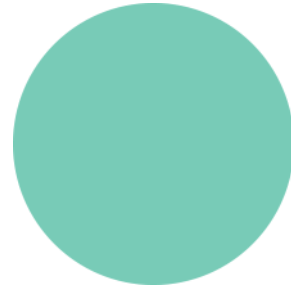
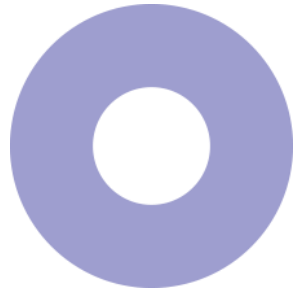


# **Sydney Water's Operating Licence Review 2023-24**

**Response to IPART's Issues**

**Paper**

Sydney  
**WATER**



# Acknowledgement of Country

Sydney Water respectfully acknowledges the Traditional Custodians of the land and waters on which we work, live and learn. We pay respect to Elders past and present.





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# Executive summary

Sydney Water welcomes the opportunity to share our views on our *Operating Licence 2019-2023* (the Operating Licence), which includes the *Customer Contract 2019-2023* (the Customer Contract).

This submission outlines our proposals for how the Operating Licence and Customer Contract can be improved. We also provide our views on the questions and positions posed by the Independent Pricing and Regulatory Tribunal's (IPART) *Sydney Water Operating Licence Review 2023-24 Issues Paper* (the Issues Paper).

## Objectives for this review

We support a regulatory framework that is simple with clear accountabilities, and which enables us to focus on our core business of meeting customer outcomes and investing in Sydney's future infrastructure. To do this, we think the Operating Licence should:

- value customers and reflect their views
- focus on outcomes, rather than being overly prescriptive
- allow Sydney Water flexibility to respond to changing circumstances and our customers' preferences and expectations, and
- allow Sydney Water to meet its principal objectives under the *Sydney Water Act 1994* (NSW) to be a successful business, protect public health and protect the environment.

We are supportive of IPART's six identified principles for the Operating Licence review, including:

1. Protecting the customers, the community and the environment
2. Setting minimum protections
3. Supporting the pricing framework
4. Focusing on outcomes
5. Removing redundancy
6. Recognising new strategies or policies

In our review of the current Operating Licence, and IPART's positions as outlined in their Issues Paper, we have also focused on ensuring that requirements are clear, fair, and relevant. We should be held accountable for our responsibilities and obligations, but not for items outside of our control or remit. We have also considered whether the Operating Licence is the best mechanism for responding to changes in business or government policy, the ability to measure our performance or outcomes in a clear and meaningful way, and what costs may be involved to meet requirements.



## IPART's review approach and main focus areas

We support IPART's customer-focused approach for our Operating Licence review and agree that the Operating Licence should aim to reflect customers' preferences and needs.

IPART has also taken a more outcomes-focussed approach for this review, targeting key areas of change for customers and stakeholders. We welcome IPART's outcomes-focussed review approach and support moving towards an Operating Licence review 'by exception' in future. We consider that operating licence reviews could be targeted to focus on areas of greatest concern or potential gaps for our customers and stakeholders, rather than revisiting every clause at each review. This would continue to deliver value to our customers and community, while making the best use of available resources.

IPART has identified five key focus areas for this review. Our views on these areas are outlined below.

### Minimum service levels

We support the retention of performance standards in the Licence for water supply to the property, including continuity and pressure, as well as dry weather wastewater overflows on customer properties.

We further support the setting of maximum limits for performance standards for service interruptions. We consider that this is appropriate for the Operating Licence and provides assurance to our customers regarding the performance they can expect from Sydney Water.

Currently, we are determining the appropriate level for each of these standards that generates the highest net benefit and reflects customers' willingness to pay, in line with the approach set out in IPART's Cost-Benefit Analysis Approach Paper.<sup>1</sup> This will involve surveying our customers to determine willingness to pay for different service levels, as part of Sydney Water's 'Our Water, Our Voice' customer engagement program. In parallel, we are also quantifying the costs of delivering these services, based on data and analysis from our planning and operations teams.

### Water conservation and planning obligations

With the release of the NSW State Water Strategy<sup>2</sup> and the Greater Sydney Water Strategy (GSWS),<sup>3</sup> there has been a greater focus on water conservation and efficiency as a way forward to "delay the timing and reduce the scale of investment in new supply infrastructure and maximise the value of our resources".



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<sup>1</sup> IPART (2023) *Sydney Water Operating Licence Review Approach to Cost-Benefit Analysis Information Paper*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Information-Paper-Approach-to-Cost-Benefit-Analysis-Sydney-Water-Operating-Licence-Review-July-2023.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Information-Paper-Approach-to-Cost-Benefit-Analysis-Sydney-Water-Operating-Licence-Review-July-2023.PDF), p. 8.

<sup>2</sup> NSW Department of Planning, Innovation and Environment (2021), *NSW Water Strategy*, [https://water.dpie.nsw.gov.au/\\_data/assets/pdf\\_file/0007/409957/nsw-water-strategy.pdf](https://water.dpie.nsw.gov.au/_data/assets/pdf_file/0007/409957/nsw-water-strategy.pdf).

<sup>3</sup> NSW Department of Planning and Environment (2022), *Greater Sydney Water Strategy*, [https://water.nsw.gov.au/\\_data/assets/pdf\\_file/0006/527316/greater-sydney-water-strategy.pdf](https://water.nsw.gov.au/_data/assets/pdf_file/0006/527316/greater-sydney-water-strategy.pdf).





The NSW Water Efficiency Framework, which supplements both of these strategies, sets out best practice guidance for government, water utilities, councils and large businesses to use when implementing water efficiency initiatives. This includes considering the goals, objectives and outcomes of a water efficiency program and factors such as scalability, capacity-building and funding, in addition to an economic evaluation, when implementing measures.

In general, we are supportive of transitioning and updating our licence requirements from maintaining a water conservation program towards maintaining a 5-year water conservation plan, which considers both the GSWS and the NSW Water Efficiency Framework. We, however, consider that our licence requirements with respect to the implementation of measures could be improved to enable a more flexible and adaptive planning approach to water conservation that is outcomes-based and takes into account a broad range of factors, of which the Current Economic Method is one factor.

This would recognise that in practice, we consider a wide range of factors, in addition to the Current Economic Method, when assessing and implementing water conservation measures. Taking a broad approach and including factors such as market demand/uptake, financials, legality and drought response plans, in our assessment of measures helps to ensure that we are able to develop and deliver a diverse, scalable, and robust baseline water conservation program that supports a wide range of customers.



It would also better reflect the current structure of our funding in our licence and enable us to make better decisions that support the goals of the GSWS. It would further be in line with the broader, more holistic approach to water conservation taken by the NSW Water Efficiency Framework in response to DPE's recent review of the Current Economic Method and Economic Level of Water Conservation (ELWC).

Long-term water planning is also critical to ensuring that we can provide a resilient and reliable water supply for our customers. We recognise the importance of our role in this area and are committed to participating and contributing to long-term water planning alongside the NSW Government and other agencies.

To this end, we support retaining current licence requirements for Sydney Water to participate cooperatively in any review of the GSWS and to comply with a direction from the Minister to implement specific activities that relate to actions assigned to us in the GSWS. We also consider that there is value in having a licence clause requiring us to implement actions under the GSWS Implementation Plan, with the inclusion of additional 'best endeavours' wording. This would reflect the importance of Sydney Water's role in the GSWS Implementation Plan, as well as community and customer expectations.

We are also supportive of updating our licence requirements to maintain a Long Term Capital and Operational Plan (LTCOP), in cooperation with WaterNSW, and to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan, jointly with WaterNSW.

Finally, with respect to water supply augmentation, we do not consider a licence requirement requiring us to consider the long-term interests of customers when preparing production requests



for SDP to be appropriate, as we consider that this has sufficiently been considered in the GSWS, Operating Rules and Decision Framework.

We, however, do consider that there is value in clarifying Sydney Water's accountability for the supply augmentation planning function and the role of WaterNSW to support us in delivering that function in our Operating Licence, for our customers and other stakeholders. Any clarification in our Licence should be in line with the Ministerial Direction and our MoU with WaterNSW.

Given that both Sydney Water and WaterNSW's Operating Licences are currently being reviewed by IPART, there is a clear opportunity to ensure that roles and responsibilities are clear and appropriately reflected in the respective licences.

### Climate risk management

We welcome the opportunity to discuss the role of the Operating Licence in navigating the challenges of climate change and resilience and potentially empowering Sydney Water to further its commitment to action and improve customer outcomes via clear regulatory drivers.

In general, we are supportive of IPART's preliminary positions in this area. In particular, we agree that the licence objectives could be amended to provide greater certainty and establish clear expectations about climate change. In our view, it would be useful to reference 'equity within and between generations' with regard to multiple drivers impacting on long-term customer and community interests and intergenerational equity that is broader than climate change.

We are also supportive of a licence requirement for Sydney Water to develop and maintain a climate-related risk management program consistent with NSW Government issued guidance for climate risk management, but have sought further clarity from IPART on what this requirement would mean in practice. With respect to reporting on our progress towards achieving net zero, we would also welcome clarity from IPART around reporting obligation timing and content to avoid duplication with new NSW Treasury requirements.



### Tenancy protections

As Australia's largest water utility, we provide drinking water and wastewater services to over 5 million people across our area of operations. We consider every person and business that comes into contact with our products and services across Sydney, the Illawarra and the Blue Mountains – not just those who are responsible for paying a water bill.

Our *Operating Licence* and *Customer Contract* (which is a schedule to our *Operating Licence*) work together provide a range of important protections to both our customers and consumers (including tenants). These include minimum standards of customer service, payment assistance options, dispute resolution, among other protections.

While consumers are not strictly speaking parties to the *Customer Contract*, we currently provide consumers (and thus, tenants) access to a number of protections in the *Customer Contract*, including:

- payment difficulties and assistance options (clause 5.1)

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- provisions for tenants to pay charges to avoid restriction or disconnection (clause 6.5)
  - complaint handling and complaint resolution procedures. (clause 12)
  - consultation and privacy handling (clause 13)
  - termination of contract (clause 14).

We support continuing these protections for consumers (and thus, tenants) in our *Operating Licence* and *Customer Contract* and remain committed to ensuring that consumers better understand and have access to these protections.



In addition to these protections, we also provide a number of redress and claim for damages measures to protect tenants of properties impacted by Sydney Water faults, similar to those set out in clause 7 of the *Customer Contract*. Tenants, for example, are able to apply for a bottled water reimbursement where they have been impacted by a water outage, to cover the cost of alternative water supply. Redress may also be provided to occupants in the form of emergency accommodation if the property occupied becomes uninhabitable from issues caused by Sydney Water. Should a tenant have any personal damage to property that is not covered by insurance (including insurance excesses), as a result of an asset failure of ours, they are further entitled to submit a claim for damages using the form that is available on the website and have their claim assessed by our claims team.

We view these measures as being appropriate for tenants of properties impacted by Sydney Water faults and do not consider it necessary to extend clause 7 of the *Customer Contract* to consumers (and thus, tenants).

We note that there are also number of legal and practical issues, which may limit extending clause 7 of the *Customer Contract* to consumers, such as:

- There are practical issues including that there is no mechanism to 'pay' a rebate to such consumers as rebates are applied via the customer's bills automatically. Further, there is no ability for Sydney Water to confirm that the consumer was residing at a particular property at the relevant time.
- Consumer law is intended to apply between a supplier and the person who purchased the goods or services, which is not the case with consumers such as visitors or tourists. Extending clause 7 of the *Customer Contract* to such consumers goes against this general legal principle, and their claims would not be recognised as consumer claims under the *Fair Trading Act 1987* (NSW) or the Australian Consumer Law.
- Finally, not extending clause 7 does not negatively impact on such consumers, as a claim for damages to person or real property is not limited to being made under the *Customer Contract* - other appropriate legal avenues are available.

Relatedly, IPART has expressed a preliminary view that enabling or requiring a direct customer relationship between Sydney Water and residential tenants could provide additional protections to tenants, who are users of Sydney Water's services and are responsible for paying water usage



charges. As IPART notes, this would likely require legislative change and be beyond the scope of the operating licence.<sup>4</sup>

We agree with IPART and consider that there are significant hurdles to IPART's preliminary view to bill tenants directly. Under the *Sydney Water Act 1994* (NSW), our billing relationship is legally with the landlord as the responsible landowner, and not the tenant. We provide further details on the legislative and other logistical barriers to IPART's proposal in our response.

Nevertheless, we are committed to providing various assistance options to tenants experiencing financial hardship. This includes measures such as placing a hold on the account (which ensures no interest accrues or debt recovery actions for a 35-day period while an arrangement to pay can be made), providing Payment Assistance Scheme (PAS) credits placed on the account to the value of water usage charges and referral to other support services such as financial counselling and social services, etc.

### Information to Fire & Rescue NSW

Sydney Water remains dedicated to maintaining a MoU with FRNSW using its best endeavours. We have established a formal collaborative relationship where both organisations are working together to achieve the common goal of having water pressure information available for fire-fighting requirements and also understanding the impact of planned or unplanned fire-fighting activities on our network to better service customers when fire-fighting demands may place additional pressure on our networks. We recognise the critical role we play in providing a source of water for fire-fighting purposes and that this helps protect public health and saves properties.

Given this collaborative framework and the progress being made on supplying water pressure and flow information on a priority basis, Sydney Water does not support the introduction of enforceable requirements for information sharing due to the additional administrative burden this places on all organisations.

While we recognise that there have been past delays to the provision of data, we have since developed a refreshed program to rebuild our hydraulic models to include fire hydrants and requirements associated with FRNSW request. This is a large program of work and is very labour-intensive using specialist resources. In particular, we have experienced significant challenges with resourcing the modelling capability required to complete the upgrades of the hydraulic models.

We note that these key areas are also subject to Cost-Benefit Analysis (CBA). We have provided our views on IPART's approach to the CBA in a separate submission.<sup>5</sup> We recognise that CBA is an important step in establishing whether the benefits of additional regulatory controls outweigh the costs and are in the long-term interest of customers.

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<sup>4</sup> Independent Pricing and Regulatory Tribunal (IPART) (2023) *Sydney Water Operating Licence Review 2023-24 Issues Paper*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF), p. 56.

<sup>5</sup> Sydney Water (2023) *Response to IPART Sydney Water Operating Licence Review – Approach to the Cost-Benefit Analysis Information Paper*, 1 September.





## Our response to the Issues Paper

IPART's Issues Paper presents 46 questions for public comment, their preliminary views on most areas of the current licence, and some potential new licence areas. As with previous reviews, there continues to be a shift towards a more outcomes-focused licence which we support. We recommend maintaining many current conditions or adopting incremental improvements. A summary of our position on each of IPART's questions is noted in the Introduction section of this submission, with more detail in later sections of the submission. We have structured our response to follow that of IPART's Issues Paper.

For most areas, we agree with IPART's preliminary views. The exceptions to this are noted below:

- **Annual Reporting on System Performance Standards** – We suggest retaining the requirement to submit an annual report on our compliance and performance against the system performance standards for service interruptions, as we consider it provides useful information for our stakeholders.
- **State of the Assets Reporting** – We do not support reinstating a requirement to provide a State of the Assets report to IPART on a 2-yearly frequency. Sydney Water has already agreed with IPART that our approach for improving our asset management processes will be our Service Excellence Roadmap, and the actions identified therein. We have further agreed with IPART that we will provide annual reports on the status and progress of roadmap deliverables to as part of our compliance actions. We consider this to be a sufficient process for IPART to regularly check-in on our progress in addressing previously identified asset management non-compliances.
- **Customer contract** – We do not support IPART's suggestion to extend Clause 7 of the customer contract to all consumers. Elements of consumer protections for tenants desired by IPART by making this change are already available to tenants, including that rebates relating to water usage should be passed onto tenants by landowners (required under the *Residential Tenancies Act*); and that tenants or occupants can claim for damages to their person or real property resulting from Sydney Water asset failures via other appropriate legal avenues. For consumers other than landowners or tenants, there are practical and legal impediments that may preclude the changes contemplated by IPART and others. Sydney Water supports providing information about tenant protections to be made available on our website for easy access.
- **Billing tenants directly for water usage charges** – We do not consider this is possible under current legislation, where the billing relationship is legally with the landlord as the responsible landowner, and not the tenant. Our billing system has been designed to reflect the legislative framework, and there would be considerable costs for IT and business process changes to create the capability to bill tenants directly. Given existing protections for tenants in the customer contract, the benefits of moving to tenant billing may not be sufficient to outweigh the costs.



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- **Critical Infrastructure Security** – We propose to remove the current licence requirements for select staff to hold national security clearances. As Negative Vetting Level 1 (NV1) clearances have a term of 10 years and most of our staff obtained NV1 clearances about three years ago, we propose to retire some NV1 clearances and maintain only NV1 clearances for our Chief Security Officer (CSO) and/or for the person responsible for CIRMP maintenance for the remainder of the 10-year period, after which we will not renew.
  - **Stakeholder Engagement**
    - While we support the need for and maintenance of our memoranda of understanding with the WAMC, NSW Health and the EPA, we do not support the introduction of the phrase ‘and comply’. We consider that memoranda of understanding are intended to establish agreed ways of working between the parties without duplicating existing legal requirements. An obligation to comply essentially elevates each MOU to a one-sided contract where Sydney Water, but not the regulator, is held to account for compliance purposes. Indeed, Sydney Water could potentially be found non-compliant even in situations where we have made genuine efforts to implement and maintain the terms of the MoU.
    - We remain committed to using our best endeavours to maintain our MoU with Fire and Rescue NSW, including delivering on agreed commitments to provide water pressure and flow data at fire hydrant locations. However, we do not support introduction of new requirements to be specified with enforceable dates relating to data sharing with Fire and Rescue NSW.
  - **Information and Services to Competitors** – We support providing information that may assist current or potential competitors to identify servicing opportunities, provided this does not place Sydney Water at a competitive disadvantage. We consider there could be greater flexibility in how, and how frequently, we meet the requirements to publish servicing information, including a more outcomes-focussed approach.
  - **Administration** – For this next Operating Licence, we would like to propose a 4-year term. For future licences thereafter, we would support reverting back to a standard term of five years. This will provide better sequencing of licence and price reviews, separated by two years, from 2027-28 onwards. We also consider that IPART’s proposed changes with respect to our pricing clause may duplicate the *Independent Pricing and Regulatory Tribunal Act (NSW)*, which already prevents a price being set above the level determined by IPART (section 18) and also allows the Tribunal to formally require parties to provide information for the purpose of investigations (section 22) including the price determination.

We look forward to reading the views of our customers and stakeholders in their submissions to IPART’s review, and to participating in the public hearing later in the review process.



# 1 Introduction

## 1.1 About Sydney Water

Sydney Water is Australia's largest water utility and supplies drinking water and wastewater services to over 5 million people in the Greater Sydney, Blue Mountains and the Illawarra. We also supply stormwater services to more than 600,000 properties, and recycled water to around 40,000 properties.

We are proud of our 135-year heritage, and we value our relationship with customers – residential, developer, business and the broader community. Our long-term strategy and vision is to create a better life through world-class water services.

## 1.2 Our Operating Licence

Sydney Water's *Operating Licence 2019-2023*<sup>6</sup> (Operating Licence) allows us to deliver services to customers living in Sydney, the Blue Mountains and the Illawarra. The Operating Licence is a requirement of the *Sydney Water Act 1994* (NSW) (the Act) and includes performance, reporting and auditing obligations that Sydney Water must comply with.

These include requirements for:

- water quality
- water conservation
- water planning
- how we deliver services and manage our assets, including:
  - meeting system performance standards
  - maintaining and implementing an asset management system
- customer and consumer rights, including:
  - providing information to customers
  - complaint and dispute handling
  - assistance options for customers in financial hardship
  - engaging with customers and the community
- maintaining memoranda of understanding with key regulatory and other agencies

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<sup>6</sup> Sydney Water (2023) *Operating Licence 2019-2023*,  
<https://www.sydneywater.com.au/content/dam/sydneywater/documents/operating-licence.pdf>.

- cooperating with private utilities to establish codes of conduct (where there is a direct connection to Sydney Water infrastructure) and
- performance monitoring and reporting.

### 1.2.1 End-of-term review

The current Operating Licence expires on 30 June 2024, following an extension to the 2019-2023 Operating Licence.<sup>7</sup> The new licence and Customer Contract will begin on 1 July 2024.

IPART is responsible for monitoring Sydney Water's performance against the licence each year. IPART also conducts the end of term review, which usually includes several points of consultation with Sydney Water and other stakeholders.

On 7 July 2023, IPART released an Issues Paper to formally begin the end of term review of our current Operating Licence. The end of term review is an opportunity to consider whether the Operating Licence is fulfilling its objectives (which are listed in clause 1.1 of the current licence).

At the end of its review, IPART will recommend the terms of a new licence to the Minister for Water. Following Ministerial approval, the new licence must be tabled in Parliament for 15 sitting days and then approved by the NSW Governor before it takes effect.

### 1.2.2 Compliance with our Operating Licence

Each year, IPART conducts an audit of our compliance with the Operating Licence. Sydney Water has an excellent record of compliance with its Operating Licence since corporatisation in 1995 (Figure 1 and Figure 2).

Sydney Water demonstrated a high level of compliance with its 2019-23 Operating Licence, across three audits. The next audit (of the 2022-23 financial year) will be held in September 2023.

In the most recent audit (2021-22), of the 44 clauses assessed, Sydney Water achieved:

- Compliant gradings for 38 clauses including water conservation, water planning, water quality and customers and consumers.
- Compliant (minor shortcomings) gradings for 3 clauses relating to updating of the economic level of water conservation and implementation of the cybersecurity management system
- Non-compliant (non-material) gradings for 2 clauses relating to implementation of the drinking and recycled water management systems, and
- Non-compliant (material) grading for 1 clause relating to implementation of the asset management system. This is also discussed in IPART's Issues Paper.<sup>8</sup> Sydney Water has

<sup>7</sup> Independent Pricing and Regulatory Tribunal (IPART) (2022) [Extension of the Sydney Water Corporation Operating Licence 2019-2023](#), 8 September.

<sup>8</sup> Independent Pricing and Regulatory Tribunal (IPART) (2023) *Sydney Water Operating Licence Review 2023-24 Issues Paper*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF), p. 20.



been implementing a range of measures to improve our performance for asset management under a new Service Excellence Framework as discussed in in our response.

During the current Operating Licence period 13 audited clauses were assessed as non-compliant for at least one audit year, ten of which were determined by IPART to be of a non-material nature. Sydney Water remains committed to the audit process to identify and improve in areas that have been considered less than fully compliant.

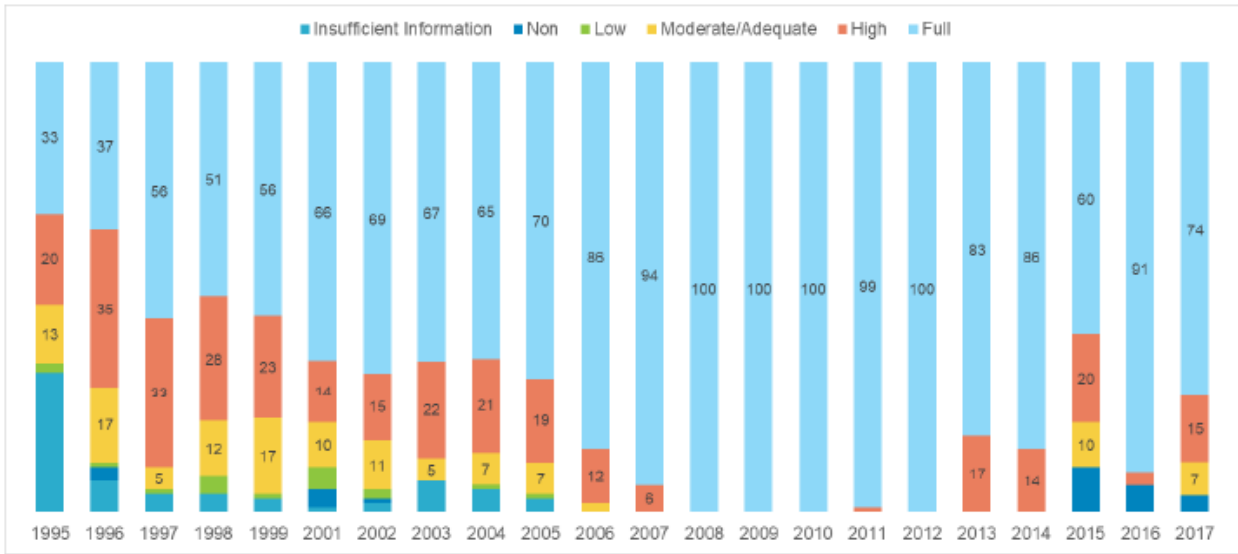


Figure 1. Sydney Water's Operating Licence compliance 1995-2017 (% compliance achieved)<sup>9</sup>

Note: % compliance achieved was calculated based on comparison of graded clauses to the number of clauses audited that year, not total number of clauses in the licence.

<sup>9</sup> Sydney Water (2018) *Review of Sydney Water's Operating Licence – Response to IPART's Issues Paper*, <https://www.ipart.nsw.gov.au/sites/default/files/documents/online-submission-sydney-water-h.-muras-6-aug-2018-172347490.pdf>, p.12.

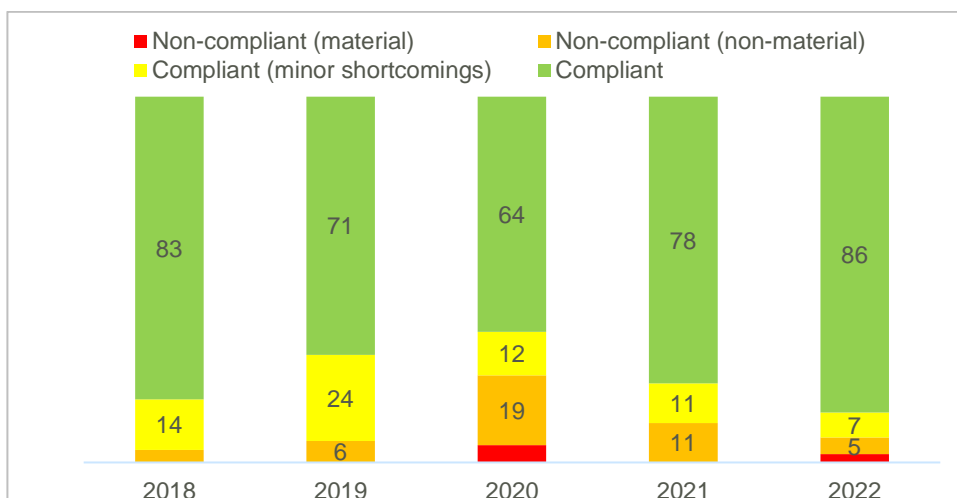


Figure 2. Sydney Water's Operating Licence compliance 2018-2022 (% compliance achieved)



Note: In 2018, IPART changed the audit guidelines. For the 2018 Operating Licence audit onwards, clauses were graded compliant, compliant (minor-shortcomings), non-compliant (non-material) or non-compliant (material). % compliance achieved is calculated based on comparison of graded clauses to the number of clauses audited that year, not total number of clauses in the licence.

### 1.3 Engaging with our customers

Our aim is to present a customer-informed submission that reflects our customers' needs and values and will lead to positive customer outcomes. We have done this by:

- seeking to understand customers' key priorities for Sydney Water by undertaking a broad customer engagement program 'Our Water, Our Voice'<sup>10</sup> in 2022-2023 to inform our submissions to our key regulatory reviews, as well as ongoing business decisions and strategy setting,
- drawing from existing sources of customer insight such as complaints data and website hits to understand areas of customer concern and interest,
- discussing the review and our draft positions on the licence and Customer Contract with the Customer and Community Reference Group, and
- engaging with specific stakeholders, such as NSW Health, the Environment Protection Authority (EPA), Department of Planning and Environment (DPE), Office of Environment and Climate Change (OECC), Fire and Rescue NSW (FRNSW), Public Information Advocacy Centre (PIAC), WaterNSW and Hunter Water on areas of particular interest, via ongoing engagement forums and also via IPART's preliminary stakeholder workshops for this review.

<sup>10</sup> For more information on our customer engagement program, 'Our Water, Our Voice', please visit <https://www.sydneywater.com.au/about-us/our-publications/our-water-our-voice.html>.



An overview of our customer engagement program, including activities, methodologies and content, is provided in **Appendix 1**. Customer insights from the ‘Our Water, Our Voice’ program or other customer research activities relating to specific areas of our Operating Licence are provided in our response below where relevant in breakout boxes. In some cases we refer to insights generated from the customer engagement program undertaken in 2018 which was used to inform the last Operating Licence review.

We encourage customers, community groups and to make their own submissions to IPART, expressing their own views and interests.

