



WIC Act

Licence Application Guide

May 2022

Water >>

Enquiries

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The Independent Pricing and Regulatory Tribunal (IPART)

We make the people of NSW better off through independent decisions and advice. IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging. We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Version control

Issue Number	Date issued	Notes
1	12 March 2019	First release
2	22 August 2019	Changes to lodgement conditions. No USB's can be accepted. Contact IPART for advice on submitting large applications.
3	1 July 2020	Changed the insurance sections.
4	28 July 2021	Converted to new template style. To compliment new application form: <ul style="list-style-type: none">• Document restructured• Application form question number references added• Sections re-written and guidance moved from the application form to the guidance• Appendices/Attachments removed.
5	6 May 2022	Minor clarifications on the application of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (ISEPP) in sections 5.7 and 5.7.1. Updated references to the 2021 ISEPP.

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1 Before you start

The *Water Industry Competition Act 2006* (NSW) (WIC Act) came into force on 8 August 2008 and includes provisions for the licensing of private sector water utilities.

Under the WIC Act, the Minister is responsible for granting the following licences:

- The **network operator's licence**, for the construction, maintenance and operation of water industry infrastructure.
- The **retail supplier's licence** for the supply of water or the provision of sewerage services, by means of water industry infrastructure.

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is responsible for receiving and assessing licence applications and for the continuing administration and enforcement of licences.

This guidance document provides information to assist you to complete your licence application.

1.1 General instructions to applicant corporations

As part of the application process we must assess an applicant corporation's capacity to undertake the proposed licensed activities.

The questions asked in the application form are designed to allow you to establish the applicant corporation's capacity and expertise to carry out the proposed activities in compliance with the licence (if granted), the WIC Act and the *Water Industry Competition (General) Regulation 2008* (NSW) (WIC Reg).

For a licence to be determined, the Minister must be satisfied of the requirements set out in section 10 of the WIC Act. In this Guidance Document, we have broadly grouped these requirements into organisational capacity (section 3), financial capacity (section 4) and technical capacity (section 5).

Your responses should include all the necessary information to demonstrate an extensive understanding of the activities the applicant corporation is proposing to undertake. This includes the issues or impacts associated with these activities, and the processes required to address or manage these issues or impacts. The information provided in your application should reflect the type, size, complexity and level of risk associated with the activities to be licensed.^a

^a For example, a recycled water scheme involving a single source, basic treatment, and single pipeline to one commercial customer will be less complex and therefore require less supporting information than a multi-source scheme, with complex treatment and a pipe network ultimately supplying a mix of commercial and residential customers.

In making an assessment, we also have regard to the licensing principles in section 7 of the WIC Act.^b These are:

- The protection of public health, the environment, public safety and consumers generally
- The encouragement of competition in the supply of water and the provision of sewerage services
- Ensuring the sustainability of water resources
- The promotion of production and use of recycled water
- The promotion of policies set out in any prescribed water policy document^c
- The potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence
- The promotion of the equitable sharing among participants in the drinking water market of the costs of water industry infrastructure that significantly contributes to water security.

Where more extensive information is required in response to a question (e.g. management plans or environmental assessment documents), the application form requests you include the information as an attachment to the application. This ensures we have enough information to make an assessment in accordance with the relevant legislation.

^b In considering whether or not to grant a licence, and the conditions of that licence, the Minister must have regard to a number of principles. These are detailed in section 7 of the WIC Act.

^c NSW Government, 2017 Metropolitan water Plan – water for a liveable, growing and resilient greater Sydney, <https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/About-us/Metropolitan-Water/2017-Metropolitan-Water-Plan.pdf?la=en>

Box 1 Structuring application responses

The applicant corporation is responsible for providing correct information and for proving the applicant's capacity. To assist with our assessment of your application we request you:

- Label responses and attachments with the application question number being addressed in the document and/or the file name.
- Provide evidence and explain how this evidence supports your response.
- Do not provide information that is unnecessary to the application. For lengthy documents tell us where the document addresses a question. For example, use highlighting, and/or by indicating sections or page numbers.
- Mark attachments that you wish to remain confidential as 'confidential' (discussed in **section 1.1.1** below).

Failure to follow these guidelines may delay, or lead to rejection of, your application.

