We have not performed a quantitative cost-benefit analysis on this provision, but we consider that this provision would be likely to provide net social benefits.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

#### B.4.3 Internal complaints handling

We did not undertake a quantitative cost-benefit analysis for requiring Sydney Water to maintain and implement an internal complaints handling procedure. However, we have assessed the qualitative costs and benefits.

The net benefit of an effective complaints handling process is that the organisation is prevented from earning monopoly rents by providing a lower quality of service. Complaints-handling systems help to ensure that quality standards are enforced. While a monopoly firm foregoes an opportunity to increase profits by reducing quality (something that even a price-regulated organisation can sometimes do), there is a net gain to society. Economic loss through lower quality service is minimised by good complaints-handling. This analysis presumes that the complaints-handling system is relatively efficient itself, and that Sydney Water's reputation would be an insufficient incentive to provide the ideal level of quality.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

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#### B.4.4 External dispute resolution

We did not undertake a quantitative cost-benefit analysis for requiring Sydney Water to be a member of the Energy and Water Ombudsman NSW (or other external dispute resolution scheme) and publish information about it to its customers. However, we have assessed the qualitative costs and benefits.

We concluded that as long as the external dispute resolution scheme is relatively efficient itself, it should yield net economic benefits by reducing the economic loss that might otherwise occur from the use of monopoly power to deliver a lower quality of service than a competitive firm would.

The analysis of this operating licence requirement is the same as the analysis of the requirement for an internal complaint handling system. External dispute resolution scheme membership is another safeguard against monopoly rents and the associated economic loss caused by providing substandard quality of service.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

#### B.4.5 Sydney Water's Customer Council/Customer and Community Reference Group

We did not undertake a cost-benefit analysis for retaining the operating licence conditions for a Customer Council, as this is a requirement of the Act. The Act gives IPART no discretion to recommend removing this requirement from the operating licence. Since our recommended changes largely remove prescription, there is no increased burden on Sydney Water.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

### B.5 Stakeholder cooperation and competition

#### B.5.1 Memoranda of Understanding with WAMC, NSW Health and the EPA

We did not undertake a cost-benefit analysis for retaining the operating licence conditions requiring Memoranda of Understanding (MoU) with the Water Administration Ministerial Corporation, NSW Health and the Environment Protection Authority as this is a requirement of the Act. As we do not recommend substantial changes, there is no increased burden on Sydney Water.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

#### B.5.2 MoU with FRNSW

We did not undertake a quantitative cost-benefit analysis for this MoU. However, we have assessed the qualitative costs and benefits. In general, we consider that MoUs are an appropriate and efficient administrative tool and that they are likely to generate net economic benefits.



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The benefit of a MoU is flexibility to deal with uncertain future events. The main cost of a MoU is the cost of providing a regular forum for Sydney Water employees and the respective agencies to discuss emerging issues and attempt to negotiate solutions. It is intrinsically difficult to quantify the value of flexibility, but not difficult to anticipate that this value could be high in some situations. In contrast, the costs of a MoU, being principally employee time, are relatively modest.

We came to a similar conclusion in the 2022 review of the Hunter Water operating licence.

### B.5.3 Operating licence conditions to provide information to Fire and Rescue NSW

We consider that there is a net benefit in the operating licence including requirements for Sydney Water to provide the information that Fire and Rescue NSW (FRNSW) requests by the dates specified in the operating licence.

Quantitative data provided by Sydney Water and FRNSW suggests that costs and benefits are finely balanced for the provision of the comprehensive data that FRNSW requests at the hydrants in Sydney Water's water supply network. Sydney Water estimated that the costs of providing this information are \$10m over 4 or more years, equating to \$2.5m per year or less.

FRNSW provided us with an assessment of 13 residential fires in the Sydney Water area of operation between 2015 and 2023 (an 8-year period). Each of the fires in that list had recorded low water pressure as a factor contributing to the damage caused by the fire. FRNSW estimated costs that could have been saved at each of these fires if the desired water pressure data had been available to the firefighting crew at the scene. The total of this savings from accurate pressure data was \$11.2m over 8 years, averaging to \$1.4m per year.