## 1.4 Structure of this submission

We have structured our submission to follow the order of issues in IPART’s Issues Paper, as follows:

- **Section 2** covers performance standards, including for water quality, system performance standards for service interruptions and asset management
- **Section 3** covers water conservation, water efficiency and long-term planning
- **Section 4** covers climate risk readiness
- **Section 5** covers obligations to customers and consumers
- **Section 6** covers critical infrastructure security
- **Section 7** covers stakeholder cooperation and information and services to competitors
- **Section 8** covers administrative clauses and additional performance monitoring and reporting issues noted by Sydney Water
- **Section 9** covers other issues not included in IPART’s Issues Paper. Sydney Water raises one issue relating to Performance Monitoring and Reporting in relation to Environmental Indicator reporting.

There are number of appendices with additional detail that support our response in this submission. These include:

- **Appendix 1** – Customer engagement
- **Appendix 2** – Additional information on system performance standards for service interruptions
- **[REDACTED]**
- **Appendix 4** – Our updated Customer Contract.

## 1.5 Summary of issues raised by IPART and our response

The table below outlines our positions in response to IPART's 46 questions in the Issues Paper. Further detail and information is provided in the following sections of this submission.

Table 1. Summary of IPART questions and Sydney Water's response

Water quality standards
<b>Q1: Do you agree with retaining the current water quality standards in the operating licence and clarifying NSW Health's role for specifying additional health-based requirements?</b>
<p>We <b>support</b> retaining the current water quality standard and clarifying NSW Health's role for specifying additional health-based requirements.</p> <p>Where requirements are additional to guidelines, unforeseen and likely to have a cost impact then Sydney Water may need to negotiate a timeline to meet requirements so as not to unduly impact affordability of customer bills.</p>
<b>Q2: Do you agree with removing the current requirement in the Licence for Sydney Water to comply with the NSW Code of Practice for Fluoridation of Public Water Supplies?</b>
<p>We <b>support</b> removing the current fluoridation requirements to remove duplication with the Fluoridation regulation. Sydney Water will continue to fluoridate the water supply in accordance with legislation and the Code.</p>
<b>Q3: Are the current reporting requirements for Sydney Water's water quality management and monitoring adequate? Are they excessive?</b>
<p>We propose removal of monthly fluoride reporting in the Reporting Manual but will continue to produce a report under the Code of Practice for Fluoridation of Public Water Supplies.</p> <p>We <b>support</b> retention of all other reporting requirements.</p>
System performance standards for service interruptions
<b>Q4: Is there anything further we should consider when reviewing the system performance standards in the current operating licence to determine the minimum service levels necessary to protect customers?</b>
<p>We <b>support</b> retention of performance standards for water continuity, water pressure and dry weather wastewater overflows.</p> <p>We seek removal of the low pressure cluster clause (5.2.5) as the work required is now complete and/or BAU.</p>
<b>Q5: Are there other standards that the operating licence should include to hold Sydney Water to account for the levels of service it provides to the community?</b>
<p>We do not propose any additional standards for inclusion in the Operating Licence.</p>

**Q6: Do you agree with consolidating current reporting requirements on Sydney Water's reporting against the performance standards for service interruptions (in chapters 4 and 8 of Sydney Water's current reporting manual?)**

We note that IPART's preliminary position is to remove redundant reporting and rely on data reported against IPART indicators about service interruptions.

Our preference, however, is to **retain** the annual reporting of compliance and performance against our service performance standards for service interruptions.

**Asset management**

**Q7: Is there anything further we should consider when deciding whether Sydney Water should maintain an Asset Management System consistent with Australian Standard AS ISO 55001:2014; and to implement it, with no substantial changes?**

We support the requirements to maintain and implement an Asset Management System, and suggest only some minor wording changes to the clause to reflect that the ISO55001 standard will be updated during the next Licence period.

**Q8: Do you agree that reinstating the reporting requirement to provide a 2-yearly State of the Assets Report will support a renewed focus on asset management practices?**

IPART's preliminary position is that Sydney Water should provide a State of Assets Report every 2 years.

As part of our renewed focus on asset management practices, we have developed a Service Excellence Roadmap to continue to evolve our AMS through the implementation of improvement initiatives. We consider that our Service Excellence Roadmap and the requirements for annual reporting on status and progress of roadmap deliverables, which has been agreed to by IPART, already provides a comprehensive process for IPART to regularly check-in on our progress on the improvement of asset management practices. This has been detailed in the letter correspondence between the IPART CEO and Sydney Water MD dated 9 June 2023.

**Q9: Is there anything further we should consider when deciding whether to remove the requirement to provide a Strategic Asset Management Plan?**

We **support** IPART's preliminary position to remove the current Reporting Manual requirement to supply a Strategic Asset Management Plan (SAMP) to IPART.

We agree that this was a one-time reporting requirement to provide the SAMP to IPART as part of the current Licence period. We will, however, continue to produce a SAMP as part of implementing ISO55001.

**Water conservation and efficiency**

**Q10: Do you agree with transitioning the existing requirements for Sydney Water to maintain a Water Conservation program to a 5-year water conservation plan that:**

- **considers a range of options, including water efficiency, leakage and recycled water**

- **is consistent with the NSW Water Efficiency Framework**
- **considers the strategic context provided by the GSWS**
- **includes details for proposed programs and projects against the Current Economic Method?**

We **support** the transition of our licence requirements to a 5-year Water Conservation Plan (WCP) but propose a minor amendment to require us to “maintain a 5-year WCP *that considers the NSW Water Efficiency Framework*”. This will promote greater flexibility and allow us to adapt and improve the 5-year WCP from time to time in line with the best practice, while still taking into account the NSW Water Efficiency Framework and its role as a guide and not a prescriptive set of requirements

**Q11: Do you agree that the operating licence should continue to require Sydney Water to assess water conservation measures as economic by the Current Economic Method?**

In principle, we agree that the Current Economic Method (and thus, ELWC) should be used to assess whether a measure is economic.

In practice, however, it can be difficult to separate an economic assessment of a water conservation program/measure based on the Current Economic Method, from a broader assessment of the program/measure based on other factors such as scalability, market demand/uptake, funding etc. See also our response to Q12.

**Q12: Should Sydney Water implement all measures assessed as economic or is there a better way to ensure Sydney Water makes good economic decisions that support the goals of the GSWS?**

We consider that there should be a more flexible and adaptive approach to water conservation that is outcomes-based and considers a broad range of factors, of which the Current Economic Method is one factor.

We propose that our licence should require us to ‘implement water conservation measures to deliver the overall objectives of the most recent WCP in an efficient and effective manner, accounting for the Current Assessment Method’.

**Q13: Do you agree with including a new condition in the operating licence to allow Sydney Water flexibility to modify its economic approach with Ministerial approval?**

We support increased flexibility for Sydney Water to proactively propose changes the Current Economic Method. However, we consider that Ministerial approval may not be the most efficient or effective option for approving changes. IPART approval, with notice to DPE, may be a suitable alternative.

**Q14: Should the operating licence or reporting manual impose additional obligations on Sydney Water to report on the 5-year water conservation plan?**

We **support** IPART’s preliminary position to introduce additional obligations to require Sydney Water to annually review and update the WCP, but request that where possible requirements should be streamlined to minimise duplication.

## Long-term water planning

### **Q15: Do you agree with not including an operating licence condition to require Sydney Water to implement actions under the GSWS Implementation Plan?**

IPART's preliminary position is to not require Sydney Water to implement actions under the GSWS Implementation Plan, but to retain the requirement to comply with a direction from the Minister to implement specific actions.

While we understand IPART's preliminary position, we consider that there is value in including a licence requirement to implement actions under the GSWS Implementation Plan, with additional 'best endeavours' wording. This would reflect the importance of Sydney Water's role in the GSWS Implementation Plan, as well as community and customer expectations, while also ensuring that a utility's compliance is measured only on aspects within its control.

### **Q16: Do you agree with updating and retaining the operating licence condition requiring Sydney Water to participate cooperatively in any review of the GSWS and retaining the requirement for Sydney Water to comply with a direction from the Minister to implement specific actions?**

We **support** updating and retaining these operating licence conditions and are committed to continuing to contribute to metropolitan water planning and participating cooperatively in any review of the GSWS.

The licence should clarify that the scope of directions from the Minister is limited to metropolitan water planning and GSWS implementation.

### **Q17: Should the operating licence impose requirements on Sydney Water to have and maintain a Long Term Capital and Operational Plan in cooperation with WaterNSW, to support long term planning?**

We request further clarification from IPART on what the scope of 'maintaining' would include (eg governance, monitoring and/or reviewing and updating the plan etc.) and the degree of coordination with WaterNSW would involve. We consider that any requirement to 'maintain' the LTCOP should require Sydney Water and WaterNSW to do so 'in cooperation with each other' rather than 'jointly'. We also propose to include 'best endeavours' wording to ensure that the utility's compliance is measured only on aspects within its control.

### **Q18: Should the operating licence require Sydney Water to maintain a MoU with WaterNSW to support the water supply augmentation arrangements?**

We consider that there is value in clarifying Sydney Water's accountability for the supply augmentation planning function and the role of WaterNSW to support us in delivering that function in our Operating Licence, for our customers and other stakeholders. Any clarification in our Licence should be in line with the Ministerial Direction and our MoU with WaterNSW.

Given that both Sydney Water and WaterNSW's Operating Licences are currently being reviewed by IPART, there is a clear opportunity to ensure that roles and responsibilities are clear and appropriately



reflected in the respective licences.

**Q19: Should the operating licence require Sydney Water to consider the long-term interests of customers when preparing production requests for Sydney Desalination Plant?**

We do not believe that there should be a licence requirement for Sydney Water to consider the long-term interests of customers when preparing production requests for Sydney Desalination Plant.

The objectives of the SDP Operating Rules consider long and short-term needs already. They balance customer-driven needs on water security and water continuity with total costs and risks to customers.

**Q20: Should the operating licence impose requirements on Sydney Water to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan?**

We **support** including these licence requirements and propose to also include 'best endeavours' wording to ensure that the utility's compliance is measured only on aspects within its control.

**Q21: Should the operating licence continue to require a data sharing agreement between Sydney Water and DPE to assist with the review of the GSWS?**

We **support** retaining the requirement for a data sharing agreement between Sydney Water and DPE to support the government's urban water strategies and long-term planning. We propose to also include 'best endeavours' wording to ensure that the utility's compliance is measured only on aspects within its control.

**Priority Sewerage Program**

**Q22: Should the operating licence continue to retain conditions regarding the Priority Sewerage Program or is this now redundant?**

We support removing the licence clauses regarding the Priority Sewerage Program, on the basis it may perpetuate incorrect expectations about the delivery of services.

**Climate risk readiness**



**Q23: Should the operating licence objectives be amended to explicitly refer to climate change?**

We support amending the operating licence objectives to provide greater certainty and establish clear expectations about climate change. The licence objectives could be amended to establish clearer expectations. For example, noting 'equity within and between generations'.

**Q24: Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the GSWS and its actions for reducing emissions and to regulate abatement?**

We **agree** with IPART's preliminary position that new operating licence conditions to undertake





abatement actions may not be necessary. There are already sufficient obligations to implement abatement actions.

**Q25: Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the GSWS and its actions for regulating climate resilience and adaptation?**

We **agree** with IPART's preliminary position that new operating licence conditions to undertake resilience or adaptation actions may not be necessary. However, we are open to reconsidering this need in future Operating Licence reviews.

**Q26. Is there anything further that we should consider when deciding whether Sydney Water should be required to develop and maintain a climate-related risk management program consistent with the NSW Climate Risk Ready Guide?**

We **support in principle** a licence requirement for Sydney Water to develop and maintain a climate-related risk management program consistent with NSW Government issued guidance for climate risk management. We seek further clarity on what this requirement would mean in practice.

**Q27. Do you agree with adding a requirement in the Reporting Manual for Sydney Water to report on its progress to net zero?**

We **support in principle** that Sydney Water should report on its progress towards achieving net zero. We seek further clarity around reporting obligation timing and content to avoid duplication with new NSW Treasury requirements.

**Q28. Do you consider that there should be any other reporting requirements related to abatement, adaptation, resilience or climate risk?**

We **do not support** any other requirements over and above mandatory disclosures.



### Obligations to customers

**Q29 (i): Regarding the customer contract, are the rebates in the current Customer Contract well targeted and set at the right levels?**

Sydney Water is proposing to keep the current rebate structure and increase rebates in line with inflation at the start of the next Licence period.

**Q29 (ii): Regarding the customer contract, should any of the provisions of the Customer Contract, other than those already specified in clause 6.3 of the operating licence, be extended to 'consumers' who are not parties to the contract (e.g. tenants or property occupiers that are not landowners)?**

Sydney Water has a range of protections already in place for consumers. We consider the measures in place are appropriate and **do not support** extending the provisions of the Customer Contract, other



than those already specified in clause 6.3, to consumers, who are not parties of the contract.

**Q29 (iii): Regarding the customer contract, do you support Sydney Water’s proposed changes to the Customer Contract (as published as part of Sydney Water’s submission to the Issues Paper on 1 September).**

A summary of proposed changes is provided in section 5.1.

Updated Customer Contract is provided in **Appendix 4**.

**Q30: Do you agree that the current operating licence requirements for maintaining, and implementing and advertising payment assistance options are the minimum necessary to protect customers experiencing payment difficulty?**

We **support** retaining the current licence requirements to provide payment assistance options. Sydney Water has been seeking to understand what additional assistance options may be useful to customers.

**Q31: Within the limitations of the current legislative framework, we seek your feedback on how protections could be improved for tenants who are responsible for paying water usage at a separately metered property through the operating licence or customer contract?**

We note that IPART’s preliminary view is that there could be benefits to tenants, particularly those vulnerable to payment difficulties.

We consider that there are significant hurdles to IPART’s preliminary view and its proposal to bill tenants directly. Under the *Sydney Water Act 1994*, our billing relationship is legally with the landlord as the responsible landowner, and not the tenant.

We provide further details on the legislative and other logistical barriers to IPART’s proposal in our response.



**Q32: Does the current operating licence requirement for Sydney Water to implement a family violence policy offer adequate protection for vulnerable customers?**

We remain committed to our family violence policy and **support** retaining the current licence requirements for a family violence policy. We support the minor amendment to require us to ‘maintain and implement’ the policy.

**Q33: Do you agree that the current operating licence requirements for internal complaints handling are adequate to protect customers?**

We remain committed to internal complaints handling and **support** retaining the current licence requirements for internal complaints handling. We propose minor wording changes.

**Q34: Do you agree that the current operating licence requirements for external dispute resolution are the minimum necessary to protect customers?**



We remain committed to external dispute resolution. We **support** IPART's proposed amendments to allow us greater flexibility in the choice of mechanisms, i.e. not necessarily the Energy and Water Ombudsman NSW (EWON).

**Q35: Do you agree that the current operating licence requirements for Sydney Water to publicise its customer protection provisions are the minimum necessary to ensure customers are aware of the provisions?**

We **support** retaining the current licence requirements and remain committed to providing information to customers. We, however, seek some flexibility in how we provide information, as customers were supportive of Sydney Water ceasing postal distribution of the Customer Contract.

We also seek clarity on potential subclause duplication.

**Q36: Do you agree that the current operating licence should only require Sydney Water to maintain a Customer Council (or Customer and Community Reference Group), to reflect the requirements of the Act, but should not include any additional prescription for the Customer Council?**

We remain committed to maintaining and regularly consulting with the Customer and Community Reference Group (previously Customer Council) and **support** retaining the current licence requirements for Sydney Water to maintain and regularly consult with its Customer Council.

We also **support** IPART's preliminary position to remove prescriptive requirements in the operating licence originally intended to support the Customer Council's operations. Sydney Water and the CCRG jointly developed a charter to establish the purpose and function of the CCRG and the roles and responsibilities of each party.

**Q37: Do you agree that the current operating licence conditions for Sydney Water to undertake customer engagement (outside of its Customer Council) are adequate?**

We remain committed to our customer engagement processes as a critical element of ensuring our business is customer-centric. We **support** retaining the current licence requirements for Sydney Water to undertake customer consultation (outside of its Customer Council).

**Q38. Should the operating licence include conditions for Sydney Water to develop and implement a customer consultation procedure to guide its consultation processes?**

IPART's preliminary position is that it is not necessary to include requirements for Sydney Water to implement a customer consultation procedure to guide its consultation process

We **support** IPART's preliminary position and consider that direction via the CCRG process and under IPART's new 3Cs regulatory framework to develop and implement a customer engagement strategy is sufficient.



## Critical infrastructure security

### Q39: Do you agree with maintaining the current operating licence requirements for a cyber security management system until the commencement of the rules under the SOCI Act?

We **support** retaining the current licence requirements to maintain and implement a cyber security management system to appoint a critical infrastructure compliance manager responsible for this until the new rules under the SOCI Act commence.

We would like to clarify when IPART intends to retire the requirements for the purposes of our licence audits.

### Q40: Do you agree with maintaining requirements in the operating licence for select staff to hold security clearances?

We do not agree with maintaining the current licence requirements for select staff to hold national security clearances.

We propose to retire some NV1 clearances and maintain only NV1 clearances for our Chief Security Officer (CSO) and/or for the person responsible for CIRMP maintenance for the remainder of the 10-year period, after which we will not renew.

### Q41: Do you agree with maintaining the current reporting requirements for a cyber security management system until the commencement of the rules under the SOCI Act?

We **support** IPART's preliminary position to remove current reporting requirements for an annual independent audit report of the cyber security management system as this will duplicate requirements in the SOCI Act.

We would like to clarify the date when IPART intends to remove our current reporting requirements for the purposes of our licence audits.

## Engaging with government stakeholders

### Q42: Do you agree that the proposed operating licence requirements for Sydney Water to maintain *and* comply with its MoUs with WAMC, NSW Health and the EPA are adequate to ensure cooperative relationships between these organisations?

Sydney Water **supports** the principle of maintaining an MoU with WAMC but seeks modernisation to reflect the complexity with functions which now sit with DPE, NRAR and WaterNSW.

Sydney Water **does not support** the introduction of the phrase 'and comply' into the relevant licence clauses.

**Q43: Should the operating licence require Sydney Water to provide water pressure information at the hydrants in its water supply network to FRNSW, within specified times?**

We remain dedicated to maintaining a MoU with FRNSW. We **do not support** the introduction of specified dates for the provision of information.

**Engaging with WIC Act licensees**

**Q44: Do you agree with retaining the current operating licence obligations for protecting WIC Act licensees and other potential competitors when dealing with Sydney Water?**

We **support** retaining the current operating licence obligations for protecting WIC Act licensees and other potential competitors when dealing with Sydney Water. However, we note that the draft *Water Industry Competition (General) Regulation 2022* (NSW) removes any reference to any industry-wide Code of Conduct.

**Publishing servicing information to competitors**

**Q45: Are the current operating licence requirements for Sydney Water to publish servicing information the minimum necessary to ensure there is adequate information available to market entrants or is there a more efficient way to achieve the same objective?**



We consider there can be greater flexibility in how we meet the requirements to publish servicing information. With the re-introduction of developer charges, an alternative approach could be that we meet our current licence requirements through the publication of our Development Service Plans (DSPs), with any major deviations noted in our annual Growth Servicing Plan.

**Administrative clauses and other issues**

**Q46: Do you have any other issues or concerns you would like to raise relating to Sydney Water's operating licence?**

With respect to administrative clauses:

- **Licence term:** We would like to propose a 4-year term for this new Operating Licence. For future licences thereafter, revert to a standard term of five years. This will provide better sequencing of licence and price reviews, separated by two years, from 2027-28 onwards
- **Pricing condition:** We consider that IPART's proposed changes to ensure Sydney Water's prices for its services do not exceed those specified in the price determinations and to require Sydney Water to submit a price proposal duplicate the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW).
- **Licence authorisation:** We propose to amend the supporting note on stormwater services in clause 2.1.3 to include catchment management functions. We also propose to amend the definition of 'stormwater drainage system' to acknowledge that natural waterways and re-use



systems are part of best practice stormwater servicing.

With respect to other issues:

- **Performance Monitoring and Reporting:** We propose amendments to the Performance Monitoring and Reporting clause (10.2.3), and Reporting Manual requirements relating to environmental indicators to increase flexibility and remove duplication.
- **Definitions and Interpretation:** We also seek changes to the definitions of 'Planned Water Interruption' and 'Unplanned Water Interruption'.

# 2 Performance standards

## 2.1 Water quality

Every day, we supply about 1.5 billion litres of drinking water to over 5.3 million people in their homes and businesses. Water is filtered at one of the 9 drinking water filtration plants or Sydney Desalination Plant to meet the Australian Drinking Water Guidelines.

We rigorously test and monitor the water we source as it makes its way to you from rivers, lakes and dams to our reservoirs and filtration plants, all the way to your tap. The result is some of the best drinking water in the world.

Sydney Water maintains and implements a drinking water management system (DWMS) and recycled water management system (RWMS) that align to the *Australian Drinking Water Guidelines* and the *Australian Guidelines for Water Recycling*, respectively.

### Insights from our customers – Water Quality

Our recent customer engagement program has shown that maintaining clean and safe drinking water is our customers number one priority for Sydney Water. Reducing the chances of drinking water occasionally smelling or tasting different is their 9<sup>th</sup> priority. Recycled water that is fit for purpose is also key to the customer identified priorities to build infrastructure for water recycling and/or desalination for drought resilience (4<sup>th</sup> priority) and contribute to a cooler environment and more pleasant green public spaces through trees and vegetation (11<sup>th</sup> priority). Maintaining and implementing our drinking and recycled water management systems aligned to the appropriate national guidelines help us to achieve these customer outcomes by ensuring that water products are fit for their intended end use.<sup>11</sup>





#### 2.1.1 Water Quality management system clauses

**Q1: Do you agree with retaining the current water quality standards in the operating licence and clarifying NSW Health’s role for specifying additional health-based requirements?**

<sup>11</sup> Sydney Water (2023) ‘Our Water, Our Voice’ – Phase 1 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/Our%20Water%20Our%20Voice%20-%20Phase%201%20Findings.pdf>.





Yes, we support retaining the current water quality standards in the licence. However, we note that these are *guidelines*, not *standards*. We endeavour to meet all guideline requirements. There are circumstances where Sydney Water may need to depart from guidelines, for example in an emergency to prioritise management of an acute public health risk over chronic long-term risks or aesthetic risks. In these circumstances the risks, controls available and potential outcomes are discussed with NSW Health. NSW Health may determine that a short-term excursion from certain guidelines is considered a low risk to public health.

A requirement to always meet guideline limits regardless of circumstances and without consideration to risk profiles could drive additional costs unnecessarily. This consideration of risks and our emergency response are a part of the Frameworks of the ADWG and the AGWR, and our management systems, and are audited annually.

With reference to clarifying NSW Health's role for specifying additional health-based requirements, Sydney Water supports this amendment, and note that similar wording was adopted in Hunter Water's current Operating Licence (2022-2027). We would support transitioning to wording similar to that in Hunter Water's Operating Licence as it more clearly indicates that additional requirements from NSW Health are limited to health-based requirements and are to be specified in writing. We note that where requirements are additional to guidelines, unforeseen and likely to have a cost impact then Sydney Water may need to negotiate a timeline to meet requirements so as not to unduly impact affordability of customer bills.

### 2.1.2 Complying with fluoridation requirements

#### **Q2: Do you agree with removing the current requirement in the Licence for Sydney Water to comply with the NSW Code of Practice for Fluoridation of Public Water Supplies?**



Yes, Sydney Water supports the removal of the specific clause in the OL for Sydney Water to comply with the *NSW Code of Practice for Fluoridation of Public Water Utilities Supplies*.

The water supply of Sydney has been fluoridated since 1965 and Sydney Water is subject to the *Fluoridation of Public Water Supplies Act 1957*, *Fluoridation of Public Water Supplies Regulation 2022* and the *NSW Code of Practice for Fluoridation of Public Water Supplies (Fluoridation Code)*. We have systems and processes in place to manage our water supply in accordance with this regulation and have a long history of compliance that is overseen by NSW Health.

Fluoridation is a critical control identified in our DWMS, the maintenance and implementation of which is the subject of a distinct clause in our Operating Licence already. Removal of the specific fluoridation clause in the Licence will remove duplicative regulation with no change in current practice. In addition, we will continue to audit our fluoridation processes in accordance with the Fluoridation Code of Practice, and our fluoridation practices may still be audited in Operating Licence audits – via the DWMS licence clause rather than a discrete clause relating to fluoridation.

The benefit of removing the fluoride clause is that it is duplicative of DWMS requirements. Currently a breach relating to fluoridation can impact compliance against both clauses 4.1 and 4.3.





Hunter Water does not have a clause relating specifically to the Fluoridation Code in their current, nor previous, Operating Licence. The removal of the clause in Sydney Water's Licence, will align the two Licences.

### 2.1.3 Reporting requirements for water quality monitoring.

#### **Q3: Are the current reporting requirements for Sydney Water's water quality management and monitoring adequate? Are they excessive?**

Sydney Water supports IPART's preliminary position to include only the minimum water quality related reporting requirements. With respect to specific requirements currently outlined in the reporting manual our views are:

- Annual compliance reports on DWMS and RWMS to IPART and NSW Health – **Retain**.
- Quarterly water quality reports published on our website – **Retain**. It is important to advise our customers on the water quality they receive on a regular basis. A summary of this information, and how to find more information, is also provided quarterly with bills.
- Quarterly exception-based reporting to NSW Health – **Retain**. It is important to summarise for NSW Health the water quality we are providing customers on a regular basis.
- Monthly fluoride monitoring reports to NSW Health – **Remove**. We suggest removal of monthly fluoride reporting requirement to NSW Health in the Reporting Manual. Regardless of whether the current fluoridation clause is retained or removed, reporting to NSW Health is also a requirement under the Fluoridation Code.
- Immediate notification to NSW Health of incidents and emergencies – **Retain**.

We also provide daily results on the functioning of drinking water critical control points, searchable typical water quality results and Frequently Asked Questions or fact sheets online to assist customers in relation to water quality on our website.

Sydney Water believes our reporting of water quality management and monitoring is adequate, and this is supported by compliance results from Operating Licence audits.

### 2.1.4 Additional comments for Water Quality

[Definitions of the ADWG and AGWR in the Definitions and Interpretation section \(section 11\) of the Licence](#)

Sydney Water seeks a minor wording change for the definitions for ADWG and AGWR to allow for rolling updates (Table 2). We seek this change to recognise that:

- the ADWG are now updated and reviewed on a continuous basis, with changes published from time to time without a fixed frequency of review. Sydney Water must comply with the changes in a timeframe agreed with NSW Health.
- an update to the AGWR is expected in early part of the next Licence period.
- this change was made in the most recent update of Hunter Water's Licence.

Table 2. Sydney Water’s suggested amendments for definitions of the *Australian Drinking Water Guidelines* and *Australian Guideline for Recycling Water* in the Licence

Current definition	Proposed definition
<p><b>Australian Drinking Water Guidelines</b> means the “Australian Drinking Water Guidelines 2011” published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council.</p>	<p><b>Australian Drinking Water Guidelines</b> means the “Australian Drinking Water Guidelines” <b>as updated from time to time</b> by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council.</p>
<p><b>Australian Guidelines for Water Recycling</b> 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.</p>	<p><b>Australian Guidelines for Water Recycling</b> means the “Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phases 1 and 2)” <b>as updated from time to time</b> 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.</p>

Sydney Water has assessed this as having no net cost to implement. We believe it is the expectation of NSW Health that we would endeavour to comply with up-to-date guidelines. While there is a risk that we must then comply with rolling revisions as they are released, with a related potential cost of compliance, this is mitigated by:

- extensive industry discussion of major guideline changes, including providing responses to draft guideline changes that enables Sydney Water to plan ahead, and
- an ability to discuss with NSW Health appropriate timelines and pathways to meet new compliance requirements.

### Customer Contract 3.1.2 - Contract wording relating to drinking water quality

Sydney Water would like to propose a minor wording change in the ADWG definition from ‘health-related guidelines’ to ‘health-based guidelines’ to match terminology used in the ADWG (Table 3 and **Appendix 4**).

Table 3. Sydney Water’s suggested amendments for definitions of the *Australian Drinking Water Guidelines* in the Customer Contract.

Current definition	Proposed definition
<p>The <b>drinking water</b> we supply a <b>customer</b> will comply with the health-related guidelines provided in the <b>Australian Drinking Water Guidelines</b> except to the extent otherwise specified by <b>NSW Health</b>.</p>	<p>The <b>drinking water</b> we supply a <b>customer</b> will comply with the health-<b>based</b> guidelines provided in the <b>Australian Drinking Water Guidelines</b> except to the extent otherwise specified by <b>NSW Health</b>.</p>



## 2.2 System performance standards for service interruptions

We agree that setting maximum limits for performance standards for service interruptions is appropriate for the Operating Licence and provides assurance to our customers regarding the performance they can expect from Sydney Water.

Sydney Water supports the retention of performance standards in the Licence for water supply to the property, including continuity and pressure, as well as dry weather wastewater overflows on customer properties.