1.1.1 How do we treat confidential information?

We use transparent and publicly available processes to consider applications and must invite submissions on applications from the public. Unless they are confidential, we treat your applications and attachments as public documents. We publish these documents on our website and distribute them to interested parties as appropriate.

Subject to our disclosure obligations (referred to below), we will treat financial information provided for the purposes of your application as confidential. We may share that information with our consultants but will do so on a confidential and 'need to know' basis.

You should let us know if you consider other aspects of your application to be confidential so that we can discuss your confidentiality concerns with you. In general, we do not consider consultant reports, risk assessments and other technical information to be confidential.

In particular, you should provide separate confidential documents (i.e. documents in a separate computer file or files), which are clearly marked "confidential" in the filename, use a watermark (if possible), and clearly identify the confidential information that should not be publicly released.

If we agree with your confidentiality claims, we will publish only your public application responses on our website. However, we will give a copy of your confidential application responses to the Ministers specified by the WIC Act and WIC Reg. We are required to do this under section 9(1)(b) of the WIC Act.

If we do not agree with all your confidentiality claims, we will explain where we disagree and ask you if you would prefer to either:

- withdraw your claim of confidentiality; or
- maintain your claim, which will mean that the information over which claim confidentiality does not form part of your application, so we will not take it into account.

Further, where taking into account confidential information you have provided may deny procedural fairness to other parties, we may invite you to withdraw your claim of confidentiality. If you do not, we may be unable to take the information into account in determining your application.

Please note that third parties may apply under the *Government Information (Public Access) Act 2009* (NSW) for access to applications, including applications that contain confidential information. If we receive such an application, we are required to decide on disclosure in accordance with that Act. That Act includes a requirement (in section 54) to take such steps as are reasonably practicable to consult with a "person" (which includes a corporation) before providing access to information relating to that person, in certain circumstances.

Where an application includes personal information, IPART will deal with that information in accordance with the information protection principles set out in the *Privacy and Personal Information Protection Act 1998*.

1.1.2 Is there an application fee?

Application fees apply for new licences. The application fees are:

- Network operator's licence – \$2,500
- Retail supplier's licence – \$2,500
- Both a network operator's licence and retail supplier's licence – \$5,000.

There is no fee for application for licence variations.

The appropriate licence application fee should be made payable to the Independent Pricing and Regulatory Tribunal of NSW or by electronic transfer to:

Westpac Banking Corporation

BSB: 032-001

Account No: 205717

Reference: WICA app

Provide a copy of the electronic transfer receipt with your licence application. You should contact us if you need to pay your licence application fee in other ways.

Note that once an application has been submitted, your application fee(s) will not be refunded if your application is refused or withdrawn.

1.1.3 How to submit the application

To submit an application, you will need to submit the completed application form and attachments containing all relevant supporting documents. Please note that where there is more than one attachment in a question, they should be labelled as separate files, and combined into a single electronic folder/zip file.

When you have completed your application, you should submit via email (email to wica@ipart.nsw.gov.au) for applications below 10 MB. For larger applications, contact the applications team on (02) 9290 8412 or wica@ipart.nsw.gov.au so that secure file transfer arrangements can be made.^d

Do you require further information?

If you have further questions about your application, you can contact our Water Regulation and Compliance team via:

- Email: wica@ipart.nsw.gov.au, or
- Telephone: (02) 9290 8412.

We encourage you to discuss your licence application and obtain assistance from the Water Regulation and Compliance team prior to formally submitting your application. Once we receive your application, we will assign you a contact officer, who will manage your application and remain in contact with you throughout the application and assessment process.

1.2 What happens once you have submitted your application form?

1.2.4 What will happen next?

We will check that your application form is complete and that you have supplied all the necessary information and supporting documentation.

If your application is complete, we will undertake public consultation and a detailed assessment of your application before preparing a recommendation to the Minister to either grant or refuse the licence(s).

If your application is incomplete, we will not process it and you will be asked in writing to supply the missing information. This is likely to delay assessment of your application. We may also request additional information in response to submissions made during our public consultation or our detailed assessment of your application.

You can withdraw your application at any stage during the assessment process.

^d We use a secure file transfer service (e.g. Sigbox) for larger files. Please note we do not accept USB's or other storage media for applications.