We note that FRNSW's report contained many caveats. We note also that Sydney Water's account of costs may be applicable to more than 4 years.

Given the limitations of the available data, we consider that the costs and benefits of the requirement to report the requested information are broadly similar. This comparison takes into account only costs of property damage. With fires there is also a risk to safety with a possibility of injury or death to firefighters and property occupants. Inclusion of safety factors would likely push the net benefit into positive territory for the water pressure reporting requirement.

### B.5.4 Recommending operating licence conditions to promote competition

We did not undertake a quantitative cost-benefit analysis for these provisions of the operating licence. However, qualitatively, we consider there is a net benefit in retaining them as they increase competition and there are potential gains to consumers that effective competition creates. The costs to Sydney Water of complying with these provisions should be small. The benefits, while hard to quantify, are potentially large in the longer term.

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The Water Industry Competition Act 2006 (NSW) (WIC Act) is necessary, but not always sufficient to ensure that potential competitors have the opportunity to compete on the merits. This part of the recommended operating licence provides protections to WIC Act licensees and to potential competitors who inform Sydney Water that they intend to carry out activities that would require a licence under the WIC Act (the competitors).

In the absence of these protections, it would be open to an incumbent such as Sydney Water to pursue strategies that would have the same practical effect as a refusal to deal. In this counterfactual case, it would likely be in the commercial interest of the incumbent to refuse to deal with potential competitors who are trying to win business from them.

We came to a similar conclusion in the 2022 Hunter Water operating licence review.

### B.5.5 Operating licence conditions requiring Sydney Water to negotiate the provisions of services to competitors in good faith

We consider that there would likely be net economic benefits to requiring Sydney Water to negotiate with its competitors in good faith.

The counterfactual is the absence of a requirement to negotiate in good faith, in which case Sydney Water could not be relied upon to negotiate fairly with its competitors who seek to win business from it. This may lead to less vigorous competition from WIC Act licensees and those intending to commence activities that would require a WIC Act licence for parts of Sydney Water's customer base.

The cost of a good faith requirement would be modest. While Sydney Water might lose some business, that would be offset in a whole of society sense by the gains to competitors. The principal benefit of the good faith requirement is that, over time, the water supply industry in the Sydney Water area of operations would become more competitive. One way this would happen is that good faith negotiations would give competitors more confidence to invest in rival supply facilities because their business uncertainties would be reduced. With a more competitive industry, the deadweight loss would be reduced.

### B.5.6 Operating licence condition requiring a code of conduct with WIC Act licensees

The benefits and costs of this operating licence condition are each very modest. However, the condition causes little or no harm and it helps to promote a more competitive industry structure in the future.

The benefit of this condition is tied more broadly to the benefit of the WIC Act, which aims to promote competition in the water industry. The immediate costs of the recommended licence condition would be administrative in nature. An efficient organisation should be able to meet the licence requirement at modest cost.

We came to a similar conclusion in the 2022 Hunter Water operating licence review.

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### B.5.7 Requiring the publication of servicing information

We consider that there would likely be a net benefit to retaining these operating licence conditions and expanding them (while enabling flexibility for Sydney Water to provide the information through Development Servicing Plans where appropriate).

The counterfactual is the absence of this obligation, in which case Sydney Water could not be relied upon to publish commercially sensitive servicing information that could help its competitors win business from it. This may lead to less vigorous competition from WIC Act licensees and potential competitors for parts of Sydney Water's customer base.

The cost of a requirement to publish servicing information would be modest, given that the required information should already be available to Sydney Water. While Sydney Water might lose some business, that would be offset in a whole of society sense by the gains to competitors. With a more competitive industry, the deadweight loss would be reduced.

We came to a similar conclusion in the 2022 Hunter Water operating licence review.

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