### **Q4: Is there anything further we should consider when reviewing the system performance standards in the current operating licence to determine the minimum service levels necessary to protect customers?**

A high-level discussion relating to each service performance standard is provided below, with additional detail in **Appendix 2**.

#### **Water continuity**

The water continuity standard provides a commitment to customers in relation to the availability of water to their property. The current standard focusses on the number of properties impacted by unplanned, long duration water outages. In the last end-of-term review, IPART set an 'optimal' performance level of for 9,840 out of 10,000 properties to be unimpacted by an unplanned water outage longer than 5 hours in duration annually, with a tolerance band extending from 9,800 out of 10,000 properties (the compliance limit) unimpacted to 9,880 properties unimpacted. An outage is considered planned if 48 or more hours prior notice is provided (eg via paper notes delivered by our crews).

Under the Customer Contract, rebates also apply if customers experience multiple unplanned outages of more than 1 hour in duration. The Operating Licence standard relating to repeat interruptions was removed during the last review.

Sydney Water has been compliant with the standard for three of the last four years of this Operating Licence period (Table 4). This follows non-compliances in the 2018-19 and 2019-20 financial years where dry antecedent weather conditions during the drought significantly impacted soil moisture, and therefore an increase in water main breaks due to pipe movement as discussed further in **Appendix 2**.

We note that the return to compliance has only been narrowly achieved as a result of significant efforts to deal with challenges largely beyond our control. The very wet La Niña conditions that dominated from January 2020 until recently have not resulted in a large reduction in the number of properties being impacted by long outages, as we might have expected based on previous assessments (eg, historically, leaks and breaks are often associated with very dry periods or transitions between wet and dry conditions). Understanding the drivers of performance will be essential for understanding the potential impacts of climate change on this standard into the future. A likely return to El Niño conditions means that Sydney Water will continue to be challenged to meet this minimum standard in the forthcoming Licence period.

Table 4. Summary of Sydney Water’s compliance against the performance standard for water continuity during this Operating Licence period.

Standard	2019-20	2020-21	2021-22	2022-23
At least 9,800* per 10,000 Properties (in respect of which Sydney Water provides a Drinking Water supply service) receive a Drinking Water supply service unaffected by an Unplanned Water Interruption.	9,763 Non-compliant	9,808 Compliant	9,833 Compliant	9,812 Compliant

\* Note: In the current Operating Licence the optimal and upper tolerance band targets for water continuity are 9,840/10,000 and 9,880/10,000 properties unimpacted, respectively.

## Insights from our customers – water continuity

Water continuity is of vital importance to our customers. Our customers’ top priority for Sydney Water identified in Phase 1 of the ‘Our Water, Our Voice’ customer engagement program is to maintain clean and safe drinking water.<sup>12,13</sup> This includes elements of both drinking water quality (that it is clean and safe to use) and water continuity (that when customers or consumers turn on their taps, water is available). Minimising the impact of planned and unplanned outages featured as number 10 of 15 customer determined priorities for Sydney Water.<sup>14</sup>

In Phase 2 of the program it was established that customers are generally satisfied with the current service they receive in relation to water continuity.<sup>15,16</sup> Sydney Water is currently completing a willingness-to-pay (WTP) study to determine if customers are WTP for current or improved standards of service, or willing-to-accept a bill reduction in trade off for a decrease in performance. In our 2018 customer engagement we found that while many customers were supportive of improvements, there wasn’t sufficient willingness to pay to change the standard.<sup>17</sup>

As a whole, these results suggest that customers value continuity of their water supply extremely highly, confirming suitability of this area for a performance standard in our licence. They expect good performance, and the standard is currently set at a level they support. Based on the customer engagement feedback, Sydney Water is exploring alternative methods for advising customers of both planned and unplanned water outages to help keep people better informed of potential issues and when they will be resolved, and by doing so reduce the impact of outages on our customers.

<sup>12</sup> Sydney Water (2023) ‘Our Water, Our Voice’ – Phase 1 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/Our%20Water%20Our%20Voice%20-%20Phase%201%20Findings.pdf>.

<sup>13</sup> Sydney Water, Kantar Public, Synergies Economic Consulting and CaPPRe (2023) ‘Our Water, Our Voice’ Community Engagement Program: Phase 1 Final Report, March 2023.

<sup>14</sup> Sydney Water (2023) ‘Our Water, Our Voice’ – Phase 1 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/Our%20Water%20Our%20Voice%20-%20Phase%201%20Findings.pdf>.



## Climate change and uncertainty

While Sydney Water proposes that the current standard is adequate for this forthcoming Licence period, we will seek to use the next Operating Licence period to more robustly assess the impacts of current and future climate on factors on performance against the current standard and/or develop an alternative target or standard. Historical performance is not necessarily a good indicator of future performance when it comes to climate change. We know already that water continuity is usually strongly impacted by extreme dry and extreme wet conditions (breaks due to landslips when soil is oversaturated).

Climate change is likely to increase the frequency and severity of extreme events like droughts, bushfires and floods. We need to do additional work to consider how the frequency and severity of these events may impact performance, asset maintenance and repair requirements and subsequent costs. This reflects Sydney Water's position in relation to climate change adaptation (see also response to question 25). Our BAU approach is to plan, design and build for a future climate aligned to current global emission pledges (RCP 4.5). We will also develop adaptive pathways for our services if emissions reductions are not realized (RCP 8.5).<sup>18</sup> We will apply the appropriate climate projections to all our assumptions rather than assuming historical data/standard criteria. However, the work to implement this climate change adaptation position is only in the early stages of delivery (it applies to our whole business, not just these standards). With a better understanding of the impact of climate risk on our water and wastewater networks and therefore our customers, we hope to be in a better position to assess the impact of these uncontrollable factors on our performance into the future.

Sydney Water also proposes to gather data and track performance against additional metrics to allow us to potentially move to more customer-friendly and relevant standards at the next end-of-term review. We are looking at the metrics that other water authorities in Australia, or internationally, use to assess customer impact. The current standard is complex in that it includes frequency, duration and notification elements that need to be unpacked individually with customers. It is also complex to determine the impact of controllable factors relating to performance against this standard against the impact of uncontrollable factors and their magnitude of impact. We are looking at the metrics that other water authorities in Australia, or internationally, use to assess customer impact. Please see **Appendix 2** for more details.

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<sup>15</sup> Sydney Water (2023) 'Our Water, Our Voice' – Phase 2 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/our-water-our-voice-phase2-findings.pdf>.

<sup>16</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023) 'Our Water, Our Voice' Community Engagement Program: Phase 2 Final Report, March 2023.

<sup>17</sup> Sydney Water (2018) *Review of Sydney Water's Operating Licence: Response to Issues Paper*, August, <https://www.ipart.nsw.gov.au/sites/default/files/documents/online-submission-sydney-water-h.-muras-6-aug-2018-172347490.pdf>.

<sup>18</sup> RCP 4.5 and RCP 8.5 refer to the representation concentration pathways (RCP) used by the Intergovernmental Panel on Climate Change to model different climate futures depending on different predictions of greenhouse gas emissions.

## Water pressure

We support maximum limits consistent with the current standard in clause 5.2.1 of “Sydney Water must ensure that, in each financial year, at least 9,999 properties out of 10,000 properties (in respect of which Sydney Water provides a drinking water supply service) receive a drinking water supply service affected by fewer than 12 water pressure failures”, where a water pressure failure is defined as an instance where water pressure is <15m head for an hour or more.

We are not proposing any changes to targets, based on:

- Customer engagement findings (see breakout box)
- We have a good record of compliance (Table 5), with only 52-72 properties a year out of just over 2 million drinking water connections have been impacted by chronic low pressure issues (0.0025% of connected properties).

**Table 5. Summary of Sydney Water’s compliance against the performance standard for water pressure during this Operating Licence period.**

Standard	2019-20	2020-21	2021-22	2022-23
At least 9,999 per 10,000 Properties (in respect of which Sydney Water provides a Drinking Water supply service) receive a Drinking Water supply service affected by fewer than 12 Water Pressure Failures.	9,999 Compliant (54 properties impacted in total)	9,999 Compliant (61 properties impacted in total)	9,999 Compliant (52 properties impacted in total)	9,999 Compliant (72 properties impacted in total)

- Our performance is the outcome of various asset management strategies for our drinking water network across areas such as leakage, water continuity and water quality. While this may result in performance that appears to ‘overservice’ the Operating Licence standard for pressure, this is the most cost-efficient way to meet all required standards / customer and regulator expectations. Additionally, our systems have been designed and sized to accommodate this level, over the various terrain levels in the Sydney Basin, to ensure that for a two-storey residential house, water can be normally supplied to the upper level without the use of an onsite pump. Any changes to the system would have a financial impact that would be added to customer bills.
- Changes were made last OL review to focus on chronically impacted customers. This remains appropriate. The changes to the licence did result in substantial work to reconfigure how customers are determined as being impacted for purposes of monitoring and reporting on performance and rebate provision.



## Insights from our customers – Water Pressure

Phase 1 of the Our Water, Our Voice engagement program did not indicate water pressure as a priority for Sydney Water’s residential customers and consumers. However, certain groups, like developers, did voice the importance of addressing water pressure for their business and servicing growth in Sydney.

Phase 2 of the program found that Sydney Water’s current water pressure standards exceed many people’s expectations, however this was likely to reflect a lack of knowledge and experience with water pressure issues, rather than a high tolerance for them.<sup>19,20</sup> Only a small number of people had first-hand experience of water pressure issues in Greater Sydney (which reflects performance during this last Operating Licence period as only 52-72 properties a year out of ~2 million drinking water connections have been impacted by chronic low pressure issues (Table 5). Given that low water pressure incidents are rare, most people found it difficult to imagine it happening with many commenting that they lacked the knowledge and experience to set realistic standards around the frequency of these incidents for Sydney Water to abide by. Most people said they would trust the experts to make a judgement call on what is fair and reasonable with regards to a water pressure standard for Sydney.

The willingness to pay for an increase in service level relating to water pressure, or willingness to accept a decline in service for a lower bill is still being tested with customers at the time of this submission.

As a whole, these results suggest that while residential customers appreciate adequate pressure, it’s not their highest priority for our performance, and given our level of performance on this standard, it is currently set at a level they support.

### Removal of the low pressure cluster clause (5.2.5)



In addition to the minimum standard for water pressure, there is an additional licence requirement relating to “Property Clusters” (sub-clause 5.2.5) (where property clusters are defined as specific areas affected by recurring low water pressure as set out in the Operating Licence). These requirements are to:

- a. review business processes to ensure that new customers are not connected to our drinking water supply, unless the owner is informed of the risk and provided with options to reduce the risk, and
- b. take steps to minimise recurring water pressure failures, while taking into account customers’ willingness to pay for drinking water supply services by 31 October 2022.

We propose that this clause 5.2.5 can be removed. The work stipulated in part (a) to introduce a new process has been completed. An initial options study into cost and feasibility of rectifying the

<sup>19</sup> Sydney Water (2023) ‘Our Water, Our Voice’ – Phase 2 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/our-water-our-voice-phase2-findings.pdf>.

<sup>20</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023) ‘Our Water, Our Voice’ Community Engagement Program: Phase 2 Final Report, March 2023.



low pressure clusters was completed by October 2022 (part b). The options were compared with customers' willingness to pay established in the Customer Informed Planning and Advocacy (CIPA) engagement completed in 2018 (as part of the previous OL and price review cycle). Sydney Water will take steps to minimise recurring water pressure as part of business-as-usual planning processes that consider, amongst other factors, costs versus customer willingness-to-pay.

### Dry weather wastewater overflows

The purpose of the dry weather wastewater overflow standard is to provide a commitment to customers that appropriately minimises the frequency of wastewater overflows (in dry weather) on their property. Uncontrolled overflows of untreated wastewater onto customer properties represents a public health risk to customers, and an environmental risk if that overflow reaches waterways.

We do note, however, that there is a degree of interaction with our Environment Protection Licences (EPLs) regulated by the NSW EPA, which also enforce community outcomes relating to wastewater overflows to the environment. This means, for example, that work to ensure compliance with our EPLs may have the side-effect of improving compliance with the Operating Licence.

Sydney Water supports maximum limits consistent with the current performance standards in clause 5.3.1:

*“Sydney Water must ensure that, in each financial year, at least:*

- *9,928 properties per 10,000 properties (in respect of which Sydney Water provides a sewerage service but excluding public properties) receive a sewerage service unaffected by an Uncontrolled Wastewater Overflow; and*
- *9,999 out of 10,000 customer properties (in respect of which Sydney Water provides a sewerage service but excluding public properties) receive a sewerage service affected by fewer than three Uncontrolled Wastewater Overflows.*

We are not proposing any changes to targets, based on:

- Customer engagement findings (see breakout box).
- Current good historical compliance with the existing standards. See Table 6 and **Appendix 2** for more detail.
- Allowance for sufficient buffer during drought when performance typically worsens as soil moisture declines and tree roots seeking moisture results in an increase in chokes.
- Programs in place to manage wastewater network issues (e.g. inspection programs, sensors, tree root cutting, sewer relining) to meet this standard *and* requirements under the EPLs that regulate dry weather and wet weather overflows follow asset management principles driven by lowest lifecycle cost. The requirements under the EPLs also tend to drive performance outcomes on customer properties (i.e. we perform better than required



under the Operating Licence for dry weather wastewater overflows on customer properties because we are also servicing EPL requirements).

**Table 6. Summary of Sydney Water’s compliance against the performance standards for dry weather wastewater overflows during this Operating Licence period.**

Standard	2019-20	2020-21	2021-22	2022-23
At least 9,928 per 10,000 Properties (in respect of which Sydney Water provides a sewerage service but excluding Public Properties) receive a sewerage service unaffected by an Uncontrolled Wastewater Overflow.	9,965 Compliant	9,979 Compliant	9,987 Compliant	9,986 Compliant
At least 9,999 per 10,000 Properties (in respect of which Sydney Water provides a sewerage service but excluding Public Properties) receive a sewerage service unaffected by 3 or more Uncontrolled Wastewater Overflows.	9,999 Compliant (34 properties impacted in total)	9,999 Compliant (8 properties impacted in total)	9,999 Compliant (4 properties impacted in total)	9,999 Compliant (11 properties impacted in total)

## Insights from our customers – Dry weather wastewater overflows

In Phase 2 of the Our Water, Our Voice engagement program customers and community members strongly voiced that Sydney Water should minimise the severity and frequency of wastewater overflows as much as possible.<sup>21</sup> Our customers understandably viewed wastewater overflows negatively because of the impact they can have on the community, which includes personal inconvenience, damage to the environment, unpleasant odour, and risk to public health. When our standards were explained, we found that Sydney Water's current dry weather wastewater overflow standards exceed many people's expectations. However, as for water pressure, many people noted that the rarity of the events and lack of experience or knowledge meant that they found it hard to set what a realistic expectation would be.

Intolerance to multiple failures is a key element of customer sentiment on this topic, confirming the need for two standards and a suitably strict target for multiple failures.

Customers were not prepared to pay for the additional costs of a guaranteed, long-term reduction in the standard when asked in our 2018 engagement program<sup>22</sup> (noting that willingness-to-pay results from the current program are not yet available at the time of this submission).

A recalibration of rebates was also completed during the 2018 customer engagement program. The provision of significant rebates was a factor for some customers in choosing to keep the existing standard, as they had the assurance of being compensated when something does go wrong, rather than paying extra on the bill annually to achieve a tighter standard overall.

These results suggest that while customers quite rightly expect very good performance on this standard given the nature of a wastewater overflow, the standard is currently set at a level they support.

### **Q5: Are there other standards that the operating licence should include to hold Sydney Water to account for the levels of service it provides to the community?**

Sydney Water believes that the current areas of service for which standards are outlined in the Operating Licence (water quality, water continuity, water pressure, dry weather wastewater overflows on customer properties) are appropriate to:

- protect primary customer and community interests as identified through customer engagement, and
- ensure we meet primary objectives of the *Sydney Water Act 1994* (NSW) and of our Operating Licence to protect public health, protect the environment at an appropriate price to ensure affordability for customers and enable us to operate as an effective business.

<sup>21</sup> Sydney Water (2023) 'Our Water, Our Voice' – Phase 2 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/our-water-our-voice-phase2-findings.pdf>.

<sup>22</sup> Sydney Water (2018) *Review of Sydney Water's Operating Licence: Response to Issues Paper*, August, <https://www.ipart.nsw.gov.au/sites/default/files/documents/online-submission-sydney-water-h.-muras-6-aug-2018-172347490.pdf>. [REDACTED]



We do not propose any additional standards for inclusion in the Operating Licence.

We note that the role of the operating licence is to set minimum protection for customers and ensure reliable services.<sup>23</sup> As set out in IPART's new 3Cs framework, utilities may propose outcomes, measures and targets above and beyond these 'minimum standards', as informed by customer preferences.<sup>24</sup>

### 2.2.1 Reporting requirements for system performance standards

**Q6: Do you agree with consolidating current reporting requirements on Sydney Water's reporting against the performance standards for service interruptions (in chapters 4 and 8 of Sydney Water's current reporting manual?)**

IPART have proposed:

- removal of the annual reporting requirement to IPART on system performance standards (in chapter 4 of the reporting manual)
- retaining requirement to prepare a compliance and performance report about Sydney Water's performance against IPART indicators and National Performance Report indicators (in chapter 8 of the manual).

IPART asset performance indicators include reporting the number of properties that experience:

- a single unplanned water continuity service interruption greater than 5 hours
- 3 or more unplanned water continuity service interruptions greater than 1 hour
- a water pressure failure
- a single uncontrolled wastewater overflows in dry weather
- multiple uncontrolled wastewater overflows in dry weather.

National Performance Reporting (National Water Initiative; NWI) indicators are used to benchmark our performance (and pricing) against other utilities Australia-wide. Relevant NWI indicators include asset and customer related measures like:

- number of water main breaks, bursts and leaks (total and per 100 km of pipe)
- average duration of an unplanned water interruption in minutes
- total unplanned interruptions for water (customers affected)
- number of sewer mains breaks and chokes (total and per 1,000 properties)

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<sup>23</sup> Independent Pricing and Regulatory Tribunal (IPART) (2023) *Water Regulation Handbook*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Handbook-Water-regulation-July-2023-V2.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Handbook-Water-regulation-July-2023-V2.PDF), p. 84.

<sup>24</sup> Independent Pricing and Regulatory Tribunal (IPART) (2023) *Water Regulation Handbook*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Handbook-Water-regulation-July-2023-V2.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Handbook-Water-regulation-July-2023-V2.PDF), p. 84.

- average duration of a sewerage interruption in minutes

Sydney Water **does not support the removal of the annual reporting requirement to IPART on system performance standards.** While we recognise that significant effort goes into preparing the annual report, a substantial component of the work involved in the reporting is data collation and validation. This would need to continue regardless of whether we had the annual report requirement and were solely reliant on reporting against the NWI indicators. In addition, we see great value to stakeholders in the additional analytical trending and commentary on performance contained in the current report. For example, Sydney Water is required to report on:

- the major factors (both positive and negative) that have influenced our performance including those factors that are within or beyond our control
- reasons for any significant variation (both positive and negative) between our performance in the financial year and performance in the previous five years.

Indicator reporting as part of the NPR process requires no such commentary. Sydney Water's approach to indicator reporting to IPART is to include commentary where there has been a notable year-on-year variation in performance.

We are open to hearing IPART's views on improving the content of this report if it is currently thought to be unnecessary.

## 2.3 Asset management

Our Asset Management Framework plays an important role in our broader corporate management system. It provides discipline to our asset management practices through structured management review, auditing program, continuous improvement, and delivery and performance monitoring.

We remain committed to improving our asset management practices to provide better value services for our customers.

**Q7: Is there anything further we should consider when deciding whether Sydney Water should maintain an Asset Management System consistent with Australian Standard AS ISO 55001:2014; and to implement it, with no substantial changes?**

Sydney Water supports the retention of this clause. Sydney Water remains committed to maintaining and implementing an Asset Management Framework that is consistent with, and even certified to, the ISO standard ISO55001.

An asset management framework is integral to ensuring that our assets are performing appropriately to deliver services at the right level to our customers (i.e. to standards outlined in this Licence, under our Customer Contract, or in our EPLs). It also assists us to monitor, maintain, or renew assets in accordance with their asset life and condition in an efficient and prudent way to maximise asset value. We agree with IPART that an asset management framework consistent with ISO55001 assists us to meet our obligations under the *Sydney Water Act 1994* (NSW) to:



- provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for supplying water, providing sewerage services and disposing of wastewater, and
- ensure that systems and services meet the quality and performance standards in the operating licence.

We support IPART’s position that a clause for Sydney Water to maintain and implement an asset management framework consistent with the ISO55001 standard is a net benefit to our customers, as assessed during the last review of our Licence, and the last review of Hunter Water’s Operating Licence. We do not have further costs or benefits that we believe need to be incorporated.

Sydney Water would however like to **propose some minor wording changes to the clause** to reflect that the ISO55001 standard will be updated during the next Licence period (see Table 7), and to provide greater consistency with Hunter Water’s and WaterNSW’s current Operating Licence clauses relating to asset management.

**Table 7. Proposed minor wording change to the Clause 5.5.1 for the Asset Management System, and current examples from other major utility Operating Licences in NSW.**

Operating Licence in NSW	Clause wording
Sydney Water’s current Operating Licence wording	5.5.1 Sydney Water must maintain a Management System in relation to Sydney Water’s Assets that is consistent with the Australian Standard AS ISO 55001:2014 Asset management – Management systems – Requirements (the <b>Asset Management System</b> ).
Proposed wording for next Sydney Water Operating Licence	Sydney Water must maintain a Management System in relation to Sydney Water’s Assets that is consistent with the Australian Standard AS ISO 55001:2014 Asset Management – Management Systems – Requirements, <b>or other standard approved by IPART in writing</b> . (the <b>Asset Management System</b> ).
Current Hunter Water Operating Licence (2022-2027)	21 Asset Management System (1) Hunter Water must maintain a Management System in relation to Hunter Water’s Assets that is consistent with the Australian Standard AS ISO 55001:2014 Asset Management – Management Systems – Requirements, or other standard approved by IPART in writing. (the <b>Asset Management System</b> )
Current WaterNSW Operating Licence (2022-2024)	5.1.1 Water NSW must at all times maintain a Management System in relation to Water NSW’s assets that is consistent with the Australian Standard AS ISO 55001:2014 Asset Management – Management systems – Requirements or other standard approved by IPART on request by Water NSW ( <b>Asset Management System</b> ).



The Australian ISO Standard for Asset Management Systems is in the process of being updated. Usually when an ISO standard is updated the ISO standard and name e.g. ISO55001 will not change however the release date will. This is currently displayed as ISO55001:2014. If the updated standard was to be released next year as expected, it would be ISO55001:2024. Once released, we would then have several years (usually 3 years) in which to transition and certify to the new standard. At the time of this Issues Paper response, the British Standards Institution, who provide our certification services, do not have an update on when exactly the release is expected.

Sydney Water considers that the proposed wording will allow us the flexibility to transition to the new standard in a way and at a time that allows us to comply fully with the new version of the standard when appropriate, as well as remain compliant with this Operating Licence clause.

### 2.3.1 Reporting requirements for Asset Management

#### 2-yearly State of the Assets reporting

#### **Q8: Do you agree that reinstating the reporting requirement to provide a 2-yearly State of the Assets Report will support a renewed focus on asset management practices?**

We have recognised the need to improve our asset management practices and are dedicated to doing better moving forward.

As part of our renewed focus on asset management practices, we have conducted a systemic, comprehensive gap analysis aligned to ISO 55000 and 11 industry-accepted asset management functions on our Asset Management System (AMS) and developed a Service Excellence Roadmap to continue to evolve our AMS through the implementation of improvement initiatives.

We have provided this Service Excellence Roadmap to IPART, and IPART has accepted the roadmap as our approach for improving our asset management processes. IPART has further agreed to the reporting of deliverables, which includes an annual report on the status and progress of deliverables by 31 July 2023 and 2024<sup>25</sup> with no additional requirements in our Operating Licence.

With our Service Excellence Roadmap and regular reporting on the status and progress of roadmap deliverables to IPART, we consider that there is already a comprehensive process in place for IPART to regularly check-in on our progress in addressing previously identified asset management non-compliances. In particular, our reports on the Service Excellence Roadmap will be provided on a more frequent annual basis, relative to IPART's current proposal for a 2-yearly State of the Assets Report, and will provide details on:

- the completion of deliverables on the 5 asset-related workstreams from the Service Excellence Roadmap,
- any significant issues or risks identified that will impact completion of deliverables,

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<sup>25</sup> Independent Pricing and Regulatory Tribunal (IPART), Letter to Sydney Water Managing Director, dated 9 June 2023.

- delays affecting the deliverable due dates (including reasons and new proposed due dates),
- updates to our backlog reports.<sup>26</sup>

As such, we do not consider that there is a need to introduce additional reporting requirements to provide a bi-annual State of the Assets Report to IPART.

### **Our Service Excellence Road Map**

An Asset Management System has interdependencies across the organisation throughout an asset's lifecycle from strategy through planning, design, construction, operations, maintenance, repair, and decommissioning.

The Service Excellence Roadmap sets out a framework for Sydney Water to improve and sustain our system by reducing the asset management risk. There are 22 workstreams in the roadmap, five of which directly link to the recommendations identified by IPART. These include:

- Asset Management objectives – Asset Management System Key Performance Indicators reviewed to ensure alignment with corporate objectives and drive improvement in delivery practices.
- Bottom-up maintenance and renewal planning and budgeting – Development of a prioritised needs-based bottom-up maintenance and renewal plan informed by asset performance.
- Integrated works planning and programming for maintenance - Improving the planning, resourcing, execution, and review of maintenance programs, including managing variation with planned activities.
- Assurance process for maintenance and renewals – Enhancing the end-to-end integrated assurance process for maintenance and renewals from initiation to delivery.
- Maintenance Governance Council – Monitoring and measuring the delivery and effectiveness of the asset maintenance program, with a focus on timely identification of issues and adjustment of the program

The actions identified in the Service Excellence Roadmap have been prioritised through the Enterprise Plan and integrated into Group Business Plans. Further, roadmap actions have been aligned to Enterprise Risk key controls and actions for 2022-23 with the intention to improve performance and reduce the level of risk, by transforming the core asset related business activities. To ensure appropriate oversight and governance, these activities are monitored and reported to both the Audit and Risk Committee and the Planning and Infrastructure Committee of the Sydney Water Board on a six-monthly basis.

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<sup>26</sup> Independent Pricing and Regulatory Tribunal (IPART), Letter to Sydney Water Managing Director, dated 9 June 2023.





## Strategic Asset Management Plan

### **Q9: Is there anything further we should consider when deciding whether to remove the requirement to provide a Strategic Asset Management Plan?**

Sydney Water supports IPART's position to remove the reporting requirement associated with provision of a Strategic Asset Management Plan (SAMP) to IPART based on the completion of this one-time activity as part of the current Licence period reporting requirement.

Sydney Water will continue to produce a SAMP regardless of any specific requirement in the Operating Licence or Reporting Manual as part of our certification process against ISO55001. Should IPART need to see it in the future it could be accessed via annual auditing of the asset management clause.

The removal of this requirement to provide the SAMP to IPART will not affect our requirement and/or ability to maintain and implement the asset management system.



# 3 Water conservation & efficiency and long-term planning

## 3.1 Water conservation and efficiency

Water conservation and efficiency play a critical role in reducing Greater Sydney's demand for drinking water, increasing our drought resilience and deferring investment in new drinking water supplies. It helps us to make the most of the water supplies we have and contribute to thriving, liveable and sustainable cities across Greater Sydney.

### 3.1.1 Transitioning towards the NSW Water Efficiency Framework

**Q10: Do you agree with transitioning the existing requirements in the operating licence for Sydney Water to maintain a Water Conservation program to a 5-year water conservation plan that:**

- **considers a range of options, including water efficiency, leakage and recycled water**
- **is consistent with the Water Efficiency Framework**
- **considers the strategic context provided by the Greater Sydney Water Strategy**
- **includes details for proposed programs and projects against the Current Economic Method?**

With the release of the NSW State Water Strategy<sup>27</sup> and the GSWS<sup>28</sup> to replace the 2017 Metropolitan Water Plan, we agree with IPART that there is a need to transition and update our current licence requirements from maintaining a water conservation program to maintaining a 5-year water conservation plan, in line with the new NSW Water Efficiency Framework.

We consider IPART's proposed wording above to be sensible and suggest only some minor amendments as set out in Table 8. These changes will help to provide greater flexibility and allow us to adapt and improve the 5-year water conservation plan from time to time in line with the best practice, while still taking into account the NSW Water Efficiency Framework and its role as a guide not a prescriptive set of requirements.

We note that we have already developed our 5-year water conservation plan in collaboration with the DPE.