We try to process applications quickly. Complete applications are generally processed between 6 to 9 months, depending on the complexity of the project, quality of the application and your responsiveness to requests for information.

Please note we will not assess or advertise an incomplete application. All information and supporting documents, including where required, environmental assessment documents, risk assessments, water balance reports, noise and odour reports or land capability assessments must be submitted. These documents must be of a suitable standard.

1.2.5 What are an applicant's continuing compliance and audit obligations?

Licensing obligations are set out in the WIC Act and WIC Reg. These instruments also set out the standard licence conditions.

We have prepared fact sheets and FAQs (see below) that explain a licensee's compliance and audit obligations following the granting of a WIC Act licence.

The granting of a network licence does not allow the applicant corporation to bring any new water or sewerage infrastructure into immediate commercial operation. A licensee must obtain approval from the Minister before commencing the commercial operation of new water or sewerage infrastructure.

For further information, please refer to the following fact sheets or contact our Water Regulation and Compliance team as per the contact details in **section 1.1.3** above.

You can find our fact sheets and FAQs on our website at [WICA Fact Sheets and FAQs](#).

Our fact sheets include:

- [Water licensing assessment timeline](#)
- [Consulting on WICA Applications](#)
- [Environmental assessment](#)
- [Sustainability assessment sewerage schemes](#)
- [Technology assessment non potable water schemes](#).

2 About the application

Questions 1 to 7

Questions 1 to 7 tell us the basic context about the application.

3 Organisational capacity

Questions 8 to 15

As part of the application process we must assess an applicant corporation's organisational capacity to undertake the proposed licensed activities.

3.1 Is the applicant corporation or its related entities disqualified corporations?

Question 10 asks if the applicant corporation or its related entities are disqualified corporations. Under section 10(3) of the WIC Act, a licence may not be granted to:

- a) a disqualified corporation, or
- b) a corporation that is a related entity (within the meaning of the *Corporations Act 2001* (Cth)) of a disqualified corporation, but only if the disqualified corporation would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise if granted.

If the applicant is a disqualified corporation then the applicant corporation cannot hold a licence. A disqualified corporation includes a corporation which has been disqualified by the Minister under the WIC Act and a corporation with a director or person concerned in its management who is disqualified under the WIC Act or prohibited from managing a corporation under the *Corporation Act 2001* (Cth).

If the applicant corporation is a related entity (as defined in the *Corporations Act 2001* (Cth)) of a disqualified corporation then the applicant corporation cannot hold a licence. However, *this only applies* to related entities that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise.^e

The expression "person concerned in the management" of a company includes people who can make decisions affecting the whole company or a significant part of it, for example the CEO, COO, CFO and other senior staff. Receivers, administrators, liquidators and trustees are also included.

To assess an applicant corporation against these criteria, we require:

- a list of the applicant corporation's relevant related entities
- the names of the Directors and persons concerned in the management^f of each of its relevant related entities.^g

^e As per section 10(3) of the WIC Act.

^f Including (but not limited to) the names of the CFO and CEO.

^g Including (but not limited to): other Corporations the directors of the applicant corporation are directors of, the applicant corporation's holding companies and subsidiaries; beneficiaries under a trust in relation to which the other Corporation is or has been a trustee; trustees of a trust under which a person is a beneficiary, where the person is a related entity of the other Corporation.

3.2 Organisational capacity to undertake the activities

We will assess the applicant corporation's **organisational capacity** to undertake the activities authorised by the licence. In these questions we will be considering both the organisational structure as well as the capability of the management team and senior staff. Your application should include the following, as a minimum:

- Details of the abilities and experience of senior people in the applicant corporation who will be responsible to manage the licensed activities. This includes expertise, experience and qualifications in managing a corporation or working within the water or any other industry.^h Examples of evidence may include Curriculum Vitae, references or details of previous or current roles, for senior officers and staff. Specify if senior people are full-time employees or third parties contracted for a set period. **(Question 11)**.
- An organisational diagram, showing the applicant corporation's management structure **(Question 12)**.
- An ownership diagram, showing the entities that have an ownership interest in the applicant corporation, and a full description of what ownership entails **(Question 13)**. The chart should outline the relationship between the applicant corporation and its ultimate Australian holding company, including the names of any intermediate holding companies and all the applicant corporation's subsidiaries.

Applicants may rely on third parties to undertake any significant activities that will be authorised by the licence (e.g. construction or operation of the reticulation network, management of the billing system).

An applicant corporation who will rely on third parties should identify these parties and the activities they will undertake in **Question 14**.

3.3 What insurance arrangements have been made?

You will need to demonstrate that the applicant corporation has and will continue to maintain appropriate arrangements with respect to insurance in **Question 15**. To achieve this, you will need to provide information about the type and level of insurance cover the applicant corporation holds or has made arrangements to hold to appropriately cover the risks identified in your risk assessment.

You should refer to the [WICA Insurance Guide](#) available from our website for a guide as to the types of insurance we look for.

Your response must include a letter or a report, from an insurance broker or expert, setting out insurances the applicant corporation has made arrangements to obtain.

- The contents of an insurance letter is included in our [WICA Insurance Guide](#).
- An insurance broker or expert's report should use our Insurance Expert's Report Template provided in Appendix G of our [Reporting Manuals](#), available from our website

^h Examples of senior people may include Executive Directors, CEO, CFO, COO and Senior Managers.

- If the applicant corporation is a subsidiary of another corporation and is covered by the parent corporation's insurance policy or policies, you should provide evidence that the applicant corporation is also covered. To do this, you will need to provide relevant information including the following:
 - Certificates of currency (CoCs)
 - Copies of the policy schedules and policy wording (e.g. product disclosure statements).

Tell us why the level of insurance is appropriate

We ask you to explain why the level of cover proposed is sufficient for the size and nature of the proposed activities across all phases of the applicant corporation's project. For example, you need to consider how the insurance procured (or proposed) will reduce your exposure to the following risks:

- Planning/design activities
- Construction risks to health and environment
- Poor workmanship
- Operational risks to environment, health and safety, accidents
- Other business risks.

It is important that you identify the method you use in selecting scheme insurances (both the size and type). We look to assess whether:

- The insurance broker or expert's letter or report identifies the key risks, the correlating types and levels of insurance required, and any uninsured or residual risks where an insurance broker is used or an insurance risk assessment is undertaken
- The applicant corporation has a risk register in place, with residual risks and controls, that provides an overview of how the applicant corporation proposes to mitigate the scheme risks
- There are any limitations to any potential payouts – either by the applicant corporation or by the parent company on behalf of the applicant corporation.

So we can assess whether an applicant corporation for a **network operator's licence** requires environmental impairment liability insurance, you should provide a summary statement of the environmental impacts and proposed mitigation measures that will be applied to the construction and operation of the proposed water industry infrastructure. The summary statement may be the relevant section(s) of the environmental assessment report, or environmental section of the risk assessment relating to the water industry infrastructure risks and mitigation measures.

4 Financial capacity

Questions 16 and 17

As part of the application process we must assess an applicant corporation's financial capacity to undertake the proposed licensed activities. We recognise that applicants generally have diverse financial circumstances and may have commercial or non-commercial reasons for applying for a licence.

We therefore consider an applicant corporation is best placed decide what evidence to provide to support a claim of financial capacity. You are required to provide this evidence in response to the financial capacity questions of the Application Form.

Given the confidential nature of most financial information you should consider providing a response marked confidential. However, for applicants who will provide water and sewerage services to small retail customers, we consider proposed pricing to not be confidential information. For these applicants we have included a separate question in the Application Form for pricing forecasts. The response to this question will not be treated as confidential.

You may find it convenient to provide us with a contact name and details for a relevant person to contact for follow-up questions regarding financial capacity (e.g. company accountant or external accountant). If so, please be clear in giving us permission to contact this person.

This chapter provides advice and guidance on what we may consider, and what we have considered in past applications, in an assessment of financial capacity. However, this guidance is not prescriptive, and applicants need to consider how best to provide evidence of their financial capacity.

4.1 How do the authorised activities affect the level of financial capacity?

In assessing an applicant's financial capacity, we will consider the overall risk related to the activities the licence would authorise. That is, the impact a loss of financial capacity and any subsequent loss of services may have on a licensee's customers. Higher risk and consequence for customers requires a higher level of assurance of financial capacity.