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<sup>27</sup> NSW Department of Planning, Innovation and Environment (2021), *NSW Water Strategy*, [https://water.dpie.nsw.gov.au/\\_data/assets/pdf\\_file/0007/409957/nsw-water-strategy.pdf](https://water.dpie.nsw.gov.au/_data/assets/pdf_file/0007/409957/nsw-water-strategy.pdf).

<sup>28</sup> NSW Department of Planning and Environment (2022), *Greater Sydney Water Strategy*, [https://water.nsw.gov.au/\\_data/assets/pdf\\_file/0006/527316/greater-sydney-water-strategy.pdf](https://water.nsw.gov.au/_data/assets/pdf_file/0006/527316/greater-sydney-water-strategy.pdf).

Table 8. Sydney Water’s suggested amendment to clause 3.1.1 of our current Operating Licence.

Current clause wording	Proposed new clause wording
<p>3.1.1 Sydney Water must maintain a water conservation program consistent with the Current Economic Method.</p>	<p>3.1.1 Sydney Water must maintain a 5-year water conservation plan that:</p> <ul style="list-style-type: none"> <li>(a) covers a range of options, including water efficiency, leakage and recycled water;</li> <li>(b) considers the Water Efficiency Framework;</li> <li>(c) considers the strategic context provided by the Greater Sydney Water Strategy;</li> <li>(d) includes details of proposed programs and projects against the Current Economic Method.</li> </ul>

### 3.1.2 Current Economic Method



**Q11: Do you agree that the operating licence should continue to require Sydney Water to assess water conservation measures as economic by the Current Economic Method?**

The Current Economic Method provides an approach for assessing the economic viability of water conservation projects/measures before they are implemented and is an important step in our overall project evaluation process at Sydney Water.

Sydney Water’s Current Economic Method is the Economic Level of Water Conservation (ELWC) methodology as approved by IPART in December 2016. The ELWC methodology sets out that investment in water conservation should continue to occur until the cost of saving an extra volume of water (‘marginal cost of water conservation’) is just equal to the cost of supplying an extra volume of water (‘marginal benefit of water conservation/marginal cost of water supply’).

In principle, we agree with IPART that the Current Economic Method (and thus, ELWC or some amended version of that method) should continue to be used as the approach for assessing whether a water conservation measure is economic. In practice, however, it can be difficult to separate an economic assessment of a water conservation program/measure based on the Current Economic Method, from a broader assessment of the program/measure based on other factors such as scalability, market demand/uptake, funding etc. In some cases, supporting activities that enable water conservation outcomes may also be assessed by the business using other investment approval processes. For example, the rollout of digital meters provides multiple benefits other than assisting with water conservation, while other initiatives may have intangible or uncertain benefits but are necessary if we are to innovate over time (eg, data analytics or pilot programs).

We provide more detail on these issues regarding assessment and implementation of water conservation measures in our response to Question 12.



**Q12: Should Sydney Water implement all measures assessed as economic or is there a better way to ensure Sydney Water makes good economic decisions that support the goals of the Greater Sydney Water Strategy?**

Currently, our *Operating Licence 2019-23* requires us to 'implement water conservation measures that have been assessed as economic as determined by the Current Economic Method' (clause 3.1.2).

While it is important to consider the Current Economic Method (and ELWC) and understand the economic viability of a water conservation project or measure, we believe the current wording of the clause could be improved to enable a more flexible and adaptive planning approach to water conservation that is outcomes-based and takes into account a broad range of factors, of which the Current Economic Method is one factor.

As noted earlier in our response to Question 11, we consider a wide range of factors, in addition to the Current Economic Method, when assessing and implementing water conservation measures in practice. Taking a broad approach and including factors such as market demand/uptake, financials, legality and drought response plans, in our assessment of measures helps to ensure that we are able to develop and deliver a diverse, scalable, and robust baseline water conservation program that supports a wide range of customers.

Programs which are assessed as economic by the Current Economic Method, for example, can still face other barriers to delivery. Customers may not find the program attractive, it might not be competitively neutral or there could be other delivery models that better stimulate the market for the benefit of the community. This makes market testing the attractiveness of programs with a diverse cross-section of customers, validating cost and benefit assumptions at scale, and exploring different commercial offerings particularly important in understanding where initiatives are going to be most effective (ie by location, type of customer).

Equally, there may be programs of work that require ongoing investment, such as research and development (R&D) and data/analytics capability, to plan and deliver an adaptive and economic water conservation program over time. These activities build the evidence base from which an economic assessment can be performed by assessing water savings potential and testing new opportunities, innovations and delivery approaches. Other programs may also not be economic but deliver community benefits such as supporting vulnerable customers through hardship.

Beyond a broad assessment approach, we consider that our licence should also enable a more flexible and adaptive planning approach to water conservation. Currently, the funding for our water conservation program approved in the 2020 Price Determination includes both baseline expenditure and drought cost-pass through expenditure triggered at different dam levels below 60%. This stands in contrast with our current strict licence requirement to implement all water conservation measures that are assessed as economic. As we explore more options, it is possible that we reach the limits of our funding and may need to re-prioritise our water conservation activities in order to continue to deliver water savings and also support enabling activities. Ensuring a flexible and adaptive planning approach to water conservation and better reflecting the current structure of our funding in our licence will enable us to make better decisions that support the goals

of the GSWS. We remain committed to maximising the value delivered through this budget by investing in programs to meet yearly savings volumes (with a view to the GSWS targets) but also fund enabling programs (particularly R&D and data analytics) to continue to develop and realise new opportunities to ensure longer term savings.

Many of these issues have already been highlighted in DPE’s recent review of the Current Economic Method and ELWC. In response, the new NSW Water Efficiency Framework has sought to take a broader, more holistic approach, by considering the goals, objectives and outcomes of a water efficiency program and factors such as scalability, capacity-building and funding, in addition to an economic evaluation.

In line with the GSWS and the NSW Water Efficiency Framework, we propose that the wording of the current clause should be changed to be more outcomes-based and to better reflect the broader assessment approach embedded in the framework, as set out in Table 9.

**Table 9. Sydney Water’s suggested amendment to clause 3.1.2 of our current Operating Licence**

Current clause wording	Proposed new clause wording
3.1.2 Sydney Water must implement water conservation measures that have been assessed as economic as determined by the Current Economic Method.	3.1.2 Sydney Water must implement water conservation measures <b>to deliver the overall objectives of the most recent Water Conservation Plan in an efficient and effective manner, accounting for the Current Economic Method.</b>

**Q13: Do you agree with including a new condition in the operating licence to allow Sydney Water flexibility to modify its economic approach with Ministerial approval?**



In general, we are supportive of having greater flexibility to seek changes to the Current Economic Method from time to time.

While we understand that this process would typically go through Ministerial approval, we consider that the process could occur more efficiently through other pathways, such as obtaining written approval of the changes from IPART with notice to DPE. This would further complement the flexible and adaptive planning approach we are seeking for our water conservation program, as outlined above.

**Q14: Should the operating licence or reporting manual impose additional obligations on Sydney Water to report on the 5-year water conservation plan?**

Under our Reporting Manual, we are currently required to prepare a Water Conservation Report each year, including a 5 year forward plan, provide notifications to IPART of any changes to the current economic method, and make the Water Conservation Report and other documents related to the Current Economic method publicly available.

IPART has proposed to retain these reporting requirements and introduce additional requirements to support the transition to a 5-year water conservation plan consistent with the NSW Water Efficiency Framework. These additional requirements include requiring Sydney Water to review



and update the 5-year Water Conservation Plan and providing updated plans and the outcomes of the reviews to DPE and IPART for information only.

We support licence requirements to publicly report each year on our water conservation activity. This is important in terms of transparency and accountability to our customers, the community and our stakeholders. As it stands, however, IPART's recent *Hunter Water Operating Licence 2021-22* review indicates that the content that may be included in the proposed 5-year Water Conservation Plan and that in our current Annual Water Conservation Report are likely to be very similar and in some cases, duplicative.

Where possible, we would like to engage with IPART and DPE further on the role of and the interaction between the proposed 5-year Water Conservation Plan and our current Annual Water Conservation Report. This will help to minimise the duplication of content and to ensure the additional reporting requirements introduced by IPART for the 5-year Water Conservation Plan do not cause undue administrative burden on Sydney Water. Our preliminary view is that the 5-year Water Conservation Plan and our current Annual Water Conservation Report could be streamlined in terms of content, and may even be provided as a single document at the same time to IPART and DPE as part of the annual 1 September reporting package.

We further support reviewing and updating the 5-year Water Conservation Plan each year and consider that a clause similar to that introduced by IPART in the recent *Hunter Water Operating Licence 2022-27* would be appropriate. We have provided our proposed wording in Table 10 below, alongside the relevant section in Hunter Water's current licence. The wording includes some small amendments to clarify the documents that must be provided to DPE and IPART. We are also happy to provide IPART an "explanation of any changes made to the plan", but seek to streamline this in our annual licence audit process. We note that there may be challenges, as we understand that the review and update of the WCP is likely to occur in Q3 and Q4 of the financial year, to proactively plan for the coming FY. The current IPART reporting timelines would be after the fact.



Table 10. Sydney Water’s suggested clause wording for reviewing and updating the 5-year Water Conservation Plan for our next Operating Licence

Proposed new clause wording	Hunter Water Operating Licence
<p>3.1.2 By 31 December of each year, Sydney Water must:</p> <p>(a) review and update the Water Conservation Plan. In reviewing the Water Conservation Plan, Sydney Water must:</p> <ul style="list-style-type: none"> <li>(i) review the activities carried out under the plan over the past year;</li> <li>(ii) assess its progress towards meeting the overall objectives of the plan; and</li> <li>(iii) update the plan to ensure its objectives are still being met; and</li> </ul> <p>(b) submit to DPE and IPART the outcomes of the annual review and a copy of the updated Water Conservation Plan.</p>	<p>12(6) Each year, by the anniversary of the date referred to in clause 12(4) (or such later date approved by IPART in writing), Hunter Water must:</p> <p>(a) review and update the 5-year Water Conservation Plan. In reviewing the 5-year Water Conservation Plan, Hunter Water must:</p> <ul style="list-style-type: none"> <li>(i) review the activities carried out under the plan over the past year;</li> <li>(ii) assess its progress towards meeting the overall objectives of the plan; and</li> <li>(iii) update the plan to ensure its objectives and the requirements of clause 12(5) are still being met; and</li> </ul> <p>(b) submit to DPE and IPART:</p> <ul style="list-style-type: none"> <li>(i) a copy of the updated 5-year Water Conservation Plan;</li> <li>(ii) the outcomes of the annual review and update of the 5-year Water Conservation Plan, including an explanation of any changes made to the plan.</li> </ul> <p>[Note: Hunter Water may submit the updated 5-year Water Conservation Plan required under clause 12(6)(b)(i) and the information required under clause 12(6)(b)(ii) together as one document or as separate documents.]</p>

Sydney Water also notes that clause 3.1.3(c) and 3.1.4(b) together require us to update and publish the economic level of water conservation each month, including the value of water (dollars per kilolitre) and the quantity of savings (megalitres per day). Under the ELWC methodology, the economic level of water conservation is largely driven by dam levels and, less frequently, material changes in costs and/or system operating parameters (eg, operating rules for SDP). Apart from major rainfall events, material changes in dam levels do not occur over the span of a single month. In addition, the delivery of water conservation initiatives is not sufficiently flexible to respond to month-to-month changes in the value of water, even if the value of water has materially changed.

Sydney Water therefore proposes to remove the requirement to update and publish the economic level of water conservation each month. This information can instead be provided as part of the





annual Water Conservation Report. We note this is consistent with changes to Hunter Water's licence after the last end-of-term review. We would support a requirement to review the economic level of water conservation on a quarterly basis for internal decision-making purposes.

## 3.2 Long-term water planning

Long-term water planning is critical to ensuring that we can provide a resilient and reliable water supply for our customers.

We recognise the importance of our role in this area, even more so since the transfer of supply augmentation planning function in Greater Sydney to Sydney Water in 2021, and remain committed to participating and contributing to long-term water planning alongside the NSW Government and other agencies.

### 3.2.1 Greater Sydney Water Strategy

#### **Q15: Do you agree with not including an operating licence condition to require Sydney Water to implement actions under the Greater Sydney Water Strategy Implementation Plan?**

Metropolitan water planning is critical to ensuring that we can provide a resilient and reliable water supply for our customers. The Greater Sydney Water Strategy<sup>29</sup>, released in August 2022, sets out a direction for delivering sustainable and resilient water services for the next 20 to 40 years, servicing a growing Greater Sydney, including the Illawarra and Blue Mountains, and safeguarding our city even in times of prolonged drought and extreme weather events.

The supporting GSWS Implementation Plan outlines how the GSWS will be delivered over the next three years. We have over 20 actions highlighted in the Implementation Plan that we need to carry out, including:

- conducting continuing community consultation on attitudes to water restrictions,
- developing and maintaining a detailed 5-year Water Efficiency Plan, and
- completing planning for portfolios of rainfall-independent supply augmentation, system resilience and water security options.

Many of these actions are joint actions, with responsibility shared across other agencies such as DPE-Water, WaterNSW and DPE-Greater Cities Commission.

We recognise our role in this area and are committed to carrying out and implementing these actions. While we understand IPART's preliminary position to not introduce a licence clause requiring us to implement actions under the GSWS Implementation Plan, we consider there is value in including such a licence requirement with additional 'best endeavours' wording.

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<sup>29</sup> Department of Planning and Environment (DPE) (2022) *Greater Sydney Water Strategy*, <https://water.dpie.nsw.gov.au/plans-and-programs/greater-sydney-water-strategy>.

This would reflect the importance of Sydney Water's role in the GSWS Implementation Plan, as well as community and customer expectations. Water security and ensuring a sustainable future water supply was a recurrent customer priority that emerged from Phase 1 of 'Our Water, Our Voice' customer engagement program. As many of the GSWS Implementation Plan actions will require collaboration and the cooperation of Sydney Water and other organisations, we consider that including 'best endeavours' wording will ensure a utility's compliance is measured only on aspects within its control.

## Insights from our customers – Long-term water planning

Our recent customer engagement program has shown that building infrastructure for water recycling and/or desalination to ensure drought resilience (4<sup>th</sup> priority) and contributing to a cooler environment and more pleasant green public spaces through trees and vegetation (11<sup>th</sup> priority) are key priorities for our customers.<sup>30</sup> More broadly, our other customers (such as service critical high businesses, major developers and value makers) and stakeholders also indicated that they expect Sydney Water to address ageing infrastructure and ensure that the current network has the ability to support increasing demand and a growing population, and to respond to a changing climate to guarantee a secure water supply into the future.<sup>31</sup>





### **Q16: Do you agree with updating and retaining the operating licence condition requiring Sydney Water to participate cooperatively in any review of the Greater Sydney Water Strategy and retaining the requirement for Sydney Water to comply with a direction from the Minister to implement specific actions?**

We support updating and retaining the operating licence condition requiring us to participate cooperatively in any review of the GSWS. We recognise we have an important role in this area, even more so since the transfer of supply augmentation planning function in Greater Sydney to Sydney Water in 2021. We contribute key inputs into the strategy such as demand forecasts and our investment in water conservation and ensure any revised plan considers whole of water cycle management, community and stakeholder engagement, provides clear accountabilities and responsibilities and is aligned with our environmental requirements. We are committed to continuing this role and participating cooperatively in any review of the GSWS.

<sup>30</sup> Sydney Water (2023) 'Our Water, Our Voice' – Phase 1 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/Our%20Water%20Our%20Voice%20-%20Phase%201%20Findings.pdf>.

<sup>31</sup> Sydney Water (2023) 'Our Water, Our Voice' – Phase 1 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/Our%20Water%20Our%20Voice%20-%20Phase%201%20Findings.pdf>.



We further support retaining the requirement for Sydney Water to comply with a direction from the Minister to implement specific activities that relate to actions assigned to us in the GSWS. This would further complement our proposed approach to include a licence clause requiring Sydney Water to implement actions under the GSWS Implementation Plan, with additional ‘best endeavours’ wording (see our response to Question 15).

### 3.2.2 Long Term Capital and Operational Plan

**Q17: Should the operating licence impose requirements on Sydney Water to have and maintain a Long Term Capital and Operational Plan in cooperation with WaterNSW, to support long term planning?**



We support a licence requirement to maintain a Long Term Capital and Operational Plan (LTCOP), in cooperation with WaterNSW, to support long term planning. We would like to seek further clarification from IPART, however, on what the scope of such a requirement would cover (eg governance, monitoring and/or reviewing and updating the plan etc.) and the degree of coordination with WaterNSW involved.

We note that in IPART’s review of WaterNSW’s *2017-2022 Operating Licence* and provision of the interim *WaterNSW 2022-24 Operating Licence*, IPART included a number of clauses requiring WaterNSW, to jointly with Sydney Water, review and update their LTCOP by any date specified by the Minister in writing (clause 2.8.2). There was an additional clarifying note that it would be intended that WaterNSW and Sydney Water would be required to jointly review or update the LTCOP every 5 years, unless specified otherwise by the Minister.

We observe that there were no other requirements in the *WaterNSW 2022-24 Operating Licence* specifically requiring WaterNSW to ‘maintain’ the LTCOP. We would welcome any additional clarification from IPART on the scope of its proposed licence requirement for Sydney Water to ‘maintain’ the LTCOP and whether it includes a ‘review and update’ of the plan or encompasses any other additional activities.

We also note that to date, Sydney Water and WaterNSW have each separately developed their own LTCOP. As set out in our Ministerial Direction, there is a process by which we review each other’s LTCOP, however the Boards of Sydney Water and WaterNSW are ultimately required to approve their own LTCOP. As such, we consider that any licence requirement to ‘maintain’ the LTCOP, regardless of whether that includes reviewing and updating the plan, should require Sydney Water and WaterNSW to do so ‘in cooperation with each other’ rather than ‘jointly’, and include ‘best endeavours’ wording. This ensures that the utility’s compliance is measured only on aspects within its control.

[REDACTED]



In principle, it may be appropriate for the Licence to specify the outcomes that Sydney Water needs to achieve when formulating its advice to Government. However, we note that there are other avenues available to Government to ensure we address their concerns, such as the Statement of Expectations and/or the normal investment assurance processes applied when seeking Government approval of investments.

#### ***WaterNSW Operating Licence 2022–2024***

Long-term capital and operational plan

2.8.1 By 1 June 2023 (or another date approved by the Minister in writing), Water NSW must develop a long-term capital and operational plan jointly with Sydney Water and submit the plan to the Minister.

2.8.2 If the Minister specifies in writing a date by which the long-term capital and operational plan must be reviewed and updated, Water NSW must, jointly with Sydney Water, review and update the plan by the date so specified.

*[Note: It is intended that Water NSW and Sydney Water will be required to review or update the long term capital and operational plan every 5 years unless the Minister specifies another date in writing.]*

2.8.3 The long-term capital and operational plan referred to in clause 2.8.1 must address any written guidance that the Minister provides to Water NSW.

Source: *WaterNSW Operating Licence 2022–2024*, p. 6.

### **3.2.3 Water Supply Augmentation**



#### **Q18: Should the operating licence require Sydney Water to maintain a MoU with WaterNSW to support the water supply augmentation arrangements?**

Since 2021, Sydney Water has been responsible for the supply augmentation planning function in Greater Sydney following a formal Ministerial Direction to transfer the supply augmentation planning function from WaterNSW to Sydney Water.

As part of the transition arrangements, we entered into a Memorandum of Understanding (MoU) with WaterNSW to clarify both organisations' roles and responsibilities. This MoU recognises that Sydney Water is solely accountable for supply augmentation planning function, and that WaterNSW is to support Sydney Water in that function through the provision of information, resources and support. The nature of that support, as well as further clarification of planning accountabilities (i.e. renewals, catchment management, etc) is provided for in the MOU. We note that the MoU was intended to be a temporary measure.

We consider that there is value in clarifying Sydney Water's accountability for the supply augmentation planning function and the role of WaterNSW to support us in delivering that function in our Operating Licence, for our customers and other stakeholders. Any clarification in our Licence should be in line with the Ministerial Direction and our MoU with WaterNSW.

Given that both Sydney Water and WaterNSW's Operating Licences are currently being reviewed by IPART, there is a clear opportunity to ensure that roles and responsibilities are clear and appropriately reflected in the respective licences.



We note that the Ministerial Direction provides a formal definition for “Supply Augmentation Planning Function” as including an:

- Assessment of the need for water supply augmentation;
- Identification of water supply augmentation options, including capital and non-capital options;
- Whole of system assessment of the water supply augmentation options and prioritisation to support strategic business cases;
- Concept development and feasibility studies for preferred water supply augmentation options to support strategic business cases; and
- Costings of preferred water supply augmentation options to support a strategic business case.

We would further support the inclusion of a suitable definition in our licence that builds on the above and clarifies which activities we are authorised and required to undertake to support the NSW Government in relation to water supply planning.

Provided the Operating Licence provides a clear definition of our accountability for providing advice to Government on water planning, it may not be necessary to maintain an MoU with WaterNSW. Sydney Water considers that the nature of the working relationship between Sydney Water and WaterNSW could potentially be addressed through existing regulatory requirements, such as the Raw Water Supply Agreement.

**Q19: Should the operating licence require Sydney Water to consider the long-term interests of customers when preparing production requests for Sydney Desalination Plant?**

The Sydney Desalination Plant (SDP) is a rainfall-independent source of drinking water, which plays an important role in the NSW Government’s plan to ensure a secure and affordable water supply system for Greater Sydney.



The SDP Operating Rules were developed as part of the implementation of the GSWS. The objectives of the SDP Operating Rules require Sydney Water and SDP to work collaboratively to:

1. Maximising the yield contribution of the Plant to Sydney’s water supply,
2. Slowing dam depletion rates during droughts,
3. Operating the total system (the Plant and Water Filtration plants, networks) to reduce the risk to the amount of spill at dams where practical, and
4. Allowing Sydney Water and SDP flexibility to respond to system shocks, outages and maintenance in accordance with good operating practice.

These objectives consider long and short-term needs and balance customer-driven needs on water security and water continuity with total costs and risks to customers.

Sydney Water issues production requests for SDP, in accordance with the Decision Framework for SDP Operation (June 2022), which was developed with DPE in response to Action 2.2a of the





GSWS Implementation Plan. The Decision Framework outlines how production requests will be made in accordance with the new SDP operating rules.

In particular, the Decision Framework sets out the considerations that go into making and reviewing our productions requests for SDP. This includes modelling scenarios with WaterNSW, reviewing Bureau of Meteorology forecasts to understand drought onset or likelihood of extreme rainfall events, and assessing asset repair and maintenance requirements for the water supply system. We also consider a range of decision drivers for each potential operating phase of SDP., most of which ultimately relate to customers' interests. During the 'Sustaining dam storage' phase, for example, we have a decision driver to avoid the effects of a deep drought. During the 'Ready to respond' phase, we have a decision driver to minimise spill risks. Other drivers we consider relate to operational flexibility and optimising plant and network performance, which consider costs and risks to the overall supply system.

The Decision Framework is also supported by arrangements under the Water Supply Agreement (WSA) with Sydney Desalination Plant Proprietary Limited (SDPPL). The WSA provides an overarching requirement that any production request we provide to SDPPL must be consistent with the Decision Framework for SDP Operation. In the event that our production request is inconsistent, we must, on SDPPL's request, prepare a revised Annual Production Request to ensure consistency.



Under this governance framework, we are required to take into account both short-term and long-term objectives and a range of customer-facing and non-customer facing considerations, when preparing productions requests for SDP. While long-term customer interests are an important part of the decision-making process, we are required to also take into account short-term customer interests (eg costs to customers) and many other non-customer facing considerations (weather conditions, maintenance work) as part of a broader, balanced approach to making production requests.

We therefore do not believe that a licence requirement requiring us to consider the long-term interests of customers when preparing production requests for SDP is appropriate, as this has sufficiently been considered in the GSWS, Operating Rules and Decision Framework. We understand IPART has highlighted concerns about ensuring compliance and increasing transparency and accountability in this area. To this end, we consider that an alternative clause focussed on requiring Sydney Water to make production requests consistently with the Decision Framework would be more appropriate. This would mirror wording that was recently included in the variation to SDDPL's Network Operator's Licence in September 2022<sup>32</sup>.

As IPART itself notes, the risk of our production requests not being in accordance with the Decision Framework is extremely low. We agree with IPART that there is an additional safeguard in our current licence against any such risk, as clause 3.2.4(b) provides that the Minister may direct Sydney Water to implement any specific actions relating to the Metropolitan Water Plan (and in

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<sup>32</sup> Independent Pricing and Regulatory Tribunal (2022) *Variation of Network Operation's Licence – Sydney Desalination Plant*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Variation-of-Network-Operator-s-Licence-Notice-of-Decision-Sydney-Desalination-Plant-Pty-Ltd-September-2022.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Variation-of-Network-Operator-s-Licence-Notice-of-Decision-Sydney-Desalination-Plant-Pty-Ltd-September-2022.PDF).



turn, its replacement the GSWS). To this end, Action 2.2 of the GSWS implementation plan sets out that Sydney Water, in conjunction with DPE, will “amend SDP operating rules to provide flexible operation and optimise its contribution to water supply security and drought management in line with the Greater Sydney Water Strategy” and “report annually on the operation and production of SDP”. Our Minister may thus direct us to implement Action 2.2, should there ever be a situation where we are perceived to be deviating from the Decision Framework in making production requests for SDP.

Finally, we note that the GSWS has seen the role of SDP shift from a drought-response asset to an asset that will operate more flexibly in future depending on the needs of the wider water supply system. There will be a transition period for all parties, as we gain experience with the new operating regime. Any licence requirements in this area should be introduced gradually and carefully phased in over time to provide all parties with an initial opportunity to learn and gain familiarity with the new operating regime.

### 3.2.4 Drought response planning

**Q20: Should the operating licence impose requirements on Sydney Water to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan?**

We support updating our licence requirements in drought response planning to require us to maintain and implement the Greater Sydney Drought Response Plan and participate in any review of the plan, jointly with WaterNSW.

Our proposed licence clauses for drought response planning are included in Table 11. We note that our proposed clauses are similar to those included by IPART in the recent *WaterNSW 2022-24 Operating Licence*.

As many of these drought response planning licence obligations will involve the cooperation of both WaterNSW and Sydney Water, we have also included additional ‘best endeavours’ wording in our proposed clauses. This ensures that the utility’s compliance is measured only on aspects within its control.



Table 11. Sydney Water’s suggested clause wording for maintaining and implementing the Greater Sydney Drought Response Plan and reviewing and updating the plan for our next Operating Licence

Current clause wording	Proposed new clause wording
<p>3.2.1 By 1 December 2020 (or another date approved by the Minister in writing), Sydney Water must develop, and submit to the Minister:</p> <p>a) a long-term capital and operational plan; and</p> <p>b) an emergency drought response plan.</p> <p>3.2.2 The plans referred to in clause 3.2.1 must address any written guidance that the Minister provides to Sydney Water.</p> <p>3.2.3 Sydney Water must use its best endeavours to develop the plans referred to in clause 3.2.1 in cooperation with Water NSW.</p>	<p><b>3.2.X Sydney Water must use its best endeavours to maintain jointly with Water NSW, and deliver on actions specified in, the Greater Sydney Drought Response Plan.</b></p> <p><b>3.2.X Sydney Water must use its best endeavours to review and update, jointly with Water NSW, the Greater Sydney Drought Response Plan annually by 31 December each year, or another date approved by the Minister in writing.</b></p>

### 3.2.5 Data sharing

#### **Q21: Should the operating licence continue to require a data sharing agreement between Sydney Water and DPE to assist with the review of the Greater Sydney Water Strategy?**

We agree with IPART’s preliminary position to retain a requirement for a data sharing agreement between Sydney Water and DPE to support the government’s urban water strategies and long-term planning.

We have proposed some minor amendments to update the current clause wording from ‘developing and entering’ to ‘maintaining’ a data sharing agreement with DPE to ensure the currency of our requirements as set out in Table 12. We have also included additional ‘best endeavours’ wording in clause 3.2.8 to ensure that our compliance with the data sharing agreement is measured only on aspects within our control.

Table 12. Sydney Water’s suggested clause wording for data sharing with DPE to assist with the review of the Greater Sydney Water Strategy

Current clause wording	Proposed new clause wording
<p>3.2.6 Sydney Water must develop and enter into a data sharing agreement with DPE by the Commencement Date (or another date approved by the Minister in writing) to assist in the development and review of the Metropolitan Water Plan (the Data Sharing Agreement).</p> <p>3.2.7 In addition to any other matters agreed by Sydney Water and DPE, the Data Sharing Agreement must:</p> <ul style="list-style-type: none"> <li>a) set out the roles and responsibilities of Sydney Water and DPE under the Data Sharing Agreement;</li> <li>b) set out the types of data that are covered by the Data Sharing Agreement;</li> <li>c) set out the purposes for the sharing of data and information;</li> <li>d) set out the requirements that shared data and information must meet;</li> <li>e) identify agreed timelines and the format for sharing data and information; and</li> <li>f) identify procedures for resolving matters of conflict in providing data and information.</li> </ul> <p>3.2.8 Once Sydney Water has entered into the Data Sharing Agreement it must comply with the Data Sharing Agreement.</p> <p>3.2.9 Sydney Water must provide any data or information requested by the Minister in writing:</p> <ul style="list-style-type: none"> <li>a) by the date specified by the Minister; and</li> <li>b) to the Minister or, if the Minister so directs, to DPE.</li> </ul>	<p>3.2.6 Sydney Water must <b>maintain</b> a data sharing agreement with DPE to assist in the development and review of <b>the Greater Sydney Water Strategy</b> (the Data Sharing Agreement).</p> <p>3.2.7 In addition to any other matters agreed by Sydney Water and DPE, the Data Sharing Agreement must:</p> <ul style="list-style-type: none"> <li>a) set out the roles and responsibilities of Sydney Water and DPE under the Data Sharing Agreement;</li> <li>b) set out the types of data that are covered by the Data Sharing Agreement;</li> <li>c) set out the purposes for the sharing of data and information;</li> <li>d) set out the requirements that shared data and information must meet;</li> <li>e) identify agreed timelines and the format for sharing data and information; and</li> <li>f) identify procedures for resolving matters of conflict in providing data and information.</li> </ul> <p>3.2.8 Once Sydney Water has entered into the Data Sharing Agreement it must <b>use its best endeavours</b> to comply with the Data Sharing Agreement.</p> <p>3.2.9 Sydney Water must provide any data or information requested by the Minister in writing:</p> <ul style="list-style-type: none"> <li>a) by the date specified by the Minister; and</li> <li>b) to the Minister or, if the Minister so directs, to DPE.</li> </ul>



### 3.3 Priority sewerage program

#### **Q22: What are your views on retaining the current operating licence conditions requiring Sydney Water to cooperate in and implement any outcomes from a review of the Priority Sewerage Program?**

The Priority Sewerage Program (PSP) is a NSW government program, which commenced in 1997 to service unsewered areas. The program originally provided for 38 villages to be serviced, 33 of which we have completed (17 areas under Stage 1 and 16 areas under Stage 2) and five of which remain outstanding.

Currently, our Operating Licence requires us to participate cooperatively in a Government review of the PSP and if required by the Minister, implement and comply with any outcomes. While this licence requirement has been included since 2015, to date a review has not occurred.

IPART has expressed concerns in its Issues Paper that continuing to retain the current operating licence condition in relation to the PSP may lead to a 'misperception that Sydney Water is responsible for delivering the program, when better options for servicing unsewered areas may be available now'.<sup>33</sup> This may, in turn, further encourage residents 'to defer maintenance and upgrades to their onsite systems because they believe that a centralised sewerage service will shortly be provided by Sydney Water'.<sup>34</sup>

We agree with IPART's concerns and consider that the current licence clause may perpetuate an expectation of the schemes being delivered with the cost to deliver such schemes being funded by Sydney Water's wastewater customers. This expectation may persist even though the licence does not include a date by which we must plan for or deliver wastewater schemes for the remaining PSP areas. Recently, we have received letters from some residents in PSP areas, who have indicated that they are not maintaining their on-site wastewater systems in the belief that we will come and service their area. There is a real risk that the misperception created by our current licence clause is driving perverse behaviours and resulting in poorer environmental outcomes.

We note that servicing costs are a key challenge for existing properties that do not have a water or wastewater service, which includes some locations listed in the original PSP. In many situations the costs of servicing these areas are in the order of at least \$150,000 to \$280,000 per property (see Table 13). This represents about 10 to 18 times the usual cost to provide wastewater services to a property in Greater Sydney.

In addition, we have experienced significant difficulty in quantifying the benefits of servicing the remaining PSP areas. This is because the areas were originally identified at the time by the Environment Protection Authority (EPA) and to date, we have not been able to locate any

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<sup>33</sup> Independent Pricing and Regulatory Tribunal (IPART), 2023, *Sydney Water Operating Licence Review 2023-24 Issues Paper*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF), pp. 35-36.

<sup>34</sup> Independent Pricing and Regulatory Tribunal (IPART), 2023, *Sydney Water Operating Licence Review 2023-24 Issues Paper*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Issues-Paper-Sydney-Water-Operating-Licence-Review-July-2023.PDF), pp. 35-36.

documents at Sydney Water which describe how the areas were prioritised and/or what data was relied upon. In some cases, the benefits are also not clear. Recent Beachwatch data has indicated that the water quality around Scotland Island is consistent with that of surrounding areas, implying that there are limited environmental/water quality benefits from servicing the area.

**Table 13. Estimated costs of servicing select PSP areas**

	<b>Approximate number of lots</b>	<b>Estimated capital cost</b>	<b>Capital cost per lot</b>
Nattai	30	\$4,500,000 (\$17-18)	\$150,000 (\$17-18)
Scotland Island	377	\$85,900,000 (\$22-23)	\$205,570 - \$227,851 (\$22-23)
Yanderra	200	\$42,000,000 (\$17-18)	\$210,000 (\$17-18)

As such, we would like to propose the removal of our current operating licence clauses relating to PSP. This will ensure that there is not an expectation from residents in PSP areas that we will deliver the program with costs funded by Sydney Water’s wastewater customers. It will also remove the risk of residents deferring maintenance and upgrades to their onsite systems, to the detriment of environmental outcomes. Removing the PSP obligation from our licence may further allow alternative delivery and funding mechanisms to be considered for potential future schemes.

We understand that other stakeholders’ views may be that retaining the current licence clauses will promote transparency and ensure that we participate cooperatively and implement any outcomes from a review of the PSP. While this has not occurred to date, we would be happy to participate in any such review.

In the absence of a specific clause, Sydney Water would plan for the delivery of assets considering other licence objectives, such as the need to maintain commercially viable and coordinated systems. For example, as new growth fronts approach existing unserviced properties, the unit cost of providing services may fall and servicing at a reasonable cost become a viable option. In some areas, however, Sydney Water sees limited prospects for this to occur.

Finally, we note that if the Government wishes Sydney Water to deliver wastewater services to any remaining PSP areas, it always has the option to direct Sydney Water to do so via a direction under the *State Owned Corporations Act 1989* (NSW).



## 4 Climate risk readiness

IPART has committed to help NSW tackle climate change through its decisions,<sup>35</sup> and this has emerged as a key focus area for IPART's current review of the Operating Licence given it is not an area directly covered by existing licence clauses.

The consequences of climate change are already being felt by the people of Greater Sydney, Illawarra and the Blue Mountains with impacts only anticipated to increase with more extreme, frequent, and compounding weather events. Sydney Water has a responsibility to reduce emissions and impact on the environment and protect customers by adapting to the impact climate change will have on the city. There is added complexity as Sydney Water's operating environment is changing significantly with growth, aging assets, changing customer expectations and geopolitical factors. To address all these future challenges, Sydney Water needs to become more resilient. Resilience is the ability to withstand, adapt to changing conditions, and recover positively from shocks and long-term stresses.

In Sydney Water's *Corporate Strategy 2020-2030*,<sup>36</sup> one of our four strategic outcomes is to enable 'Thriving, liveable & sustainable cities'. Under this outcome we aim to deliver world class products and services to our city and desire to be champions for the environment, public health and resilience. One of our objectives for this outcome includes that 'our system is resilient to shocks and disruptions (eg we have achieved advanced system reliability and performance)'. These shocks and disruptions include, but are not limited to, climate change.

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<sup>35</sup> See eg IPART (2021) *Climate Change Statement*, October, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Climate-Change-28-Oct-2021.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Climate-Change-28-Oct-2021.PDF); IPART (2023) *Water regulation handbook*, July, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Handbook-Water-regulation-July-2023-V2.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Handbook-Water-regulation-July-2023-V2.PDF).

<sup>36</sup> Sydney Water (2020) *One strategy to deliver our vision*, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/one-strategy-to-deliver-our-vision.pdf>.

## Insights from our customers – Climate change

In Phase 1 of the 'Our Water, Our Voice' customer engagement program, our customers selected their top 15 priorities for Sydney Water to address.

Our customers want Sydney Water to maintain or improve services, ensure water security into the future and protect the environment while bills remain affordable.<sup>37,38</sup>

Customers were supportive of reducing net carbon emissions to zero by 2050 or sooner via energy efficient operations and renewable energy.

Being more resilient to the changing climate and future unknowns will enable Sydney Water to meet these expectations for current and future customers.



Many organisations around the world are working to understand their role in proactively addressing climate change and increasing resilience to respond to future unknowns. This includes Sydney Water's regulators. Many of the issues discussed are complex and are not unique to Sydney Water, or even the regulation of water utilities.

Sydney Water is committed to driving measurable improved customer outcomes in relation to resilience and climate preparedness. We also want to ensure that decisions aimed at making our customers' lives better today do not come at a cost to Country or future generations. We are pulling several levers in our attempts to achieve this ambition:

- developing internal policies, position statements, and guidebooks in relation to climate change and resilience;
- improving transparency and reporting;
- through the GSWS and LTCOP;
- in the development of our pricing proposal under IPART's 3Cs framework and
- leveraging off enabling regulation.

We welcome this opportunity to discuss the role of the Operating Licence in navigating the challenges of climate change and resilience and potentially empowering Sydney Water to further its commitment to action and improve customer outcomes via clear regulatory drivers. We look forward to hearing the viewpoints of our customers, the community and other stakeholders on this potential new area for the Operating Licence.

<sup>37</sup> Sydney Water (2023) 'Our Water, Our Voice' – Phase 1 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/Our%20Water%20Our%20Voice%20-%20Phase%201%20Findings.pdf>.

<sup>38</sup> Sydney Water, Kantar Public, Synergies Economic Consulting and CaPPRe (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 1 Final Report, March 2023





## 4.1 Operating licence objectives for climate change risks and action

### Q23: Should the operating licence objectives be amended to explicitly refer to climate change?

We **support** IPART's view that the Operating Licence does implicitly address a need to consider climate change through references to both the *Sydney Water Act* (and its requirement to exhibit a sense of social responsibility by having regard to the interests of the community) and the *Protection of the Environment Operations Act*.

We also **support** IPART's preliminary position that the licence objectives could be amended to establish clearer expectations in relation to climate change. However, in our view it would be useful to reference 'equity within and between generations' with regard to multiple drivers impacting on long-term customer and community interests and intergenerational equity that is broader than climate change.

Our long-term capital and operating plan (LTCOP; the development of which was a requirement of the current Operating Licence, see section 3.2.2 of this response) identifies five key trends and challenges that will affect our operating context into the future: growth, climate change and extreme weather, community expectation, emerging technology, and unpredictable events. We need to address these trends and challenges in a way that ensures ongoing affordability for customers and intergenerational equity. A change to the licence objectives that establishes clear expectations to provide or consider 'equity within and between generations' could support ongoing engagement with our customers and the wider community, stakeholders, regulators and shareholders about future challenges and promote conversations that balance risk, costs and interests in both the short and longer term.



## 4.2 Abatement

Sydney Water **supports** IPART's preliminary position that no new operating licence conditions to undertake abatement actions are necessary. Sydney Water considers climate abatement as reducing our impact through decarbonisation and achieving Net Zero emissions. We agree that there are already sufficient obligations and incentives to implement climate abatement actions. In this case, we believe that a licence requirement to undertake prescriptive abatement actions may prevent Sydney Water from responding effectively to changes in policy, customer expectations and market drivers. Or alternatively could risk duplicating requirements in development by our environmental regulator, the NSW EPA.

As IPART notes, at Sydney Water we have set our own aspirational target to achieve Net Zero by 2030 for our Scope 1 and Scope 2 emissions, and in our supply chain by 2040 (Scope 3 emissions). These aspirational targets exceed those set in the NSW Net Zero Plan to achieve a 70% reduction in greenhouse gas emissions by 2035 compared to 2005 emission levels, and reach net zero by 2050.

Given that our targets are more ambitious than those in the current government direction, Sydney Water has been testing customer sentiment and agreement to our proposed targets as part of the






'Our Water, Our Voice' customer engagement program (see breakout box). The results so far support an argument that any regulation should not inhibit Sydney Water from agreeing and achieving an earlier target for net zero carbon emissions should it be desirable for Sydney Water, supported by customers and commercially feasible to do so.

IPART noted a number of existing regulatory drivers and obligations that are already in place, or will be in place in the near future, for Sydney Water. We confirm that we remain committed to:

- meeting our obligations to the EPA once further information is available regarding the development of Climate Change Mitigation Action Plans (CCMAPs). We note that our emissions and the impact of climate change on our assets is broader than our EPLs regulated by the EPA. So this requirement does not address all of our assets or activities contributing to our emissions or risks from climate hazards.
- implementing actions developed as part of the GSWS, including actions for reducing emissions and supporting the NSW Government's Net Zero Plan.
- fulfilling objectives required of Sydney Water under the Statement of Expectations issued to us by the NSW Government (which includes net zero carbon, decarbonisation and climate risk disclosure expectations).



## Insights from our customers – Customers support us in achieving Net Zero carbon emissions *before 2050*

Reducing net carbon emissions to zero by 2050 or sooner through more energy-efficient operations and greater use of renewable energy was selected as one of the top 15 priorities for Sydney Water, ranking 13<sup>th</sup> for the general population overall.<sup>39</sup>

An initial willingness to pay study confirmed that homeowners and renters alike would be willing to pay more on their bill to achieve net zero earlier than 2050<sup>40</sup> noting that Sydney Water determined it could achieve the 2050 target with no change to bills above inflationary cost pressures (however we note a second willingness to pay study is currently underway).

In Phase 3 of the program the vast majority of customers who participated in workshops (84%) supported Sydney Water bringing forward the target date for achieving Net Zero emissions to either 2040 (32%) or 2030 (53%), which was identified as requiring an estimated bill increase of \$1 per year or \$5-\$7 per year respectively. Only 16% wanted to retain the current target of 2050 (with no change in bill).<sup>41</sup> The workshops included 138 residential customers or consumers across five different workshops covering our entire area of operations. Most customers felt that bringing forward the target date for Net Zero emissions would result in significant environmental benefits for what most considered to be an almost negligible bill increase.

Support by discrete customer segments interviewed in smaller focus groups<sup>42</sup> or one-on-one interviews varied slightly from the results in the general workshops. Approximately 66% of Culturally and Linguistically Diverse (CALD) customers supported an earlier transition to Net Zero, while only 33% of First Nations customers did. In the case of the latter, the First Nations customers recognised climate change as a major challenge for the country, and there was broad agreement on the need to work towards meeting Net Zero targets, but the financial considerations in terms of an increase in bills were a deciding factor for 66% choosing the current target. Business customers from small to medium enterprises were all supportive of an earlier transition, as were businesses where water is highly critical to their business and major developers. Some stakeholders noted that this is the sort of leadership that an organisation like Sydney Water should be demonstrating.

Phase 4 of the customer engagement program (underway now) will test willingness-to-pay for Net Zero carbon emissions by 2030, 2040 or 2050 with a larger sample of customers (aim of 4,500 respondents), alongside willingness-to-pay for other improvement areas that may potentially impact their bill. This will inform Sydney Water's final position on a target date to reach Net Zero for the price submission.

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<sup>39</sup> [Our Water Our Voice - Phase 1 Findings \(sydneywater.com.au\)](https://www.sydneywater.com.au)

<sup>40</sup> Sydney Water, Kantar Public, Synergies Economic Consulting and CaPPRe (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 1 Final Report, March 2023, p. 125.

<sup>41</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 3 Final Report, August 2023.

<sup>42</sup> See Appendix 1 for more details on customer engagement program details and methodology



**Q24: Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the Greater Sydney Water Strategy and its actions for reducing emissions and to regulate abatement?**

Sydney Water would like IPART to consider the feedback from customers and community on our approach to Net Zero as stated above. We note that Net Zero remains a focus in Phase 4 of Our Water, Our Voice customer engagement program, however results will not be available until after the 1 September due date for this submission.

### **4.3 Resilience and Adaptation**

**Q25: Is there anything further we should consider when reviewing the current requirements for Sydney Water to implement the Greater Sydney Water Strategy and its actions for regulating climate resilience and adaptation?**

We support IPART's preliminary view that no new clause is required for the forthcoming licence period. However, as Sydney Water and the water industry matures in our approach to resilience and adaptation, we are open to reconsidering this need in future Operating Licence reviews.

We agree that the GSWS has drivers to adapt to drought and drinking water security issues, however we note that climate adaptation in the context of Sydney Water's operations is broader than these two issues alone. Sydney Water considers climate adaptation as actions to reduce the impact of changing climate conditions on our assets, systems, and products. Incentives beyond drought and water security are somewhat ambiguous, but Sydney Water remains committed to do what we can to maintain services levels for our customers as the climate changes.



To better adapt to the changing frequency and severity of natural hazards, Sydney Water has adopted a climate adaptation position statement which means our BAU approach is to plan, design and build for a future climate aligned to current global emission pledges (known as RCP 4.5). We will also develop adaptive pathways for our services if emissions reductions are not realized (known as RCP 8.5). We will apply the appropriate climate projections to all our assumptions rather than assuming historical data/standard criteria.

This approach, together with other internal initiatives to increase our climate adaptation maturity, will enable Sydney Water to better prepare and adapt to predictable climate hazards into the future. However, these actions will not necessarily prepare us sufficiently for possible but unexpected or unprecedented events such as impacts from compounding climate hazards and failures from interdependent infrastructure systems (ie water, power, road access).

This, alongside other unprecedented challenges we are facing (growth, aging assets, changing customer expectations and geopolitical factors) is why Sydney Water's approach to resilient water services aligns to Infrastructure NSW's *State Infrastructure Strategy 2022-42*<sup>43</sup> and Infrastructure

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<sup>43</sup> Infrastructure NSW (2022) *State Infrastructure Strategy 2022-42*, May, <https://www.infrastructure.nsw.gov.au/media/onmb3hy5/state-infrastructure-strategy-2022-2042-full-report.pdf>.



Australia's *Pathway to Infrastructure Resilience*.<sup>44</sup> Both outline the need to consider a whole-of-system, all-hazards approach that focuses on the functionality of a system, addressing both the resilience of individual assets and the contribution of these assets to the resilience of the overall system.

Sydney Water considers resilience as the capability to maintain services in a way that ensures our community can endure any unexpected or unprecedented event. It is our ability to withstand, adapt to changing conditions, and recover positively from acute shocks and chronic stresses.

We recognise that increasing uncertainty and complexity means that the likelihood and impact of an event is harder to predict. Traditional risk management emphasises understanding of probabilities of harm that may be unknowable, despite the risk being real and the consequence of failure unacceptable. It is critical we improve the resilience of our system to all hazards through not only new water sources, but also interconnectivity and reducing our reliance on single points of failure.

Sydney Water accepts that we are incentivised to address our known risks, often through regulation, for example via requirements embedded in the underlying frameworks relating to management systems. It could be argued, however, that we are not fully incentivised to minimise our exposures and increase our resilience to all hazards. As articulated by Infrastructure NSW in their State Infrastructure Strategy *"Prioritising funding for investment into infrastructure resilience...has proven to be a challenge. Investment that avoids the costs from low likelihood, but high impact events is often difficult to justify when compared to traditional investment in assets with more certain economic returns"*.

A resilience approach can work alongside traditional risk management. Which is why Sydney Water has committed to develop a resilience framework in our LTCOP to identify interventions and help to prioritise investments that are required to achieve long term infrastructure resilience objectives.



We are committed to continue working with IPART, our stakeholders and customers to ensure that we are taking sufficient actions to protect our customers from unprecedented events. And to assure that decisions that make our customers' lives better today do not come at a cost to Country and future generations.

#### 4.4 Climate-related risk management

**Q26. Is there anything further that we should consider when deciding whether Sydney Water should be required to develop and maintain a climate-related risk management program consistent with the NSW Climate Risk Ready Guide?**

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<sup>44</sup> Infrastructure Australia (2021) *Pathway to infrastructure resilience*, August, <https://www.infrastructureaustralia.gov.au/sites/default/files/2021-08/Advisory%20Paper%201%20-%20A%20pathway%20to%20Infrastructure%20Resilience%20FINAL.pdf>.



Sydney Water's enterprise-level climate risks are not all captured in our current management systems, falling outside of their frameworks. IPART's approach could address this gap. However, there is potential that a climate risk management program that is separate to existing risk management becomes duplicative. We seek further clarity on what this requirement would mean in practice.

In principle we support the benefits of aligning to the NSW Climate Risk Ready Guide. We would like to propose that the mode of reporting for this requirement focus on demonstrating maturity using the DPE Climate Risk Maturity Health Check Tool. Following the climate risk ready program is beneficial for visibility and reporting as required under our new Government Sector Finance Reporting requirements (see reporting section below). It is expected that future auditing of our Operating Licence performance will include questions on managing risks associated with climate change, regardless of whether there is a new Operating Licence requirement or not. This would streamline our response.

## 4.5 Reporting

### 27. Do you agree with adding a requirement in the Reporting Manual for Sydney Water to report on its progress to net zero?

We **support in principle** reporting on Sydney Water's progress towards achieving net zero. However, we seek to report on this *once only* as part of the NSW Treasury requirements from FY24 to publish climate-related financial disclosures every financial year in alignment with the Taskforce on Climate-related Financial Disclosures (TCFD) recommendations. We also wish to avoid duplicative auditing from NSW Treasury, the National Greenhouse and Energy Reporting audit process and IPART.

Sydney Water currently reports annual and historic Scope 1, 2 and 3 emissions in our Annual Environmental Performance report and annual environmental indicator reporting. However, we have not provided information on how these results relate to our Net Zero targets or evidence about the timing, strategy, and pathway to achieving these targets. This information is recommended to be included in our climate-related financial disclosures.

While we support the intent of this requirement to increase transparency and accountability, the implementation of this as a reporting manual requirement will need to be considered further to avoid duplication and confusion. Factors to consider include:

- the most appropriate report for this information and other climate-related financial disclosures to be incorporated in;
- the timing that audited emissions data for the Clean Energy Regulator is available (ie Scope 3 emissions is usually available in December for the previous financial year); and
- different assumptions in emission reporting methodologies.

Sydney Water would seek to report on progress to net zero as part of our TCFD reporting requirements. We are yet to confirm whether this would be included in our annual report or as a

standalone report. Please also see our discussion on suggested amendments to Environmental Indicator Reporting in section 9 – Other Issues.

## Insights from our customers – Reporting on our progress to Net Zero carbon emissions

During customer engagement on the subject of net zero carbon emissions some customers expressed that Sydney Water should be transparent about our emissions targets, and account for our performance targets and the dates we are striving to achieve the targets by, particularly if we commit additional spend (recouped by customer bill payments) to achieve the outcome by an earlier date than that set by NSW Government.

The proposed requirement to report on our progress to net zero is in line with customer expectations of Sydney Water.



### **Q28. Do you consider that there should be any other reporting requirements related to abatement, adaptation, resilience or climate risk?**

We support no other reporting requirements over and above mandatory disclosures.

It is worth noting that from FY24, NSW Treasury will require Sydney Water to publish climate-related financial disclosures every financial year in alignment with the Taskforce on Climate-related Financial Disclosures (TCFD) recommendations. In June 2023, the International Sustainability Standards Board (ISSB) also released its new sustainability standards, IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information and IFRS S2 Climate-related Disclosures. The ISSB standard builds on the TCFD recommendations, foreshadowing more holistic sustainability reporting and disclosure requirements that may be adopted by NSW Treasury in the future. Changes to the operating licence and reporting requirements should not be duplicative or risk conflicting with current and future requirements. As such, we do not believe it would be beneficial for any other reporting requirements, in addition to progress to net zero, over and above these mandatory disclosures.





# 5 Obligations to customers

## 5.1 Protecting customers' and consumers' rights

With over 5 million customers across Greater Sydney, the Illawarra and the Blue Mountains, we aim to put our customers first and have the 'customer at the heart' of everything we do. Our *Operating Licence* and *Customer Contract*, which is a schedule to our *Operating Licence*, work together to provide a range of important protections for our customers and consumers.

Our *Operating Licence* sets out requirements regarding the provision of information to customers, payment assistance options, customer complaints, dispute resolution and how we engage with customers. The *Customer Contract* further outlines the rights and obligations of our customers and sets out our minimum standards of customer service.

### 5.1.1 Customer contract

#### Rebates

#### **Q29 (i): Regarding the customer contract, are the rebates in the current Customer Contract well targeted and set at the right levels?**

Sydney Water believes the rebates in the Customer Contract are well targeted and generally set at the right levels. Sydney Water is proposing to keep the current rebate structure and increase rebates by 16% in the Customer Contract in line with inflation at the beginning of the next Licence, and then keep the rebates flat for the duration of the Licence period.

Rebates were assessed in detail with customers during the last Licence review, with significant updates to the current Customer Contract as a result.

Feedback on the current rebate structure has also been sought as part of Phase 3 of the 'Our Water, Our Voice' engagement program, to check that the service faults which are perceived to have the most impact are attracting the higher rebate.<sup>45</sup> See breakout box below. Based on customer feedback and given that bills have also increased with inflation, we consider it fair to our customers that the rebate is also increased in line with inflation if they are impacted by a service fault.

Further details on the customer engagement program can be found in **Appendix 1**.

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<sup>45</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 3 Final Report, August 2023.





## Insights from our customers – Impact of service faults

In an online survey of 2034 customers or consumers living in Sydney Water's area of operations, survey respondents were asked the following question<sup>46</sup>:

“From time to time the water and wastewater services to your home can be affected by different types of problems. The impact of these problems on your household can vary significantly depending on what they are. In the table below, please select three problems that would have the greatest impact on your household.”

From a selection of nine water and wastewater interruptions that attract a rebate, respondents were asked to select and rank their top three service faults in importance from the most to least impact. The list was randomised for each respondent. The current rebate value was not provided to minimise bias in responses.

More than half (57%) included needing to boil drinking water as the most impactful, followed by an unplanned water outage that lasts more than 5 hours (43%) and wastewater overflows on a customer's property (41%). Discoloured water that is still safe to drink came in at 40% and three or more unplanned water service interruptions in a year (27%).

Interruptions with the least impact were wastewater overflows more than twice a year and water pressure lower than usual for 1 hour continuously (both at 24%), experiencing wastewater overflow anywhere in your property twice in a 12 month period (22%) and water service interruption by planned work for over five hours with customers receiving notification in advance having the least impact at 21%.

In the 2018 customer engagement we had undertaken, customers also ranked a boil water alert as the most inconvenient, followed by wastewater overflow anywhere in your property (twice in a 12 month period, more than twice a year and a single wastewater overflow event). Interruptions with the least impact were water pressure issue lasting more than 1 hour, planned interruptions lasting more than 5 hours (11pm to 5am) and water pressure issue lasting for 15 minutes.

Phase 3 customer engagement broadly reflects the customer engagement undertaken in 2018 where we completed significant work to align rebate values with customer preferences.

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<sup>46</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 3 Final Report, August 2023.

## Consumer protections

**Q29 (ii): Regarding the customer contract, should any of the provisions of the Customer Contract, other than those already specified in clause 6.3 of the operating licence, be extended to ‘consumers’ who are not parties to the contract (e.g. tenants or property occupiers that are not landowners)?**

IPART notes in its Issues Paper that

*“to protect the interests of such consumers, the operating licence currently extends Sydney Water’s obligations under the following parts of the Customer Contract to also apply to consumers in the same way that they apply to customers:*

- *payment difficulties and assistance options (clause 5.1 of the Customer Contract)*
- *provisions for tenants to pay charges to avoid restriction or disconnection (clause 6.5)*
- *complaint handling and complaint resolution procedures. (clause 12)*
- *consultation and privacy handling (clause 13)*
- *termination of contract (clause 14).*

*This does not create enforceable contractual arrangements between Sydney Water and consumers but does require Sydney Water to give consumers the benefit of these provisions as though consumers were parties to the Customer Contract. If Sydney Water fails to do this, it will have contravened its operating licence.*

*We consider that these provisions should be continued to protect consumers.*

Sydney Water **agrees that these provisions should continue.**

IPART also notes that:

*“In addition, the provisions of the Customer Contract allowing customers to seek redress and claim for damages (clause 7 of the Customer Contract) should also be extended to consumers.”*



**Sydney Water does not support the extension of Clause 7 of the Customer Contract to consumers.**

Sydney Water notes that the current arrangements are in place for tenants relating to sub-sections of clause 7 of the Customer Contract:

- Rebates (7.2, 7.3 and 7.4):

It is currently the landlord’s responsibility to pass on the benefit of any rebates applicable under Section 39 (6) of the *Residential Tenancies Act*.

‘A landlord must ensure that the tenant receives the benefit of, or an amount equivalent to, any rebate received by the landlord in respect of any water usage charges payable or paid by the tenant’.



Sydney Water does not have a direct relationship with tenants to be able to directly provide rebates to them.

- Redress (7.6):

Tenants are able to apply for a bottled water reimbursement where they have been impacted by a water outage, to cover the cost of alternative water supply.