Table 1 What we consider depending on proposed activities

Activities the licence would authorise	Sufficient funding to construct and commence the scheme(s), and financial resources to operate the business as a going concern over the long term.	Unless there is a reason not to, the scheme should generate positive cash flows, or at least break-even, over the long term.	The cost to small retail customers to be justified, fair and reasonable.
Retail supplier's licence	✓		✓
Network operator's licence			
For infrastructure used for self-supply	✓		
For infrastructure used to supply large retail customers	✓	✓	
For infrastructure used to supply small retail customers	✓	✓	✓

In making an assessment we consider small retail customers to be customers provided with water at less than 15ML/year/customer or sewerage services at less than 10.5 ML/year/customer.

When assessing financial capacity we may consider if:

- **The applicant corporation has financial capacity** (i.e. using financial analysis such as ratio and trend analysis and considering profitability, financial arrangements and financeability).
- **The scheme is financially viable** (i.e. we consider projected scheme cash flow and payback period and testing modelling assumptions for reasonableness)
- **There are contextual factors** that impact financial capacity (i.e. financial support from a third party, corporate structure, cross-company guarantees or bank guarantees).

4.2 What can provide evidence of financial capacity?

4.2.1 Financial capacity of applicant corporation without 'stand-alone' capacity

An applicant corporation may not have 'stand-alone' financial capacity. Stand-alone financial capacity describes an applicant corporation who has, without financial assistance from another party, the financial resources to undertake, and continue to undertake, the activities the licence would authorise.

An applicant corporation may not have stand-alone capacity because, for example, they:

- are a newly formed corporation with no financial history
- do not have the financial resources (e.g. cash, equity, or borrowings) to undertake the licence activities without outside assistance.

An applicant corporation may however have financial capacity through financial support from a third party. Examples of third parties include a parent company or corporate group, a consortium of investors, or a line of credit from a lender.

4.2.2 Proving financial capacity

To support a claim of the financial capacity of an applicant corporation (or where relevant, a third party), applicants are advised to provide documentary evidence. As discussed in the beginning of this section, applicants should consider their own circumstances and the facts of the application in deciding on type and amount of evidence they provide.

Examples of evidence that would support financial capacity are:

- The latest 3 years of historical financial statements, that is, the:
 - Profit and Loss Statement, also called the Statement of Financial Performance
 - Balance Sheet, also called the Statement of Financial Position, and/or
 - Cash Flow Statement, also called the Statement of Cash Flows.

To ensure that financial reports are accurate the accounts could be accompanied by:

- A registered company auditor's report confirming the accounts are accurate, or
- Tax return documents which can be used to verify the income and expenses in the financial statements.

Where the reporting date of the most recent financial statements is more than three months prior to the application date, you could provide management accounts (i.e. a profit and loss statement, trial balance or trading statement). These can be supported by the most recent bank reconciliation and a copy of the relevant bank statement.

Other supporting evidence could include:

- An aged creditors report, from the most recent accounts
- An aged debtors report, from the most recent accounts
- A list of suppliers, identifying any major or critical suppliers
- A list of customers, identifying any major or critical customers
- Pipeline of work, order book or detailed WIP
- Forecasts of profitability, including forecast profit and loss, balance sheet and cash flow statements.

Evidence of financial support by a third party will be required where an applicant does not have stand alone capacity. This can include:

- A financial guarantee, deed of indemnity or any other instrument that supports the applicant corporation's financial capacity (e.g. a guarantee from a parent, related entity or third party)
- An agreement for debt or equity provided by a third party (e.g. a bank, credit union, or government).

Where financial support is provided by a third party, we may assess the financial capacity of that entity to provide financial support to the applicant corporation. Evidence of financial capacity of a third party could include:

- The financial records of the guarantor, or
- A letter from a financier (being a bank, credit union or government) confirming indicative financing of the applicant corporation's activities, including:
 - the nature of finance (e.g. bridging, long term, corporate debt, government funding)
 - the type and limit of the facility
 - the type and limit of any guarantee, and
 - the terms and conditions.

4.3 What is the financial viability of the scheme?

We consider that the financial viability of the scheme has relevance in assessing the financial capacity of an applicant. We advise that, unless the application is for retail licence only, or for infrastructure for self-supply, then an explanation of the financial viability of the scheme should be provided.

If a scheme is not intended to provide a return on investment (for example, a pilot plant) we advise applicants to explain why this is the case.

An example of evidence that demonstrates the financial viability of a scheme is 10 years of detailed forecast cash flows for the scheme. A well-constructed cash flow forecast would:

- Include major income and expense items including (as relevant):
 - customer fees and charges income
 - connection fees income
 - developer contributions/subsidies
 - capital expenditure
 - operating and management costs
 - overheads and management fees
 - sinking funds/contingency, and
 - compliance costs
- Reflect if the project is to be conducted in stages
- Include any provisions made for unexpected operation costs or unplanned maintenance
- Include key assumptions, including forecast:
 - lot sales
 - occupancy rates or other drivers of cash inflows
 - rates paid for bulk services (e.g. bulk water or sewerage)
 - waste disposal fees
 - any other relevant key assumptions.

4.4 What are contextual considerations?

In assessing an applicant's financial capacity, we can consider any other contextual factors that are particular to the applicant corporation or the application: we do not consider an applicant corporation's financial capacity in isolation.

As discussed earlier in this section, one example of a contextual factor is financial support for the applicant corporation from a third party. In addition to the information already provided regarding financial support (e.g. guarantees, debt and equity), we may also consider:

- The corporate group structure (including parent corporate group and details of ownership), where the licensee is a part of a corporate group
- Equity structure (i.e. equity holders, types of shares, options, quantities of shares and options etc.)
- Agreements, contracts or covenants that may impact the financial capability of the licensee

This list is not exhaustive. We recommend you include any other information that may inform the assessment of financial capacity of the applicant corporation in your application.

4.5 Estimated price for services

Part of assessing the financial viability of the scheme and customer protection is assessing whether the pricing can cover both cost recovery and supplying a service to customers. Under section 7(1)(f) of the WIC Act we also have regard for:

...the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence.

To assist us in making an assessment of financial viability of the scheme and in meeting the requirements of Section 7(1) of the WIC Act we recommend an application for a **retail supplier's licence**, to supply water or provide sewerage service to small retail customers, should provide details of the costs to provide services to customers and proposed pricing.

Examples of this information are:

- 10-year forecasts of the cost to the licensee to supply water, and/or provide sewerage services, per household, per year.
- Details of how this cost can be recovered - that is, details of who is expected to pay fees and charges (i.e. customers, developers and/or grants and subsidies)
- The proposed price levels and structure for the first 10 years of operation.

Question 17 of the Application Form specifically asks for proposed price levels and structure for the first 10 years of operation. We will include this response in the publicly available application published on our website. That is, **your response Question 17 will not be treated as confidential**.

5 Technical capacity

Questions 18 to 39

As part of the application process we must assess an applicant corporation's technical capacity to undertake the proposed licensed activities.

5.1 What technical capacity does the applicant corporation need to have?

The application form divides the questions about technical capacity for retail supplier's licence, and network operator's licence, applicants. See **Table 2** below.

Table 2 Technical capacity questions

Type of licence being applied for	Questions to respond to
Retail supplier's licence	Questions 18 to 22 and 26 to 28
Network operator's licence	Questions 23 to 39

Many of the technical capacity questions in the application form are self-explanatory. The following guidance provides further detail for questions which require further explanation.

What we assess for technical capacity

The level of technical capacity required depends on the complexity of the scheme and the risk posed to customers and the environment.

The technical capacity assessment requires that the applicant corporation demonstrate:

- For **retail supplier's licence applicants**, a good understanding of customer protection, handling customer complaints and hardship, business systems, billing and customer enquiries, at a minimum.
- For **network operator's licence applicants**, a good understanding of the risks associated with constructing, operating and maintaining water infrastructure and how they are addressed. Also, as applicable, a good understanding of:
 - infrastructure requirements for providing water or sewerage services to end users
 - planning and regulatory approvals from state and local government.