Tenants are able to apply for claim for damages as below.

Redress may also be provided to occupants, for example, emergency accommodation if the property occupied becomes uninhabitable from issues caused by Sydney Water.

- Claim for damages (7.7):

Should a tenant have any personal damage to property that is not covered by insurance (including insurance excesses), as a result of an asset failure of ours, they are already entitled to submit a claim for damages using the form that is available on the website and have their claim assessed by our claims team.

We see that these measures are appropriate for tenants of properties impacted by Sydney Water faults.

Consumers, other than property owners or tenants (such as visitors or tourists), should not be extended the options for rebate, however they do have the same rights to make a claim for damages if they experience a loss or injury as a result of us conducting business.

Other factors that we have considered in guiding our response include:

- There are practical issues including that there is no mechanism to 'pay' a rebate to such consumer as rebates are applied via the customer's bills automatically. Further, there is no ability for Sydney Water to confirm that such consumer was residing at a particular property at the relevant time.
- Consumer law is intended to apply between a supplier and the person who purchased the goods or services, which is not the case with consumers such as visitors or tourists. Extending clause 7 of the Customer Contract to such consumers goes against this general legal principle, and their claims would not be recognised as consumer claims under the *Fair Trading Act 1987 (NSW)* or the Australian Consumer Law.
- Not extending clause 7 does not negatively impact on such consumers as a claim for damages to person or real property is not limited to being made under the Customer Contract - other appropriate legal avenues are available.

We will consider stakeholder suggestions for what protections could be improved or what additional protections could be put in place, however Sydney Water does not currently see that additional provisions need to be extended.



## Customer Contract changes

**Q29 (iii): Regarding the customer contract, do you support Sydney Water's proposed changes to the Customer Contract (as published as part of Sydney Water's submission to the Issues Paper on 1 September).**

An updated version of the Customer Contract is provided as **Appendix 4** for comment. As our Customer Contract is attached to the Operating Licence, the end-of-term review provides a good opportunity to amend the contract to ensure it is relevant and up to date. This Contract is between Sydney Water and our customers and sets out the rights, responsibilities and obligations of both Sydney Water and our customers.<sup>47</sup>

A summary of Sydney Water's proposed changes to the Customer Contract is in Table 14 below.

We are proposing changes to the Customer Contract to clarify customer responsibilities, reflect current business practice, enable potential future business changes and to simplify language or improve readability.

Where we thought changes had the potential to impact customers or where we knew customers may have strong views, we have sought those views via our customer engagement process, for example availability of different options for bill payment and changes to rebates.<sup>48</sup> We also sought comment from our Customer and Community Reference Group on a draft version of the updated contract.

### Insights from our customers – Bill payment methods

In Phase 2 of the 'Our water Our voice' customer engagement program, we asked customers their thoughts on removing in person (over the counter) and cheque payments. Participants were presented with information on the number of customers who currently use these payment channels, the cost of the channel and other cheaper payment options.

Participants told us that they **do not support** the removal of these payment channels. There was a general view that over-the-counter payments via Australia Post and cheque payments are used by elderly people who may be technologically disadvantaged. Suggestions of any additional fees were also rejected as being unfair or discriminatory and disadvantage those least able to afford it. Most participants agree to continue funding bill payments via Australia Post and cheque at least in the short to medium term.<sup>49</sup>

In response to the feedback we received, we will continue to maintain over the counter and cheque payments with no additional fees.

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<sup>47</sup> While the Customer Contract can be changed outside the licence review, this is rarely done.

<sup>48</sup> Sydney Water (2023) 'Our Water, Our Voice' – Phase 2 Findings Report, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/our-water-our-voice-phase2-findings.pdf>.

<sup>49</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 2 Final Report, March 2023.

Table 14. Summary of Sydney Water’s proposed changes to the Customer Contract.

Proposed change/s	Reason
<b>Section 1: Introduction</b>	
No proposed changes	
<b>Section 2: What is this contract and who is covered by it?</b>	
<b>2.1 What is a customer contract?</b>	
Rearranged wording, no change to information	To improve readability for our customers
<b>2.5 When does this contract end?</b>	
This information has been moved from Clause 14 to here. Clause 14 no longer exists.	A relocation of information relating to the Customer Contract to be near information about the Commencement of the Contract.
<b>2.6 Variation of this Customer Contract</b>	
This information has been moved from Clause 14 to here. Clause 14 no longer exists.	As per 2.5 above.
<b>Section 3: What services does Sydney Water provide?</b>	
<b>3.1.1 Supply of drinking water</b>	
Title and body have been changed to insert the word ‘drinking’ before water	To clearly define drinking water as opposed to recycled water.
<b>3.1.2 Supply of recycled water</b>	
The second half of section 3.1.1 has been made a new section that explains requirements for receiving recycled water. No changes to information from original contract.	To clearly define recycled water as opposed to drinking water.
<b>3.1.3 Drinking water quality</b>	
Changed the phrase ‘health related guidelines’ to ‘health-based guidelines’.	To better align our terminology with what is currently used in the Australian Drinking Water Guidelines
<b>3.1.7 Water restrictions</b>	
Section 3.4.4 has been moved to 3.1.7. Wording added to recognise severity of failure to comply with restriction.	Moved to a more appropriate section – restrictions are not a factor affecting the service.
<b>3.1.8 Emergency restrictions on drinking water consumption</b>	
A new section added.	Added in response to major storm events which have significantly impacted raw water quality.
<b>3.2.1 Supply of wastewater services</b>	
Added a reference to new section 3.4.4 - Force majeure	Including reference to this new section to ensure customers are fully informed.
<b>3.2.3 Trade waste</b>	
Updated to reference our Environmental Protection Licences.	Providing clarity around the laws and licences we adhere to maintain safety and protection of our environment.
<b>3.4.3 Planned interruptions</b>	
Updated with information about registering for	To inform our customers that they can provide their

Proposed change/s	Reason
water outage alerts	information to receive outage alerts.
<b>3.4.4 Water restrictions</b> Moved to 3.1.7.	Moved to a more appropriate section – restrictions are not a factor affecting the service.
<b>3.4.4 Force majeure</b> A new section	To explain that our ability to provide services may be impacted by events beyond our control, such as severe weather, etc.

#### Section 4: What you pay

<b>4.1 How prices are determined</b> Was section 4.9. Now 4.1.	Changed the arrangement of sections to align with Hunter Water's Customer Contract
<b>4.3 Responsibility to pay the account</b> Was section 4.1, now 4.3	Changed the arrangement of sections to align with Hunter Water's Customer Contract
<b>4.4 Concessions</b> Added that eligibility criteria for concessions can be found on our website	To ensure customers know they can find additional information on our website
<b>4.5.3 How bills are sent</b> Updated with actions taken when an incorrect email address is provided	Advising that if an email can't be delivered, the bill will be posted to the property to which the services are available or provided.
<b>4.5.4 How to make payment</b> Removed reference to payment types, referring customers to the payment options available on the bill.	With the Australian Government looking to remove cheque payments by 2030, this change will ensure our contract remains accurate whether the change happens prior to the end of this contract period or not.
<b>4.5.5 Overdue account balances</b> Was section 6.10, now 4.5.5	Changed the arrangement of sections to align with Hunter Water's Customer Contract
Inserted a line around potentially recovering costs of debt recovery from the property owner	To allow Sydney Water an avenue to recover costs of debt recovery from the property owner

#### Section 5: What can I do if I am unable to pay my bill?

No proposed changes

#### Section 6: Restriction or disconnection of water supply and wastewater services

<b>6.2 Notice of restriction or disconnection of supply of water for nonpayment by customers</b> Updated the additional costs to include further recovery action	Previously it only outlined costs associated with legal action, however there are other recovery actions that can be taken, and costs for these may be passed on.
<b>6.4 Restriction or disconnection for other reasons</b> Updated to include non-compliant stormwater connections to the wastewater system	If a connection is found between a private stormwater system and our wastewater system, Sydney Water will have the right to disconnect said stormwater system.

Proposed change/s	Reason
<p><b>6.10 Costs for debt recovery activities</b></p> <p>The information from this section was relocated to 6.2</p>	<p>We moved this paragraph for a more logical flow of information for the reader.</p>
<b>Section 7: Redress</b>	
<p><b>7.1 Notification</b></p> <p>Reordered information, including correct references to other clauses</p>	<p>To more clearly explain the process when a customer notifies us of an inconvenience, damage or loss to their property.</p>
<p><b>7.2 Rebates</b></p> <p>Rebate amounts throughout this section have been amended to reflect future figures.</p>	<p>We propose to increase rebates in line with inflation in accordance with the consumer price index (CPI).</p>
<p><b>7.2.1 Planned interruption</b></p> <p><b>7.2.2 Unplanned interruption</b></p> <ul style="list-style-type: none"> <li>Updated to indicate interruption to drinking water.</li> </ul>	<p>Rebates are not paid for interruptions to recycled water as customers will have access to potable water if this occurs.</p>
<p><b>7.2.5 Dirty water</b></p> <p>Changed wording around frequency of eligibility for dirty water rebate.</p>	<p>Rebates for dirty water will only be payable once per quarter for each event that results in dirty water.</p>
<p><b>7.2.6 Boil water incidents</b></p> <p>Changed wording around contamination incident.</p>	<p>To make it clearer that the rebate will be paid in respect of the contamination incident.</p>
<p><b>7.3 Rebates for recurring unplanned interruptions</b></p> <p>Inserted the words “for drinking water...”</p>	<p>To clarify that this rebate is only for interruptions to drinking water, not recycled.</p>
<p><b>7.5 Exception for disaster events</b></p> <p>Removed superfluous words, included relevant clauses that are excluded.</p>	<p>To make the exception clearer for the reader.</p>
<p><b>7.6 Redress</b></p> <p>Reworded without changing meaning.</p> <p>Added a line about how to initiate a request for redress</p>	<p>For improved readability</p> <p>So that redress is not assumed as an automatic action where damage may not be visible/obvious - customers are made aware they should contact us to initiate the process.</p>
<p><b>7.7 Claims for monetary compensation</b></p> <p>Rephrased the wording around procedure for claims</p>	<p>Changed heading to more accurately describe this process</p> <p>To set a realistic expectation for the customer regarding the process of making a claim.</p>



Proposed change/s	Reason
Changed “could” to “should” regarding making a claim with the homeowner’s insurance company.	To encourage customers to engage with their insurer at the first instance.
<b>Section 8: Responsibilities for maintenance</b>	
<b>8.1 Water pipes</b>	
Extensive rearranging and re-wording of information around ownership and responsibility of private water pipes, and the courtesy mains to meter repairs Sydney Water may undertake. Amended the working to clearly define when we may recoup costs of a repair we have undertaken	To help our customers more clearly understand where their (and Sydney Water’s) responsibility starts and ends.
Added provision for Sydney Water to recoup costs for repair to damage caused by a third party.	To provide avenue to recover costs incurred in undertaking a courtesy repair to damage caused by a third party that is not the property owner.
<b>8.2 Wastewater pipes</b>	
Removed the word “junction” and replaced with “point of connection”	Not all points of connection are junctions, so using this generic term to cover all types.
Extensive rearranging and re-wording of information around ownership and responsibility of private wastewater pipes, fitting and equipment.	To help make the property owner’s responsibility much clearer with less room for interpretation.
Clarified that our courtesy repair of wastewater pipes in public land is for residential customers only and for pipes that are located under a concrete footpath or roadway. Also added that if we undertake a free repair, the property owner retains responsibility for the repaired pipes, and added provision for Sydney Water to recoup costs for damage caused by a third party.	To clarify Sydney Water’s assistance is aimed at residential customers who may not have the means to pay for excavation works in the street or road; to ensure that responsibility clearly remains with the property owner, and to provide an avenue for recovery of costs from any parties responsible for the damage.
<b>8.4 Pressure sewerage equipment</b>	
Removed the word “contractor” and included “by us or on our behalf”	To clarify that equipment supplied by us and installed by a contractor on our behalf is owned and maintained by us.
Removed a duplicated reference to Appendix B	To reduce repetition
<b>8.10 Building work</b>	
Updated to include the phrase “even if the structure existed prior to your ownership of the property.”	To clarify that Sydney Water can ask a property owner to remove a structure that impedes any of our services at their cost, even if that structure was present when the property was most recently purchased.



Proposed change/s	Reason
<p><b>8.12 Altering connections and unauthorised connection or use</b>            Added that customers may be charged for “reasonable costs incurred by us resulting from your activity.”</p>	<p>To provide Sydney Water an avenue to recover any costs incurred in undertaking investigations into, or rectification of, unauthorised or altered connections.</p>
<p><b>Section 9: Entry onto a customer’s property</b></p>	
<p><b>9.1 Access to Sydney Water’s systems</b>            Updated to include that Sydney Water requires safe access to property to be able to upgrade our systems, and to perform water quality management activities.</p>	<p>To provide clarity because “upgrade” works include renewals and large project works which may be perceived as different to works to “inspect” or “maintain” as per previous contract. Also ensuring we have access to maintain water quality, e.g., sampling, etc.</p>
<p><b>9.3 Notice of access</b>            Re-worded and made changes to align with Hunter Water’s Customer Contract.</p>	<p>Making it clearer when we may need access without notice, e.g., when we deem a matter to be urgent, if we need to verify a connection or any other time where the Sydney Water Act advises we don’t have to provide notice.</p>
<p><b>Section 10: Water meter reading, installation, testing and maintenance</b></p>	
<p><b>10.1 Installing and maintaining a meter</b>            Added the phrase “or digital meter” after “remote reading device”.</p>	<p>To incorporate the new technology we are using and ensure Sydney Water can recover costs associated with installation if necessary.</p>
<p>Added a reference to (moved) section 10.5 which outlines information about meter access requirements.</p>	<p>To reduce repetition.</p>
<p>Updated information around meters on fire services to indicate that requirement for a metered fire service may be provided at the time of approval or later.</p>	<p>So that Sydney Water can have the option to require a meter after the approval process has been completed if necessary.</p>
<p>Moved information about maintenance of data loggers to end of clause.</p>	<p>For better flow of information from installation to maintenance.</p>
<p><b>10.2 Backflow prevention containment device</b>            New section using information that was previously in 10.1. No changes to information.</p>	<p>To make this information clearer and easier to locate.</p>
<p><b>10.3 Measuring water supplied</b>            Was 10.2. Rearranged wording. No changes to meaning. Added that it is an offence under the Act to tamper with a meter.</p>	<p>Changed the arrangement of sections to align with Hunter Water’s Customer Contract.</p>



Proposed change/s	Reason
<p><b>10.4 Meter testing</b></p> <p>Updated to advise that testing the meter is done for a fee which will be refunded if the meter is shown to be over-recording by more than four per cent of the actual quantity of water passing through.</p>	To inform customers about this cost.
<p><b>10.5 Access to the water meter</b></p> <p>Minor wording changes, no change to meaning.</p>	To provide further clarity and readability.
<p><b>10.6 Meter replacement</b></p> <p>Updated to indicate the difference in requirements for meters inside multi-level buildings, referring owners who have meters inside a multi-level building to the policies and guidelines on our website which will always be up-to-date.</p>	Because access to meters within units are more difficult than standard set ups where the meter is outside and easily accessible, the guidelines for installation and therefore accessibility for replacement will be on our website.
<b>Section 11: Who can I speak to if I have any questions or want to make enquiries?</b>	
<p><b>11.1 Telephone enquiries</b></p> <p>Updated business hours for contact centre to 8:00am-5:30pm.</p>	To ensure currency of the information in the contract.
<p>Added a paragraph about the faults line.</p>	To distinguish between calls for account and faults enquiries.
<p><b>11.2 Interpreter and TTY Service</b></p> <p>Was section 11.5 – moved to 11.2</p>	For a more logical flow of information from phone enquiries through to interpreter services.
<p><b>11.3 Online enquiries</b></p> <p>Was 11.2 ‘Internet enquiries’ – changed to online enquiries and expanded to explain services available online (e.g., signing up for outage alerts or MyAccount) as well as providing email addresses for accounts and faults enquiries</p>	To keep all online communication together and encourage use of our website for access to information and provision of contact details.
<p><b>11.4 Written enquiries</b></p> <p>Removed email information and left it as a postal address.</p>	Online methods of contacting us have been moved to 11.3.
<p><b>11.4 Leaks and faults assistance</b></p> <p>Information from this section has been rolled up into 11.1 Telephone enquiries and 11.3 Online enquiries.</p>	For a more logical flow of information about the ways a customer can contact us.
<b>Section 12: If I am unhappy with the service provided by Sydney Water, what can I do?</b>	
<p><b>12.1 Customer complaints</b></p> <p>Clarified that if you contact us by telephone and it can’t be resolved immediately, we will get in contact by telephone within two business days.</p>	To ensure our Service Level Agreement (SLA) for responses by phone (two business days) and email/written (five business days) is clear.
<b>Section 13: Consultation, information and privacy</b>	

Proposed change/s	Reason
<b>13.1 Involving customers in service planning</b> Changed the term “Customer Council” to “Customer and Community Reference Group.”	To reflect the change of name for the group.
<b>13.3 Privacy</b> Change to wording to make it more general.	To encompass any future changes to legislative obligations/requirements and ensure the contract remains current.
<b>Section 14: Definitions and Interpretations</b>	
<b>Commencement Date</b> Updated to 2024-2029	To ensure correct date is shown.
<b>Customer and Community Reference Group</b> Changed from ‘Customer Council’ as per section 13.1.	To reflect the change of name for the group.
<b>Disaster event</b> Updated to include ‘major flooding or storm event or a terror event’ in the definition	To define the significant natural/weather events which are outside Sydney Water’s control.
<b>Health information</b> Updated to refer to the definition under the <i>Health Records and Information Privacy Act 2002 (NSW)</i>	To ensure the definition aligns with this Act even if the Act is updated.
<b>Personal information</b> Update to refer to the definition under the <i>Privacy and Personal Information Protection Act 1998 (NSW)</i>	To ensure the definition aligns with this Act even if the Act is updated.
<b>Planned interruption</b> Update to remove reference to ‘normal’ supply	To make it clear in an event, an interruption ceases when continuous supply is restored (i.e. minimal flow of water at first cold tap); even if the pressure is lower than the customer usually experiences. This is consistent with proposed changes to the definition in the Operating Licence.
<b>Point of connection</b> Updated wording to make this clearer	To be clearer for the reader.
<b>Property</b> Updated to ‘parcel of land that is connected to...’	To make it clear that we do not include a customer’s dwelling or have rights to enter their home when accessing our assets.
<b>Stormwater drainage system</b> Updated wording of definition	To align this definition with the proposed change in the Operating Licence.
<b>Trade waste</b> Amended wording for better accuracy. No change to definition.	To make the definition easier to understand.
<b>Unplanned interruption</b> Update to remove reference to ‘normal’ supply	To make it clear in an event, an interruption ceases when continuous supply is restored (i.e. minimal flow of water at first cold tap); even if the pressure



Proposed change/s	Reason
	is lower than the customer usually experiences. This is consistent with the proposed changes to the definition in the Operating Licence.
<b>Utility service</b>	
Updated definition to include ‘recycled water’	To ensure currency of our offered services.
<b>Wastewater</b>	
Updated definition to explain that wastewater is the water that comes from various <b>plumbing</b> sources	To remove any ambiguity around what we consider wastewater to be.

### Appendix A: Operation and maintenance obligations for pressure sewerage equipment

<b>Pressure sewerage equipment owned by you</b>	
Text updated to include information around obligations of equipment owners, including relevant inspections and requirements.	To better clarify obligations and requirements of property owners connected to our wastewater system via pressure sewerage equipment.
Updated reasons for disconnection by Sydney Water due to: <ul style="list-style-type: none"> <li>Incorrectly connecting stormwater pipes to the private wastewater system, or</li> <li>If we identify their wastewater system to be a source of hazardous or corrosive liquids being disposed into the system.</li> </ul>	To provide relevant reasoning for disconnection based on real issues occurring in the network, so that owners are aware of their obligations.
<b>Pressure sewerage equipment owned by us – individual connections</b>	
Changed title to include “individual connections” to differentiate from the new paragraph called “Pressure sewerage equipment owned by us – multiple property connections” below.	To clarify that this information is relevant to customers with an individual connection to our pressure sewerage system.
Inserted “Each dwelling on a property, including granny flats or other secondary dwellings, must have its own separate pressure sewerage equipment.”	To ensure that property owners are aware they can’t join a new property’s system to their existing system.
Rearranged some wording without changing meaning.	To improve the flow of information.
Updated reasons for disconnection by Sydney Water due to: <ul style="list-style-type: none"> <li>Not following Sydney Water’s Pressure Sewerage System Home Owner’s Guide,</li> <li>Incorrectly connecting stormwater pipes to</li> </ul>	To better clarify obligations and requirements of property owners connected to our wastewater system via pressure sewerage equipment owned by Sydney Water.





Proposed change/s	Reason
<p>the private wastewater system, or</p> <ul style="list-style-type: none"> <li>If we identify their wastewater system to be a source of hazardous or corrosive liquids being disposed into the system.</li> </ul>	

**Pressure sewerage equipment owned by us - multiple property connections**

A new section outlining the responsibility for maintenance of multi-property pressure sewerage equipment owned by Sydney Water where multiple properties are connected to one pressure sewerage pump.

To ensure customers from areas we acquire with multiple-property connections to pressure sewerage systems that are not constructed to our typical standards (such as Bingara Gorge) are fully aware of their (and Sydney Water’s) responsibilities for maintaining their system.

**Appendix B: System Diagrams**

**Wastewater Diagrams**

All wastewater diagrams are being updated to show the point of delineation more clearly between Sydney Water’s and the property owner’s responsibility for maintenance.

To prevent confusion around where the property owner’s responsibility ends.

New diagram to be drawn to demonstrate the 4:1 set up of new properties within Bingara Gorge that were set up in a system that is not in accordance with Sydney Water’s current standards.

To highlight the system that we have now taken ownership of that does not align with any of the existing diagrams.

**5.1.2 Protecting customers experiencing financial difficulty**

**Q30: Do you agree that the current operating licence requirements for maintaining, and implementing and advertising payment assistance options are the minimum necessary to protect customers experiencing payment difficulty?**

Sydney Water **supports** retention of the requirements to maintain, implement and advertise payment assistance options to help protect customers experiencing payment difficulty.

Recent engagement with customers and the community as part of ‘Our Water, Our Voice’ on what is most important to them found that keeping water and wastewater bills affordable was one of three top priorities for customers and the community. It was suggested that the affordability benchmark should be based on lower incomes to maintain affordability for all. Customers indicated their support for the use of hardship programs to support those who may be financially vulnerable.

Sydney Water offers a range of assistance if customers are having difficulty paying their bill on time. The payment assistance support options include:

- Payment extensions (the full amount due is deferred to a later date)



- Payment arrangements (outstanding balance broken into multiple payments before the next bill is due)
- Payment plans (set payments on a regular frequency for past and future debts)
- Regular deductions from customer Centrelink payments
- Pensioner concessions
- Customers are referred to an accredited community agency to discuss bill challenges face-to-face
- Customers are provided ongoing support through a BillAssist program where they are assigned a dedicated case coordinator
- Customers are provided with Payment Assistance Scheme (PAS) credits on their account if eligible
- Customers are referred to a PlumbAssist program for emergency and essential plumbing repairs
- Customers are referred to other types of help and support for other than your Sydney Water account (such as financial counselling or assistance services and cross referrals through the Thriving Communities Partnership One Stop, One Story Hub)
- Sydney Water will attend community events and information sessions for community groups
- Sydney Water have special provisions in place for victims of domestic violence that protect their details

Sydney Water advertises these assistance options via social media, our quarterly Waterwrap newsletter distributed with bills and through community outreach events. We also work closely with over 100 community support agencies

As part of the 'Our Water, Our Voice' customer engagement program and engagement with IPART and the Public Interest Advocacy Centre, Sydney Water has been seeking to understand what additional assistance options may be useful to customers.

### 5.1.3 Protecting tenants experiencing payment difficulty

**Q31: Within the limitations of the current legislative framework, we seek your feedback on how protections could be improved for tenants who are responsible for paying water usage at a separately metered property through the operating licence or customer contract?**

Sydney Water currently provides various assistance options to tenants experiencing financial hardship.

Sydney Water currently assists tenants experiencing financial hardship by:

- Placing a hold on the account – this ensures no interest accrues or debt recovery actions for a 35-day period while an arrangement to pay can be made



- Payment assistance scheme (PAS) credits placed on the account to the value of water usage charges
- Referral to other support services, e.g., financial counselling, social services, etc.
- No personal information about the tenant is shared with the property owner
- Participating in the One Stop One Story Hub. The One Stop One Story Hub enables frontline workers in corporate, government and community organisations to connect and refer their clients to a range of supports through a single, secure access point. People experiencing domestic and family violence and/or financial hardship can tell their story once and get access to holistic wrap around support from multiple service providers.<sup>50</sup>

In IPART's CBA Approach paper, a related question is asked with respect to billing tenants directly for usage charges only, where they are separately metered.

As the billing relationship is legally with the landlord as the responsible landowner and not the tenant, our billing system is not currently set up to directly deal with tenants. There are significant hurdles to the proposal to bill tenants directly. There would need to be significant overhaul of our billing system and supporting business processes to enable this change. This comes at significant cost. We respond more fully to the question posed in our response to IPART's CBA Approach Paper and are happy to provide more details on costs and benefits of the proposed change through IPART's CBA information request process.

Our outstanding debt is very low as balances are paid on the sale of the property. Sydney Water will likely see an increase in bad debts from tenant billing including additional administrative costs that will ultimately be borne by the wider customer base.

Further, Sydney Water notes that under the *Sydney Water Act 1994* (NSW), Sydney Water is only able to hold property owners ultimately responsible for water bills, not tenants. Tenants may pay a water bill on behalf of the owner and recover that amount from the owner pursuant to section 62 of the *Sydney Water Act 1994* (NSW) and the *Customer Contract*. However, when the owner sells the property, any outstanding amounts owing in respect of that property will be paid to Sydney Water as part of the reconciliation for the property sale, by reference to a certificate issued under section 66 of the *Sydney Water Act 1994* (NSW). As such, changes to the *Sydney Water Act 1994* (NSW) and the *Residential Tenancies Act 2010* (NSW) may be required.

- Section 62(2) of the *Sydney Water Act 1994* (NSW) states:

*"If a lease of land in the area of operations provides, expressly or impliedly, that the owner of the land is to pay the contract charges payable in relation to the land, the occupier may pay to the Corporation any charges that are due but unpaid by the owner and may—*

*(a) recover the amount paid from the owner as a debt due to the occupier, or*

<sup>50</sup> Thriving Communities Partnership (2023) *The One Stop One Story Hub*, <https://thriving.org.au/what-we-do/the-one-stop-one-story-hub>.

*(b) deduct the amount paid from any rent, licence fee or other occupation fee payable by the occupier to the owner.”*

- Section 66 of the *Sydney Water Act 1994 (NSW)* states:

*(1) The Corporation must, on written application ... issue to the applicant a certificate—*

*(a) containing particulars of any amounts payable to the Corporation in respect of a parcel of separately assessed land ... or*

*(b) to the effect that there are no such amounts.*

...

*(4) A certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates, that, at the date of its issue, no amounts were payable to the Corporation in respect of that land other than the amounts specified in the certificate.*

Currently tenants are not bound to pay bills under the Customer Contract to Sydney Water, they are only provided protection by some of the provisions within it.

- Under the *Residential Tenancies Act 2010 (NSW)*, landlords can recover water usage charges. Section 39 states:

*“(1) A tenant must pay the water usage charges for the residential premises... a) the premises are separately metered... b) the premises contain water efficiency measures... c) the charges do not exceed the amount payable by the landlord for water used by the tenant*

*(2) A tenant is not required to pay the water usage charges unless the landlord gives the tenant a copy of the part of the water supply authority’s bill setting out the charges, or other evidence of the cost of water used by the tenant.”*

#### 5.1.4 Family violence policy

##### **Q32: Does the current operating licence requirement for Sydney Water to implement a family violence policy offer adequate protection for vulnerable customers?**

Sydney Water supports IPART’s position to retain the requirement for Sydney Water to implement a family violence policy. We remain committed to maintaining and implementing our Family Violence Policy that was developed in the current Licence period. Sydney Water supports IPART’s view that the requirement would transition to a “maintain and implement” phrasing (see Table 15). This update will ensure our Licence reflects the maturity in our policy since last review and that the initial development and implementation of the policy is complete.

Our Family Violence policy is published on our website, under ‘Help with your bill’. We plan to advertise this policy more widely with customers in future editions of our quarterly newsletter Waterwrap that accompanies bills.

Table 15. Proposed wording change to reflect the maturity of the family violence policy clause

Current clause wording	Proposed wording
6.5.1 Sydney Water must develop and implement a family violence policy by 1 July 2020 (or another date approved by IPART in writing).	6.5.1 Sydney Water must <b>maintain</b> develop and implement a family violence policy <del>by 1 July 2020 (or another date approved by IPART in writing).</del>

### 5.1.5 Internal complaints handling

#### Q33: Do you agree that the current operating licence requirements for internal complaints handling are adequate to protect customers?

Sydney Water supports retention of the requirement to have a process for internal complaints handling. Our internal complaint handling process is consistent with Australian Standard AS 10002:2022 Guidelines to complaint handling in organisations and we remain committed to meeting the standard. This was certified by the Customer Service institute of Australia (CSIA) and demonstrates our commitment to CSIA’s standard of professional practice and code of ethics.

However, Sydney Water notes that the standard has been updated since the publication of our last Operating Licence. We propose a minor amendment to the requirement that reflects the update to the standard (Table 16).

Table 16. Proposed wording change to reflect that the relevant AS/NZS standard for complaints handling is being updated

Current clause wording	Proposed wording
6.7.1 Sydney Water must maintain a procedure for receiving, responding to and resolving Complaints. The procedure must be consistent with Australian Standard AS/NZS 10002:2014 – Guidelines for complaint management in organizations (the Internal Complaints Handling Procedure).	Sydney Water must maintain a procedure for receiving, responding to and resolving Complaints. The procedure must be consistent with Australian Standard <b>AS 10002:2022</b> – Guidelines for complaint management in organizations (the Internal Complaints Handling Procedure).

### 5.1.6 External dispute resolution

#### Q34: Do you agree that the current operating licence requirements for external dispute resolution are the minimum necessary to protect customers?

Sydney Water **supports** retention of the requirement to have a process for external dispute resolution to assist in protecting customers. The Licence and Customer Contract currently specify that Sydney Water must be a member of the Energy & Water Ombudsman NSW (EWON) to facilitate any disputes between Sydney Water and its customers or consumers.

Sydney Water also supports IPART’s proposed amendment to allow Sydney Water the option of being a member of an alternative dispute resolution scheme that IPART approves. This will allow

us to choose a more cost-effective membership if an alternative scheme meets our specifications for an effective external dispute resolution provider. This aligns with changes made to Hunter Water’s 2022-27 Operating Licence.

EWON’s membership fee consists of a base fee plus a fee calculated on customer numbers. As Sydney Water’s customer base continues to grow, we will pay much higher annual fees in the future. Compared to electricity retailers, Sydney Water is a significant financial contributor for the relatively low number of complaints that are referred to EWON.

The flexibility to choose an external dispute resolution scheme will help to deliver the best value for customers, contribute to overall cost efficiency and help keep customer pricing affordable.

### 5.1.7 Providing information to customers

#### **Q35: Do you agree that the current operating licence requirements for Sydney Water to publicise its customer protection provisions are the minimum necessary to ensure customers are aware of the provisions?**



Sydney Water **supports** the retention of requirements to provide information to customers, including its customer protection provisions.

However, Sydney Water seeks amendments to the clause to be more flexible in how information is provided to customers, by removing the requirement for a summary of the Customer Contract to be provided to customers annually with their bill (as per Table 17).

**Table 17. Proposed wording change to allow Sydney Water to cease the printing and mailing of copies of the Customer Contract summary to all customers with their bill annually**

Current clause wording	Proposed wording
<p>6.2.3 Sydney Water must:</p> <p>a) provide the communication or communications and any updates, free of charge to:</p> <p>i. Customers at least annually with their Bills; and</p> <p>ii. any person upon request made to the Contact Centre; and</p> <p>b) make the communication or communications and any updates publicly available on its website, free of charge, within 60 days of the commencement of the Customer Contract or any communication update.</p>	<p>6.2.3 Sydney Water must:</p> <p>a) provide the communication and any updates, free of charge to customers or any person upon request made to the Contact Centre; and</p> <p>b) notify customers, at least annually, regarding the availability of the Customer Contract summary on our website; and</p> <p>c) make any communications and updates publicly available on its website, free of charge, within 60 days of the commencement of the Customer Contract or any communication update.</p>

The Operating Licence requires Sydney Water to provide information to customers on a variety of topics including water quality reports, types of account relief available, rebates for service interruptions, changes to our prices etc. This information is provided to residential customers via a



quarterly newsletter called 'Waterwrap'. Non-residential customers receive a 'Business Update' newsletter quarterly.

Sydney Water is also required to provide a brief explanation of its Customer Contract at least once a year. The newsletters and Customer Contract summary are designed, printed and sent with the customer's bill at a cost of around \$320,000 a year.

Sydney Water consulted with its customers during Phase 2 of the 'Our Water, Our Voice' engagement program to understand what they recall of these communications and their preferences for how they receive information (see breakout box).

### Insights from our customers – Required communications

When asked about whether they recalled certain publications, the majority of customers (66%) don't recall either receiving or reading Waterwrap, Business Update or the Customer Contract.<sup>51</sup>

Of those residential customers that could recall Waterwrap, 58% preferred to receive it by email and 43% by post.

Many of the non-residential participants interviewed were not directly involved in the payment of bills, particularly those from large organisations or government. However, business customers were interested in information on financial incentives such as rebates or cashbacks for businesses.

Based on this feedback, Sydney Water will continue to print and post the quarterly newsletters as well as communicate via email to those customers who opt into electronic bills and the new My Account portal.

For the Customer Contract summary, customers said they were comfortable accessing this information online (the full Customer Contract and summary are available on Sydney Water's website - <https://www.sydneypwater.com.au/about-us/our-organisation/what-we-do/operating-licence.html> [Sydney Water Our Contract with you](#) and [Customer contract 2019-2023](#) and were generally supportive of Sydney Water ceasing postal distribution.

Based on the customer feedback, Sydney Water would like to stop printing and posting two million copies of the Customer Contract summary to customers annually and instead provide paper copies to customers on request. However, we will notify customers about the availability of the Customer Contract summary at least annually in the Waterwrap and Business Update newsletter.



The Customer Contract and its summary would remain readily available on our website (as per requirements in sub-clause 6.3.2b).

The proposed change to circulation of the Customer Contract summary does not negate the requirements in 6.2.1 to provide a summary that:

- c) *refer to the types of account relief available for Customers experiencing financial hardship;*

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<sup>51</sup> Sydney Water, Kantar Public and Synergies Economic Consulting (2023). 'Our Water, Our Voice' Community Engagement Program: Phase 2 Draft Report, March 2023



d) *outline the rights of Customers to claim a rebate and the conditions that apply to those rights;*

or in 6.2.4 that *Sydney Water must publish on its website and advertise at least annually in a manner that Sydney Water is satisfied is likely to come to the attention of members of the public, information as to:*

- a) *they types of account relief available for Customers experiencing payment difficulty; and*
- b) *rights of Customer to claim rebates and the conditions that apply to those rights.*

We recognise that these are key customer protections for vulnerable customers facing payment difficulties and potentially family violence. We support the continued advertisement of these options.

Sydney Water does however consider the requirements in 6.2.1(c) and (d) are duplicative of the requirements in 6.2.4(a) and (b) and seeks clarity on whether these could be consolidated.

## 5.2 Consulting with customers

Engaging with our customers helps us make well-informed, meaningful and customer-centric decisions. We are continuing to increase our capability in engaging with customers; focusing on better understanding our customers and improving the customer experience. We take a broad interpretation of the term ‘customer engagement’ – we engage with our customers using a multichannel approach, using both one- and two-way communications.



As part of consulting with customers, we have recently established a Customer and Community Reference Group (CCRG), an independently chaired group of customer and community advocates, to replace our previous Community Advisory Council. The purpose of the CCRG will be to work closely with our business to provide input, challenge and support to our business to demonstrate that our decisions, as set out in our strategy, enterprise plan and regulatory submissions, are in the best interests of all our customers and the community and are shaped by them.

### 5.2.1 Consulting customers through the customer council

**Q36: Do you agree that the current operating licence should only require Sydney Water to maintain a Customer Council (or Customer and Community Reference Group), to reflect the requirements of the Act, but should not include any additional prescription for the Customer Council?**

Sydney Water **supports** retention of the clause to maintain our CCRG (previously the Customer Council) as a requirement under the *Sydney Water Act 1994*. We remain committed to maintaining and regularly consulting with the Customer and Community Reference Group. We also **support** that the clause need not prescribe specific requirements about that interaction. We agree with IPART’s statement that we should have flexibility in how we undertake our customer consultation





and that we should be able to design the engagement to be fit for purpose and to achieve outcomes for our customers. The Customer and Community Reference Group Charter<sup>52</sup> outlines the purpose and functions of the CCRG and roles and responsibilities of both Sydney Water and the CCRG.

Sydney Water notes that the Customer Council's name changed to Community Advisory Committee (CAC) following a 2020 review of the Customer Council's function (which was required as part of the 2019-2023 Operating Licence). A subsequent internal review in the context of IPART's new framework for regulating water utilities found that the CAC should transition to the CCRG. This reflects an elevated role of the Group to provide input and challenge to our customer engagement program, the findings and insights that it generates, and how they are incorporated into our strategic plans and regulatory submissions.

The CCRG works with Sydney Water at a strategic level to achieve the highest possible levels of customer focus within our practices. It supports Sydney Water to ensure that our business decisions, as set out in our strategy, enterprise plan and regulatory submissions, are in the best interests of all Sydney Water customers and the community and are shaped by them. More details regarding the functions of the CCRG and our interaction with this independent advisory group can be found on our website.<sup>53</sup>

The CCRG does not replace our extensive research and engagement directly with customers and the community.

Sydney Water seeks update of current clauses 6.6.2 to 6.6.4 to refer to the Customer and Community Reference Group rather than the Customer Council (where these clauses are retained).

Sydney Water seeks removal of current clauses 6.6.5 and 6.6.6 to review the operation of the Customer Council and then provide a report to IPART as obsolete, given that the work required under those clauses was completed in the current Licence period.

### 5.2.2 Consulting customers through other avenues

#### **Q37: Do you agree that the current operating licence conditions for Sydney Water to undertake customer engagement (outside of its Customer Council) are adequate?**



Sydney Water agrees with IPART's view that the current requirements in the Operating Licence to undertake customer engagement are adequate. We agree that engagement must be relevant, representative, proportionate, objective, clearly communicated and accurate. We remain committed to our customer engagement processes as a critical element of ensuring our business is customer-centric. We note that these processes include the whole community, not just bill-

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<sup>52</sup> Sydney Water (2022) *Customer and Community Reference Group Charter*, November, [https://www.sydneywater.com.au/content/dam/sydneywater/documents/Customer%20Community%20Reference%20Group%20Charter\\_Nov%202022%20-Final.pdf](https://www.sydneywater.com.au/content/dam/sydneywater/documents/Customer%20Community%20Reference%20Group%20Charter_Nov%202022%20-Final.pdf).

<sup>53</sup> For more information regarding the functions of the CCRG, please visit <https://www.sydneywater.com.au/about-us/our-people/who-we-are/customer-forums.html>.





payers. This includes our current 'Our Water, Our Voice' customer engagement program,<sup>54</sup> and also other customer research and community engagement on specific projects.

In our customer research, including as part of the 'Our Water, Our Voice' program, we are ensuring that all our customers can have a say through proper representation across Greater Sydney (including the Illawarra and the Blue Mountains). We aim to get a representative sample of the community across key demographics aligned to Australian Bureau of Statistics census data. We're speaking to diverse audience groups covering:

- Age
- Gender
- Region
- Culturally and linguistically diverse customers (CALD))
- First Nations peoples
- People with disability
- Financially vulnerable
- Developers
- Business customers – small, medium and large
- Valuemakers, e.g. plumbers, property managing agents
- Homeowners, renters and people who live in social or community housing
- Government stakeholders

We are conducting this customer engagement with research, economic and cultural partners. Our partners are helping us ask the questions, collate the feedback and assess the insights. We also seek the advice of the Customer and Community Reference Group as an independent voice that represents the best long-term interests of customers and the community.

Sydney Water notes that effective customer engagement is a key element of IPART's 3Cs regulatory framework.<sup>55</sup> We are using this framework and guidance therein to engage with our customers on our next price proposal submission.



**Q38. Should the operating licence include conditions for Sydney Water to develop and implement a customer consultation procedure to guide its consultation processes?**

Sydney Water **supports** IPART's preliminary position that it is unnecessary to include requirements to implement a customer consultation procedure to guide our consultation process.

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<sup>54</sup> For more information regarding our customer engagement program, 'Our Water, Our Voice', please visit <https://www.sydneywater.com.au/about-us/our-publications/our-water-our-voice.html>.

<sup>55</sup> Independent Pricing and Regulatory Tribunal (2023) *Water regulation handbook*, July, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Handbook-Water-regulation-July-2023-V2.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Handbook-Water-regulation-July-2023-V2.PDF).



Given that we are required to maintain and implement a Customer Council / CCRG under the *Sydney Water Act 1994* (NSW) and as part of the current and likely in the next Operating Licence, and that the remit of the CCRG is to help guide Sydney Water on customer and community consultation, we deem it unnecessary to have additional requirements placed in our Operating Licence.

We note that IPART's 3Cs regulatory framework also sets an expectation that all water utility price proposals will need to include a customer engagement strategy that:

*“demonstrates how it would engage with its customers in a meaningful way to understand its customers’ needs and preferences, and that these insights are used to inform its proposal. A well-developed customer engagement strategy with supporting evidence is one of the features of a high-quality pricing proposal.”<sup>56</sup>*

The framework sets expectations regarding what the outcomes of customer engagement should be and what the characteristics of good engagement look like, without being prescriptive about how it needs to be done.

Sydney Water has developed a customer engagement strategy<sup>57</sup> to meet the expectations of IPART's 3Cs framework and is implementing it as part of the development of our next price proposal due to IPART in September 2024.

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<sup>56</sup> Independent Pricing and Regulatory Tribunal (2023) *Water regulation handbook*, July, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Handbook-Water-regulation-July-2023-V2.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Handbook-Water-regulation-July-2023-V2.PDF) p. 22.

<sup>57</sup> Sydney Water (2022) *Customer Engagement Framework*, <https://www.sydneywater.com.au/content/dam/sydneywater/documents/customer-engagement-framework.pdf>.



# 6 Critical infrastructure security

## 6.1 Cyber security management system

As Australia's largest water utility, we recognise we have an important role to play in protecting our critical assets from national security risks to ensure the safe delivery of water, wastewater and stormwater services to our customers.

### **Q39: Do you agree with maintaining the current operating licence requirements for a cyber security management until the commencement of the rules under the SOCI Act?**

As Australia's largest water utility, we recognise we have an important role to play in protecting our critical assets from national security risks to ensure the safe delivery of water, wastewater and stormwater services to our customers.



With the recent amendment of the *Security of Critical Infrastructure Act 2018* ('SOCI Act') by the *Security Legislation Amendment (Critical Infrastructure Protection) Act 2022* (Cth) ('SLACIP Act') becoming law on 1 April 2022, Sydney Water is now required as a 'responsible entity' to:

- report critical cyber security incidents to the Australian Cyber Security Centre (ACSC), and
- maintain ownership information on the Register of Critical Infrastructure, and
- have a Critical Infrastructure Risk Management Program (CIRMP) in place for critical water infrastructure assets.

In particular, having a CIRMP requires Sydney Water to identify, (and as far as is reasonably practicable) prevent and mitigate 'material risks' that could have a 'relevant impact' on our organisation, where a 'material risk' is defined as any risk or hazard that, if realised, may affect the availability, integrity, reliability, and confidentiality of Sydney Water. We are further required to review the CIRMP on a regular basis to ensure it is up-to-date, to provide an annual report (an 'attestation') to Government, approved by our Board, regarding conformance and state in the CIRMP who is responsible for maintaining the document.

As IPART notes in its Issues Paper, responsible entities will have until 17 August 2024, when the new rules of the amended SOCI Act formally commence, to comply with these CIRMP requirements. After that date, these requirements to have a CIRMP and to appoint a person responsible for maintaining the CIRMP will effectively make our current licence requirements to maintain and implement a cyber security management system (clause 9.1) and to have a Critical Infrastructure Compliance Manager (clause 9.2) redundant and duplicative.

We therefore **support** IPART's preliminary position to retain the current operating licence requirements for maintaining and implementing a cyber security management system until the commencement of the rules under the amended SOCI Act. After that date, we agree with IPART that both our current licence requirements to maintain and implement a CSMS and to appoint a



Critical Infrastructure Compliance Manager (CICM) to ensure compliance should be removed to avoid unnecessary duplication with our CIRMP obligations under the amended SOCI Act.

We note that after the start date of our new licence term on 1 July 2024, the new rules of the amended SOCI Act will formally commence on 17 August 2024, with the requirement for our governing body (i.e. our Board) to approve and provide a written attestation to the Commonwealth Government only needed on 1 September 2024. We wish to clarify if IPART intends to retain our current licence requirements for the first year of our licence and to retire the requirements thereafter. This would mean that we would be subject to a licence audit in respect of 2024-25, even though we would already be meeting our CIRMP requirements under the amended SOCI Act.

## 6.2 Security clearances

### **Q40: Do you agree with maintaining requirements in the operating licence for select staff to hold security clearances?**

We **do not support** maintaining our current licence requirements for select staff to hold security clearances. While there is no requirement under the amended SOCI Act or rules for staff to hold security clearances, we do not perceive that there is a gap in this area so as to necessitate retaining our current licence requirements.

As part of our work in critical infrastructure security, many of our staff are required to interact with government entities on a day-to-day basis and to have the necessary security clearances to access sensitive and classified information in order to fulfil their roles. This means that Sydney Water will always hold some level of security vetting for select staff, so they can conduct their role and interact with other government entities who share sensitive information, regardless of whether there is a licence requirement or not.

As such, we propose to remove the current licence requirements for select staff to hold security clearances, with an option to either:

- maintain any existing staff Negative Vetting Level 1 (NV1) clearances for the remainder of the 10-year period, after which we will not renew, or
- retire some NV1 clearances and maintain only NV1 clearances for our Chief Security Officer (CSO) and/or for the person responsible for CIRMP maintenance for the remainder of the 10-year period, after which we will not renew.<sup>58</sup>

Our preference would be the second option to retire some NV1 clearances and maintain only those NV1 clearances for our Chief Security Officer (CSO) and/or for the person responsible for CIRMP maintenance (who is effectively the equivalent of CICM under the amended SOCI Act) for the remainder of the 10-year period, in the event that clause 9.2 were to be removed.

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<sup>58</sup> We note that Negative Vetting Level 1 (NV1) clearances have a term of 10 years and that most of our staff obtained NV1 clearances about three years ago.



## 6.3 Reporting

### **Q41: Do you agree with maintaining the current reporting requirements for a cyber security management system until the commencement of the rules under the SOCI Act?**

We agree with IPART's preliminary view to retain our current reporting requirements for an annual independent audit report of the cyber security management system until the commencement of the rules under the amended SOCI Act. Once the new rules are in place, the current reporting requirements should be removed, as they will unnecessarily duplicate the requirements of the SOCI Act to submit an annual report within 90 days after the end of the financial year. This annual report or Board 'attestation' will address how Sydney Water complies with subsection 8(4) and 8(5) of the CIRMP Rules.

In line with our response to question 39, we would like to also clarify the date when IPART intends to remove our current reporting requirements. As the new rules formally commence on 17 August 2024, retaining our current reporting requirements for the first year of our licence would still subject us to an audit in respect of 2024-25, even though we would already be meeting other reporting requirements under the amended SOCI Act. In such a case, we request that at a minimum, the scope of such an audit be made consistent with the requirements of Section 8 of the CIRMP rules.



# 7 Stakeholder cooperation and information and services to competitors

## 7.1 Stakeholder cooperation

We value maintaining cooperative relationships with NSW Health, the EPA and the WAMC.

The *Sydney Water Act 1994* (NSW) recognises the importance of these relationships and requires us to enter into a separate memorandum of understanding with each of the regulatory agencies as part of our Operating Licence.<sup>59</sup> Our memoranda of understanding (MoUs) with these agencies have continued to facilitate ongoing, constructive relationships.

### 7.1.1 Memoranda of Understanding with the Water Administration Ministerial Corporation, NSW Health and the EPA

**Q42: Do you agree that the proposed operating licence requirements for Sydney Water to maintain *and* comply with its MoUs with WAMC, NSW Health and the EPA are adequate to ensure cooperative relationships between these organisations?**

A requirement to maintain an MoU with our key regulators is an appropriate measure for an organisation the size and of Sydney Water, regardless of its requirement under the Sydney Water Act. It enables both the regulating agency and Sydney Water to assess and agree to appropriate obligations, rights and responsibilities in establishing a cooperative relationship and acknowledge common purpose. An MoU can be a very effective way for both parties to establish and maintain a co-operative working relationship. We agree that they do provide flexibility, as in theory they can be readily reviewed and updated by the two parties concerned and promote cooperative approaches to addressing issues of mutual concern (although below we do not have some issues with the ability to update one of the MoUs). We endeavour to meet all our obligations agreed in the MoUs.



**However, Sydney Water does not support IPART’s preliminary position to amend wording for this clause to “maintain *and* comply” with its MoUs.**

Sydney Water does approach the MoUs as requirements that we need to meet. However, IPART’s proposal has the potential to lead to inappropriate outcomes.

IPART’s position is inconsistent with the Sydney Water Act which requires Sydney Water to *enter into a memorandum of understanding* with each of the regulatory agencies. The Sydney Water Act

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<sup>59</sup> *Sydney Water Act 1994* (NSW), s 35.



is specific in not requiring a binding arrangement to be entered into, which is recognised by the current terms of the Operating Licence.

IPART's position also potentially creates a conflict with Sydney Water's statutory obligations and existing statutory regimes. This is in light of section 35(3) of the Sydney Water Act which states:

*"If the Corporation and a regulatory agency are not able to agree on a term of a memorandum of understanding, the view of the regulatory agency is to prevail."*

If the Operating Licence mandates that each MoU is binding on Sydney Water, it creates a situation where a regulatory agency has the power to require that Sydney Water carries out activities that fail to align with our principal objectives or other statutory requirements, without any checks and balances. To note, the *State Owned Corporations Act 1989 (SOC Act)* already allows for Ministerial orders to be issued requiring Sydney Water to carry out activities that are not otherwise within Sydney Water's remit, however such orders are subject to safeguards in the SOC Act such as Treasurer's approval, consultation with Sydney Water's Board and reimbursement to Sydney Water of its net costs.

The purpose of the memoranda as stated in the current Licence *"is to form the basis for a cooperative relationship between the parties"*.

The nature of an MoU is to establish:



- the bounds of a cooperative relationship
- agree shared goals and expectations
- establish roles, responsibilities and obligations of each party in meeting those goals.

Sydney Water, while committed to our memoranda, believes that a position that requires us to comply with the MoU, but not the other party, changes the nature of the relationship and erodes the purpose of the MoU to establish the basis for a cooperative relationship. There is no recourse for Sydney Water if other agencies, who are party to the MoU, are not meeting their obligations or responsibilities, potentially resulting in a non-compliance for Sydney Water through no fault on our part. Sydney Water may be less likely to commit to shared goals if there is a risk we would be held as non-compliant if we don't meet that goal in any given year. This may result in a change to the content agreed in the document and make it more difficult to reach agreed wording, again undermining the intent of a MoU.

Should a regulator identify that Sydney Water is not appropriately meeting their expectations, we believe the better tool is the introduction of additional Operating Licence requirements – not a requirement to comply with the MoU as a whole.

Sydney Water can be audited against our MoU clause. We are due to be audited on the 22-23 financial year in coming months (August and September 2023). While we have not yet been audited against these clauses this Licence period, the perspectives of our other regulators on compliance with requirements under our Licence are routinely sought each year by IPART. The regulators have the ability to raise concerns if Sydney Water were not adequately meeting our roles, responsibilities or obligations as agreed in the MoU. Sydney Water presumes that if an issue





had been raised by a regulator earlier in the Licence period in relation to our performance against the MoU, then it would have resulted in an earlier audit as per the risk-based auditing strategy employed by IPART.

In some MoUs current obligations include attending all the meetings, the frequency of which is stipulated in the MoU. Since this is dependent on both organisations attending the meetings it places an unfair burden on Sydney Water. We could be willing and available to attend a meeting but if the other organisation cancels then we would be deemed to have failed to comply. If there is a requirement to 'comply' it needs to apply to both organisations, not just Sydney Water. Since it's not appropriate to hold regulatory agencies accountable for requirements in our Operating Licence, we consider that a requirement to comply should not be included at all.

With respect to the MoU with WAMC, Sydney Water has had active discussions with DPE (and previous forms of the organisation) since before 2017 to refresh this MoU. The current MoU with the WAMC is dated 2011. Progress has been extremely slow because of machinery of government staff changes, and evolving government policy priorities. For example, an updated MoU was signed by the Deputy Director General of DPI Water in May 2017 but was not finalised as DPI Water was then moved to the Department of Industry, Crown Lands and Water (DI CL&W).

Since 2018, updates to the MoU have been hampered by significant changes to how water resources have been managed and regulated in NSW. WAMC's responsibilities have been split between three different organisations. Ongoing change in the allocation of responsibilities has made it difficult to determine who should be involved in the MoU with Sydney Water, and how the MoU should be structured. WAMC's responsibilities are split between:

- NSW Department of Planning and Environment (DPE)
- The Natural Resources Access Regulatory (NRAR). NRAR is an independent government body established in 2018 under the Natural Resources Access Regulator Act 2017. NRAR is part of the NSW Department of Planning, Industry and Environment
- WaterNSW - a statutory SOC.

To illustrate the complexity of the split responsibilities for water policy and regulation, a 25-page roles and responsibilities protocol was developed between DPE, NRAR and WaterNSW in 2021, several years after the establishment of NRAR.

Sydney Water has not breached the terms of the MoU because it does not have an expiration date, and the obligations included in it are general in nature.

However, the complexity of the situation illustrates how easy it would be for Sydney Water to have an inadvertent non-compliance had the MoU included more specific requirements and a 'comply' phrase were in place in the Operating Licence. While this would not have had a material impact on customers, any Operating Licence non-compliance is a serious reputational risk to Sydney Water. This example reiterates why Sydney Water argues that an 'and comply' component to these memoranda is inappropriate. We should not be forced to comply with terms in an MoU, if those terms have become out-dated and we have used our best endeavours to get the MoU updated.

We note that despite the difficulties in updating the MoU, Sydney Water’s relationship with DPE remains strong and co-operative. We have participated fully in the creation of the Greater Sydney Water Strategy, and the review of the Greater Metropolitan unregulated river and groundwater Water Sharing Plans.

**Further, Sydney Water proposes modification of the wording of clause 7.1.1 to note that we must use ‘best endeavours’ to maintain the memoranda with WAMC, NSW Health and the EPA,** as per Table 18. This ensures that our compliance as a utility is measured only on aspects within its control.

As discussed in detail above, difficulties in maintaining an updated MoU with WAMC illustrate why our requirements to enter into and maintain MoUs with this regulatory agency should be on a “best endeavours” basis, if it is retained at all. It has been very difficult to clarify the roles of each of the parties that conduct WAMC’s functions, and determine if they should be signatories to an updated MoU. We consider that it isn’t good regulatory practice to require Sydney Water to enter into agreements and comply with them, when there is such uncertainty about what organisation is conducting WAMC’s roles and the representatives we should be negotiating with.

Table 18. Proposed wording change for memoranda of understanding with regulating bodies (current Licence clause 7.1.1)

Clause wording	Summary Sydney Water position
Current clause wording (7.1.1)	<i>Sydney Water must maintain the memoranda of understanding entered into under section 35 of the Act with:</i>  <i>a) the Water Administration Ministerial Corporation (WAMC);</i>  <i>b) the Secretary of the Ministry of Health (NSW Health); and</i>  <i>c) the Environment Protection Authority (EPA).</i>
IPART’s proposed clause wording	Sydney Water must maintain <b>and comply</b> the memoranda of understanding entered into under section 35 of the Act with:  a) the Water Administration Ministerial Corporation (WAMC);  b) the Secretary of the Ministry of Health (NSW Health); and  c) the Environment Protection Authority (EPA).
Sydney Water’s proposed clause wording	Sydney Water must <b>use its best endeavours to</b> maintain the memoranda of understanding entered into under section 35 of the Act with:  a) the Water Administration Ministerial Corporation



(WAMC);

b) the Secretary of the Ministry of Health (NSW Health);  
and

c) the Environment Protection Authority (EPA).

### MoU with Water Administration Ministerial Council

Sydney Water supports the intent of the MoU but considers that the sub-clause may need amendment. While we recognise that the MoU is a requirement under the Sydney Water Act, WAMC's original functions are now split between the Department of Planning and the Environment (DPE), the Natural Resources Access Regulator and WaterNSW. This makes it administratively difficult to update the MoU (and therefore comply with it) as responsibilities lie with different government agencies, or another State-Owned Corporation in the case of WaterNSW. It may be necessary to word the clause in a way such that any subsequent agency who undertakes the regulatory function can be identified as responsible.

### MoU with NSW Health

Sydney Water supports the retention of a requirement to *maintain* an MoU with NSW Health. We recognise the importance of the MoU in our obligations to our public health regulator and in defining the roles and responsibilities of both parties.



### MoU with EPA

Sydney supports the retention of a requirement to *maintain* an MoU with the NSW EPA. We recognise the importance of the MoU in our obligations to our environmental regulator and in defining the roles and responsibilities of both parties.

However, Sydney Water suggests minor changes to amend the purpose of the MoU with the EPA. We seek a change to clause 7.1.2(c) to delete the words "*and to commit Sydney Water to environmental obligations*".

The MoU is not required to commit Sydney Water to environmental obligations. We are already required to meet environmental obligations via section 21.1.b of the *Sydney Water Act* ('*to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the Protection of the Environment Administration Act 1991*') and our Environment Protection Licences (issued and administered by the EPA). Even if the MoU did not exist, we would still be required to meet all our current environmental obligations.

What the MoU does do is provide the foundations for a cooperative relationship between the EPA and Sydney Water; and this is stated in the MoU. Under the MoU we are able to work cooperatively and collaboratively to investigate strategic environmental issues (both current and emerging) and then work to refine our EPLs or develop new frameworks to improve the regulation of these issues. These are issues that go beyond licensing of our wastewater system. The MoU is



not a tool to commit Sydney Water to environmental obligations but a way for us to work with the EPA to enhance how we manage our existing obligations.

We note that the wording for the MoU with NSW Health 7.1.2(b) is not worded to require Sydney Water to commit to public health obligations, which also exist outside the MoU.

### 7.1.2 Memorandum of Understanding with Fire and Rescue NSW

#### **Q43: Should the operating licence require Sydney Water to provide water pressure information at the hydrants in its water supply network to FRNSW, within specified times?**

Sydney Water remains dedicated to maintaining a MoU with FRNSW using its best endeavours. We have established a formal collaborative relationship where both organisations are working together to achieve the common goal of having water pressure information available for fire-fighting requirements and also understanding the impact of planned or unplanned fire-fighting activities on our network to better service customers when fire-fighting demands may place additional pressure on our networks. We recognise the critical role we play in providing a source of water for fire-fighting purposes and that this helps protect public health and saves properties.



The MoU includes requirements for Sydney Water to provide system network data (e.g. hydrant location, hydrant status, pressure and flow from models) to FRNSW, to enable FRNSW to better resource fire-fighting water needs and protect property and public health.

Given this collaborative framework and the progress being made on supplying water pressure and flow information on a priority basis, Sydney Water does not support the introduction of enforceable requirements for information sharing due to the additional administrative burden this places on all organisations.

As noted by IPART, 25% of the water pressure and flow data at hydrant locations has been provided to FRNSW following a check that the data being provided and its format of provision was suitable for FRNSW. The initial 25% of the data was based on a priority list developed between FRNSW and Sydney Water.

As discussed with IPART and FRNSW, we recognise that there was a delay to the provision of data. What seemed like a simple process initially was more complicated than expected as it involved a full update of our existing hydraulic models to include fire hydrants, which had not previously been a required part of hydraulic model builds. A better understanding of the time and effort is now understood that was not known when the initial agreement with FRNSW was made. Delivery was further complicated in the previous Licence periods by the impact of drought and bushfires. Sydney Water had difficulty resourcing modelling capability to complete the upgrades of the hydraulic models as Sydney Water's modellers, including consultants, had to be prioritised to deal with these matters.

Sydney Water has developed a refreshed program to rebuild our hydraulic models to include fire hydrants and requirements associated with FRNSW request. This is a large program of work and is very labour-intensive using specialist resources. We expect to include this as an item in our next pricing submission. Information will also be provided as part of the CBA for this licence review. These models represent a significant asset investment for Sydney Water to manage its water



network more broadly. The rebuild of the models also assists with other Sydney Water requirements including understanding impacts of growth on our network, and identifying network assets that may need repair, renewal or replacement.

## 7.2 Information and services to competitors

Sydney Water is committed to supporting the *Water Industry Competition Act 2006* (NSW) ('WIC Act'). Where new entrants can provide a more cost-effective service than Sydney Water, or a different type of service for which there is demand in the market, customers should be able to benefit from these options without hindrance or undue delay.

### 7.2.1 Engaging with WIC Act licensees

#### **Q44: Do you agree with retaining the current operating licence obligations for protecting WIC Act licensees and other potential competitors when dealing with Sydney Water?**

We support IPART's preliminary position to retain the current operating licence obligations for Sydney Water to:

- provide services to licensees under the WIC Act,
- negotiate with WIC Act licensees (and other potential competitors) in good faith, and
- use its best endeavours to cooperate with WIC Act licensees seeking to establish a code of conduct.



We note that the Department of Planning and Environment (DPE) has released a draft *Water Industry Competition (General) Regulation 2022* in preparation for the commencement of the *Water Industry Competition Amendment Act 2021* (NSW). The draft regulation proposes to remove the requirement for an industry code of conduct endorsed by the Minister, on the basis that it is sufficiently covered by individual utility service agreements and codes of conduct between public utilities and WICA licensees.

While the draft *Water Industry Competition (General) Regulation 2022* is still due to be finalised later this year, we note that this may have impact on our current licence clause 8.3.2. Clause 8.3.2 allows Sydney Water to satisfy the requirement in clause 8.3.1 to have an individual code of conduct with WICA licensees, where there is already an industry code of conduct endorsed by the Minister. As such, there may be a need to amend or remove clause 8.3.2 in line with the final *Water Industry Competition (General) Regulation 2022* when it is finalised later this year.

### 7.2.2 Publishing servicing information to competitors

#### **Q45: Are the current operating licence requirements for Sydney Water to publish servicing information the minimum necessary to ensure there is adequate information available to market entrants or is there a more efficient way to achieve the same objective?**

Currently, our *Operating Licence 2019-2023* requires us to publish servicing information for each major water system and wastewater system on:

- 
- 
- 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.

We are also required to publish updated servicing information for each major water system and wastewater system as soon as practicable, after any such updated information becomes available in a form suitable for publication.

IPART has proposed to retain these operating licence requirements in its Issues Paper, on the basis that the requirements address information asymmetries in the market and allow private water utilities to make decisions about investments before committing to the investment. In particular, IPART has sought feedback on whether the information in Development Service Plans (DSPs) is adequate for new market entrants to make investment decisions prior to entering the market or if the fuller suite of information under our current operating licence requirements is necessary.

While we understand IPART's concerns and are not opposed to retaining the current licence requirements, we do consider that there can be greater flexibility in how we meet the requirements to publish servicing information. Exploring and allowing other approaches to deliver the servicing information required by market entrants may help to promote a more outcomes-focussed approach to our licence and greater efficiency.

Currently, we publish a 5-year Growth Servicing Plan (GSP), which is updated annually, to help meet our licence requirements. With the re-introduction of developer charges, we propose that an alternative approach could be that we meet our current licence requirements through the publication of our Development Service Plans (DSPs), with any major deviations noted in our annual GSP.



Our DSPs include most of the servicing information requirements set out in our licence. As outlined in Schedule 4 of IPART's Determination on the 'Maximum prices for connecting, or upgrading a connection, to a water supply, sewerage, or drainage system',<sup>60</sup> our DSPs include:

- demographic and land use planning information, which indicate current and projected demand,
- completed and proposed works in the DSP area, which indicate current and projected capacity constraints,

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<sup>60</sup> Independent Pricing and Regulatory Tribunal (IPART) (2018), *Final Determination Maximum prices for connecting or upgrading a connection to a water supply, sewerage, or drainage system*, <https://www.ipart.nsw.gov.au/sites/default/files/documents/final-determination-maximum-prices-for-connecting-or-upgrading-a-connection-to-a-water-supply-sewerage-or-drainage-system-october-2018.pdf>, pp. 12-13.



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- our capital costs and expected annual operating, maintenance and administration costs of providing services to new customers in the DSP Area, which cover the indicative costs of alleviating or deferring capacity constraints.

Any other requirements set out in our licence, such as locations where further investigation is needed, could be noted in our annual GSP. We note that our DSPs are reviewed and updated at least every 5 years. If a private utility were to require more up-to-date information during that time, we would be happy to provide updated information upon request.

We consider that this approach would effectively deliver the servicing information required by market entrants, while minimising duplication between our DSPs and the GSP and helping to reduce the resourcing burden associated with publishing our current 5-year Growth Servicing Plan.

There may be other approaches and we would welcome further engagement with IPART and other interested stakeholders on alternative approaches that deliver the servicing information required by market entrants in a more efficient way.



# 8 Administration

## 8.1 Licence context

In general, we agree with IPART that many of the administrative clauses in the “Licence Context” section of our licence have been working effectively and that only minor amendments and clarifications are required to ensure these clauses retain their currency for the upcoming licence term.

These changes include:

- **Objective of this licence (clause 1.1):** Amendments to our Licence objectives to better reflect the need to consider resilience and climate change adaptation (see Section 4.1 for more detail),
- **Term of the operating licence (clause 1.3):** IPART has proposed a licence term of 5 years from 1 July 2024. In general, we are supportive of five-year licence terms, given the purpose of our licence is to establish minimum terms and conditions for the provision of services. For this upcoming Operating Licence, however, we would like to propose a 4-year term. For future licences thereafter, we would support reverting back to a standard term of five years.

Currently, our new Operating Licence is due to commence from 1 July 2024. Our new pricing determination is also due to apply from 1 July 2025 for a five-year period, with five-year periods being the default for all future price determinations under IPART’s new 3Cs framework.<sup>61</sup> While this provides a one-year gap between our licence and price reviews, our preference would be to have a two-year gap to ensure that any new licence requirements can be effectively budgeted for and included in our next price proposal, and to smooth resourcing impacts associated with the reviews.



A 4-year term for our upcoming Operating Licence will ensure better sequencing of licence and price reviews, separated by two years, from 2027-28 onwards as shown in Figure 3.

Figure 3. Our proposed upcoming licence term of 4 years and timing of future licence and price reviews

Operating Licence	2024 – 2028	2028 – 2033	2033 – 2038	2038 – 2043
Price Determination	2025 – 2030	2030 – 2035	2035 – 2040	2040 – 2045

- **Notices (clause 1.9):** Minor updates to Ministerial office details.

<sup>61</sup> Independent Pricing and Regulatory Tribunal (IPART), 2022, *Delivering customer value Our Water regulatory framework - Final report*, [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Final-report-Our-water-regulatory-framework-November-2022.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Final-report-Our-water-regulatory-framework-November-2022.PDF), p. 6.



We note that IPART has proposed changes to our pricing clause to ensure that the prices we charge customers for our services do not exceed those specified in the price determinations and the addition of a new clause requiring Sydney Water to submit a proposal to inform the next price review. We understand that IPART intends for these changes to help formalise the ‘propose-respond’ model implicit in our price review process. We consider, however, that IPART’s proposed changes duplicate the *Independent Pricing and Regulatory Tribunal Act* (NSW), which already prevents prices being set above the maximum price determined by IPART (Section 18) and allows the Tribunal to request information to assist with investigations (Section 22).

## 8.2 Licence authorisation

Our licence authorisation clauses provide us with the authority to provide water, wastewater and stormwater services within our area of operations.

Sydney Water’s role in delivering stormwater services has gradually evolved since our Act was written. To support this, some changes have already been made to our Operating Licence, however Sydney Water recommends further change to:

- clarify what current best practice stormwater servicing includes
- reflect Government, customer, and community desire for more coordinated management of waterways and stormwater
- improve access to land Sydney Water does not own to enable more cost-effective services.

Sydney Water considers improved wording in our Operating Licence would address the first two needs; however, the third need is likely to require changes to the Sydney Water Act.

### 8.2.1 Recent context

Sydney Water has been allocated two supporting actions within the NSW Government’s [Greater Sydney Water Strategy Implementation Plan](#) (GSWS) Priority 4 ‘**Our waterways and landscapes are healthy**’ which relate to delivering stormwater services:

- **Action 4.3 Improve stormwater management.** Continue to work with local government to improve stormwater management across established suburbs, including measures to improve waterway health and amenity through stormwater renewals and integrated water cycle planning for urban infill and redevelopment areas, within 3 years. Responsibility: Sydney Water in collaboration with councils.
- **Action 4.1 - Maintain and Improve Ecosystem Health.** Scope a water quality and river health monitoring governance framework for Greater Sydney’s waterways, including assessment of existing data in relation to Water Quality Objectives within 3 years. Responsibility: DPE—EHG, DPE—Water, and Sydney Water supported by councils and EPA.

These actions highlight how best practice stormwater servicing now includes infrastructure which improves waterway health and amenity, and that Sydney Water is to work with Councils to carry out **improved** stormwater management across established suburbs.

### 8.2.2 Authorisation for stormwater services

Government, customers, and stakeholders have said they want stormwater management to be better co-ordinated and integrated, so it can contribute to waterway health on a broader scale and enable more effective and adaptive waterway, catchment, and land use management.

To clarify that improved wider catchment management of stormwater by Sydney Water can be carried out under our Operating Licence, we consider the current note under clause 2.1.3 would be improved by updating as shown in Table 19.

Table 19. Sydney Water’s suggested amendment to the supporting note on stormwater services in clause 2.1.3 of our current Operating Licence.

Current note wording	Proposed new note wording
<p><i>[Note: For the avoidance of doubt, the provision, management and maintenance of Stormwater Drainage Systems (and Services for providing those Stormwater Drainage Systems) under clause 2.1 may include:</i></p> <ul style="list-style-type: none"> <li><i>- stormwater quality management and other measures as necessary to manage impacts of stormwater on waterway health]</i></li> </ul>	<p><i>[Note: For the avoidance of doubt, the provision, management and maintenance of Stormwater Drainage Systems (and Services for providing those Stormwater Drainage Systems) under clause 2.1 may include:</i></p> <ul style="list-style-type: none"> <li><i>- stormwater quality management <del>and other measures</del> as necessary to manage impacts of stormwater on waterway health</i></li> <li><i>- stormwater catchment management, including co-ordination with Councils and other parties responsible for stormwater management in the broader riverine catchments within which declared stormwater catchment areas are located.]</i></li> </ul>

We estimate that we would need one additional senior level full-time equivalent position in consideration of the collaboration and interaction that is needed with regard to stormwater catchment management activities, including interactions internally and externally with other parties.

### 8.2.3 Definition for ‘Stormwater drainage system

Our current Operating Licence does not specifically mention waterways and re-use systems in the description of a stormwater drainage system. However, the purpose of a stormwater system has evolved since our Act was written. Both natural waterways and re-use systems are part of current best practice stormwater servicing because these systems provide urban drainage as well as protecting waterway health and enabling access to water resources.

We consider our Operating Licence would be improved if the definition of “stormwater drainage system” was updated to the wording in Table 20:

Table 20. Sydney Water’s suggested amendment to the definition of ‘Stormwater drainage system’ in the Operating Licence.

Current definition	Proposed definition
<p><b>Stormwater drainage system</b> means stormwater drainage channels, land for drainage, pipes, detention structures, stormwater quality improvement devices, and other equipment for the provision of stormwater services.</p>	<p><b>Stormwater drainage system</b> means <i>includes</i> stormwater drainage channels, land <i>and natural and modified waterways</i> for drainage, <i>stormwater</i> pipes, <i>stormwater</i> detention structures, stormwater quality improvement devices, <del>and other</del> equipment <i>for stormwater harvesting and reuse systems, and green infrastructure assets that retain stormwater in the landscape and improve the water quality,</i> for the provision of stormwater services.</p>



We expect that the cost of new infrastructure will largely be funded by developers. There may be additional costs associated to deliver improved services to existing areas, for example, if this is identified under Action 4.1 of the GSWS, however, progress on this action is not advanced enough to estimate what additional costs, if any, may be required. The broader definition will enable Sydney Water to provide services that meet stormwater, drainage and waterway outcomes in the most efficient manner.

#### 8.2.4 Improved access to land Sydney Water does not own

Currently, our Operating Licence allows us to provide, operate, manage and maintain a Stormwater Drainage System transferred to us from the Water Board as described in section 14(1)(b) of the Sydney Water Act (clause 2.1.2) and to provide, construct, operate, manage and maintain Stormwater Drainage Systems in our Area of Operations in addition to those in clause 2.1.2 (clause 2.1.3). However, the wording in s 14(1)(b) of our *Sydney Water Act 1994* (NSW) is not ideal. It implies our authority to access land is only in respect to managing built infrastructure (works), that we would subsequently own, however, natural infrastructure such as land and natural waterways are also required to deliver stormwater services, and these are not always built and not always located on land we own.

Ideally, Sydney Water should be able to access land and waterways and carry out waterway management activities such as removing weeds, planting endemic species, and removing flow impediments. If Sydney Water was able to access private property to carry out the necessary management of the land and waterways forming our Stormwater Drainage Systems, it would help reduce the total cost of land needed to deliver our services in areas where private and/or Council owned land and natural waterways form part of our stormwater systems.

We note that our Customer Contract (which is part of our Operating Licence, issued in accordance with our *Sydney Water Act 1994* (NSW)) does allow us access to customer property for purposes of maintaining our Stormwater Drainage Systems, which includes land, however clause 3.4.1 states that for the purposes of repairs to our assets, we will leave the property as close as possible



to the condition that it was found on entry. This means that Sydney Water may be liable to claims of compensation from owners of private land if we enter it to maintain our Stormwater Drainage Systems (even if we are merely removing weeds, planting endemic species and removing flow impediments).

We do not consider that a change to the Operating Licence and/or Customer Contract could resolve this issue. Rather this issue would be best and most appropriately addressed through a legislative change to the *Sydney Water Act 1994* (NSW).

## 9 Other issues

Table 21. Summary of additional issues raised by Sydney Water

Area	Summary Sydney Water position
<b>Performance Monitoring and Reporting Reporting Manual</b>	Sydney Water proposes changes to Environmental Indicator Reporting.
<b>Definitions and Interpretation</b>	<p>We propose changes to the definition of Planned interruption and Unplanned interruption to make it clear in an event, an interruption ceases when continuous supply is restored (i.e. minimal flow of water at first cold tap); even if the pressure is lower than the customer usually experiences.</p> <p>This is consistent with proposed changes to the definition in the Customer Contract.</p>

### Q46: Do you have any other issues or concerns you would like to raise relating to Sydney Water's operating licence?

Sydney Water would like to raise some additional issues in relation to:

- Performance Monitoring and Reporting (clause 10.2.3), and Reporting Manual requirements in relation to environmental indicator reporting, and
- Definitions and Interpretation, with respect to the definitions of 'Planned Water Interruption' and 'Unplanned Water Interruption'.



### 9.1 Performance monitoring and reporting – Environmental Indicators

Under section 10.2.3 of the Operating Licence, Sydney Water would like to propose the following amendment to sub-clause (a), with retention of sub-clauses (b) and (c), and that the corresponding section of the Reporting Manual is also updated to remove the IPART set Environmental Indicators.

"Sydney Water must:

- a) compile indicators of the direct impact on the environment of Sydney Water's activities (the Environment Performance Indicators). ~~The Environment Performance Indicators must be consistent with the performance indicators specified in the Reporting Manual with an indicator number starting with 'E'~~;*
- b) monitor and compile data on the Environment Performance Indicators, including data that allows a year to year comparison of the Environment Performance Indicators; and*



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- 
- c) *report on the Environment Performance Indicators in accordance with the Reporting Manual.*

The primary objectives of this proposed change are to:

- Enable greater flexibility with regard to the composition of the indicator set. We would like to develop and maintain a set of indicators that are contemporary and reflective of our environmental aspirations. **We are not proposing to implement immediate changes to the indicators, but rather, commence a conversation with IPART and propose a future workshop with the EPA and other subject matter experts to seek their feedback on any material changes to the current indicator set.**
- Remove existing duplication and facilitate the streamlining of our reporting, noting that we also prepare and submit to the EPA, an integrated, public Annual Environmental Performance Report covering the following SW Act obligations:
  - Sydney Water Act 14(1)(d) - compile and annually report on a set of environmental indicators
  - Sydney Water Act 22(6) - prepare a statement on the implementation of our special objectives (which must be published with the environmental indicators report required under s.14(1)(d)).

We note that this will not diminish our legislative obligation under the Sydney Water Act to maintain a suite of environmental indicators and report on them publicly on an annual basis (Section 14.1.d). A revised set of indicators would continue to be reported as part of our public Annual Environmental Performance Report provided to the public in March each year.

We would still be required to report on Sydney Water's performance against the National Water Initiative Performance Reporting Indicators (NWI Indicators) (2018, Bureau of Meteorology). We are proposing removal only of the Sydney Water specific IPART environmental indicators.

### 9.1.1 Context

In the Reporting Manual the obligation for environmental indicator reporting consists of:

*Annual – Compliance and performance reporting – Environmental performance indicators*

- *Sydney Water must prepare, for each financial year, a separate compliance and performance report setting out Sydney Water's performance against the environment indicators set out in Appendix C of this Reporting Manual and NWI Indicators that relate to the environment.*
- *Sydney Water must submit the report to IPART by 1 October following the end of the relevant financial year, or another date approved by IPART.*

*[Note: Under clause 10.2.3 of the Licence, Sydney Water must report on the Environment Performance Indicators.]*

The environmental indicators currently required by IPART that Sydney Water propose removal of are:

- E1 - Total energy consumption by the water utility (electricity, fuel and gas) in units provided on energy bills
- E2 - Electricity consumption from renewable resources or generated by the water utility expressed as a total percentage of electricity consumption
- E3 - Total number of Controlled Wastewater Overflows that occur in dry weather that are discharged to the environment, per km of sewer main
- E4 - Total number of Uncontrolled Wastewater Overflows that occur in dry weather that are discharged to the environment, per km of sewer main
- E5 - Estimated total mass of Biosolids produced by the water utility
- E6 - Percent of Solid Waste Recycled or Reused expressed as a percentage of Solid Waste generated
- E7 - Estimated total mass of Solid Waste generated by the water utility
- E8 - Total area of clearing of native vegetation
- E9 - Total area of native vegetation rehabilitated, including due to replanting, weeding and protection by the water utility
- E10 - Total area of native vegetation gain due to rehabilitation, replanting, weeding and protection by the water utility

### 9.1.2 Modernise the environmental indicator set that Sydney Water reports on

Sydney Water has identified the following disadvantages with the identified indicator set:

- Energy and emissions indicators are not aligned with current net zero carbon measures. They are presenting electricity and energy indicators which only represent part of the emissions (the larger part). They do not look broadly at greenhouse gas emissions from operational activities, nor show progress to net zero, reduction in emissions or purchased green electricity. Energy efficiency is one aspect, but reduction in emissions is the material issue. With no change we continue reporting different numbers to the Clean Energy Regulator and to IPART, which is confusing and may be misinterpreted by stakeholders and the community. This is relevant also to the section discussing **Climate Change readiness – Reporting** where Sydney Water supports IPART’s suggestion for public reporting on our progress to net zero.
- Current wastewater overflow indicators are not meaningful and not comparable with other water utilities.
- Current biosolids indicator is not adding value and not considering resource recovery/circular economy benefits.
- Inability to easily adjust indicators. We need to go through a formal and prolonged IPART process where changes need to be agreed by IPART and the EPA.

### 9.1.3 Remove duplication in environmental indicator reporting

Sydney Water notes that the provision of environmental indicator reporting in both Environmental Indicators report to IPART (1 October) and in the public Annual Environmental Performance Report in March is duplicative. The incoming Taskforce on Climate-related Financial Disclosures (TCFD) reporting requirements is likely to add further duplication.

Currently when Sydney Water provides its Environmental Indicators report to IPART on 1 October environmental report to IPART, this report contains draft energy and emission indicator figures. This is because the National Greenhouse and Energy Reporting (NGER) audit is finalised by the end of November. Once this data is finalised, Sydney Water resubmits to IPART a revised Environmental Indicators report. Sydney Water then publishes the results publicly in its Annual Environmental Performance Report in March. Removing the obligation to report on the IPART set of environmental indicators would mean that only the finalised data would be published, reducing duplication and potential confusion.

This comment also applies to our position on the need to consider timing on a requirement for reporting on progress to net zero based on availability of finalised NGER data with a preference to report via the new TCFD reporting requirement (Climate change readiness section on **Reporting**). From FY24, NSW Treasury will require Sydney Water to publish climate-related financial disclosures every financial year in alignment with the TCFD recommendations.

Sydney Water is yet to confirm whether climate disclosure will be made in a standalone report, incorporated in the annual report or within the annual environmental performance report.

We seek to avoid duplicative auditing from NSW Treasury, the National Greenhouse and Energy Reporting audit process and IPART.



### 9.1.4 Positions at the last Licence review

During its review of water utility performance indicators in 2018, IPART stated:

*'We will not collect environment performance indicator information unless there is a legislative requirement.'*

*At present, we publish, but do not use, the information that water utilities provide on environment performance indicators.*

*We consider water utilities would meet the desired environment outcomes if the water utilities comply with the environment legislative framework administered by the EPA and the environment obligations in their licences (eg, the (PWU) [public water utilities] licence requirement to have and implement an environmental management system (EMS))... However, there are legislative requirements that Sydney Water and WaterNSW's operating licences require them to report on environment indicators.*



*We would continue to monitor the compliance of all water utilities with the environment obligations in their licences.<sup>62</sup>*

IPART ultimately reduced the number of environment performance indicators for Sydney Water from 14 to ten during our last Licence review, by removing environment indicators that were reported elsewhere.

The report stated IPART will review the environment indicators again in the next review of Sydney Water's current Operating Licence.

We note that we supported the retention of requirements to report on these environmental indicators during the last Licence review. At that time, Sydney Water recommended the retention of the set of IPART environmental performance indicators to drive continued buy-in and cooperation internally on environmental reporting. It was assessed that without the IPART regulatory driver, focus from the business (and management) towards environmental performance may be diminished. The organisation has evolved significantly since then, where environmental objectives are now clear in our corporate strategy and where environmental reporting is also prominent in our regular corporate reporting.

## 9.2 Definitions and Interpretations – Planned and unplanned interruptions

We would also like to seek changes to the definitions of 'Planned Water Interruption' and 'Unplanned Water Interruption' in our Operating Licence. In particular, we are proposing to remove the reference to '**normal**' supply from both definitions as set out in Table 22.

Our interpretation of a 'planned water interruption' and an 'unplanned water interruption', which has been accepted by IPART, is that both events cease once a minimal flow of water of 5 metres head of pressure or more is restored at the first cold tap at a property. We consider that there is a risk in the current licence definitions of a 'Planned Water Interruption' and 'Unplanned Water Interruption' that our customers and stakeholders may interpret the reference to a 'normal supply of drinking water' as requiring drinking water supply to be restored to a pressure that our customers usually experience in order for the event to cease. By removing the reference to a 'normal' supply of drinking water in both definitions, we believe that this will clarify for all our customers and stakeholders that in an event, an interruption ceases when continuous supply is restored (i.e. minimal flow of water at first cold tap); even if the pressure is lower than a customer usually experiences.

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<sup>62</sup> IPART (2018) *Water Utility Performance Indicators Review Final Report*, June, p. 52.  
<https://www.ipart.nsw.gov.au/sites/default/files/documents/final-report-water-utility-performance-indicators-review-2018-%E2%80%93-june-2018.pdf>

Table 22. Sydney Water’s suggested amendment to the definitions of ‘Planned Water Interruption’ and ‘Unplanned Water Interruption’ in the Operating Licence.

Current definition	Proposed definition
<p><b>Planned Water Interruption</b> means an event that, in relation to a Property:</p> <ul style="list-style-type: none"> <li>a) commences when the supply of Drinking Water at the first cold water tap of a Property is interrupted following prior receipt by the Customer or Consumer of a water interruption notice from Sydney Water; and</li> <li>b) ceases when a normal supply of Drinking Water is restored to the Property.</li> </ul>	<p><b>Planned Water Interruption</b> means an event that, in relation to a Property:</p> <ul style="list-style-type: none"> <li>a) commences when the supply of Drinking Water at the first cold water tap of a Property is interrupted following prior receipt by the Customer or Consumer of a water interruption notice from Sydney Water; and</li> <li>b) ceases when a <del>normal</del> supply of Drinking Water is restored to the Property.</li> </ul>
<p><b>Unplanned Water Interruption</b> is an event where, in relation to a Property:</p> <ul style="list-style-type: none"> <li>a) the supply of Drinking Water at the first cold water tap of a Property is interrupted without the Customer or Consumer having received prior notice of that interruption from Sydney Water; and</li> <li>b) it takes more than five continuous hours for normal supply of Drinking Water to be restored to the Property.</li> </ul>	<p><b>Unplanned Water Interruption</b> is an event where, in relation to a Property:</p> <ul style="list-style-type: none"> <li>a) the supply of Drinking Water at the first cold water tap of a Property is interrupted without the Customer or Consumer having received prior notice of that interruption from Sydney Water; and</li> <li>b) it takes more than five continuous hours for <del>normal</del> supply of Drinking Water to be restored to the Property.</li> </ul>