Evidence that demonstrates technical capacity for a network operator's licence applicants includes:

- A risk assessment, with sufficient detail to indicate the applicant corporation's level of expertise managing risks related to the activities to be licensed.
- A detailed description of infrastructure supported by:
 - process flow diagrams
 - general arrangement drawings
 - any relevant site plans
 - descriptions of any relevant, existing infrastructure (which may include existing reticulation pipework, storages or treatment systems), any new infrastructure to be constructed as part of the activities to be licensed
 - description of any proposed interconnections with the water infrastructure of other utilities, and connection points to end users/customers
 - all waste/effluent streams including disposal options.
- A detailed water balance with assumptions, peak and average daily flows, source/ demand and supply volumes, supported by relevant wastewater and catchment characterisation studies.
- Documented previous experience with a good track record of delivering water infrastructure schemes and/or having access to qualified and experienced technical resources, who have competence in water infrastructure, within the applicant corporation.

We use this information in our assessment of the applicant's technical as well as organisational capacity, and in regard to the protection of public health generally.

The risk assessment and water balance should provide us with some evidence of the technical capacity of the applicant corporation (see **section 5.4** for more on risk assessments). Where you provide a risk assessment and a water balance with insufficient detail and unsupported assumptions, this would suggest that you do not have sufficient technical capacity and we would likely recommend to the Minister to refuse your application.

5.2 Area of operations

Question 27 asks about the area of operations for the scheme. A description of the area of operations should be provided for network and retail operations:

- For a **network operator's licence**, the area of operations should cover the location of all your proposed infrastructure from source to the customer connection points. Provide separate descriptions for each proposed type of infrastructure (drinking water, non-potable water or sewerage infrastructure) if these are to have different area of operations.
- For a **retail supplier's licence**, the area of operations should cover the location of all your proposed customers. Provide separate descriptions for each proposed type of service (drinking water, non-potable water or sewerage infrastructure) if these are to have different area of operations.

The attachments should include:

- A map, or maps, of the area of operations in PDF that show the proposed scheme boundary, location of infrastructure, lot descriptors (i.e. Lot/DP numbers), street name, local government area or other description as appropriate to the size of the scheme. We may use this information for public consultation.
- An ESRI shapefile (or other ArcGIS/QGIS compatible file) of the map for the proposed area of operations using MGA zone 56 as the coordinate reference system (possible file formats include GEOJSON files, .KMZ files, .SHP files).
- The coordinates for the boundary of the area of operations as part of the shapefile, as a separate shapefile or as a CSV file. We use this information to define the area of operations in the licence.
- Separate maps, shapefiles and coordinates files for each proposed type of infrastructure or services (drinking water, non-potable water or sewerage infrastructure) if these will have different area of operations. We use this information to produce maps for the area of operations in the licence.
- To the extent possible, maps should identify any existing consents or approvals given under the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) that apply to each infrastructure component. Applicant corporations should also provide copies of the maps that have been approved by the relevant planning authority, if available.

5.3 End uses for non-potable water or recycled water

Question 28 asks for the proposed end uses for non-potable water or recycled water. This information is used to define the authorised purposes for non-potable water in the licence.

You should include all end-uses proposed for your scheme. End uses should be included in risk assessments supporting your application. Your risk assessment should clearly identify any risks and mitigation measures associated with the end use.

As examples, end uses that have been commonly used in WIC Act schemes include; toilet flushing, car washing, garden watering, washing machine use, ornamental water features, dust suppression, general washdown, street cleaning, irrigation of open spaces, and industrial use.

We consider general washdown to include the process of cleaning or washing hard surfaces for appearance, sanitation, or removal of contamination. It does not exclude the use of non-potable water for the purposes of cleaning of footpaths or roads. Ornamental water features are provided primarily for aesthetic or beautification purposes and do not, by their design of accessibility, encourage interaction with the water.

5.4 What should a risk assessment include?

Question 20 (retail supplier's licence application) and **Question 35** (network operator's licence application) ask for a risk assessment.

The risk assessment must:

- Identify events and circumstances that could adversely affect the applicant corporation's ability to carry out the activities for which the licence is sought (including any activities undertaken by a nominated third party).
- Identify the probability of an occurrence of any such event or circumstance and the measures to be taken by the applicant corporation to prevent or minimise the likelihood of any such event or circumstance.

We consider a sound risk assessment should:

- Accurately identify any hazards present in the source water or likely to result from the proposed treatment process.
- Address intended, inadvertent and unauthorised end uses (and therefore routes of exposure) to the water.
- Identify any reasonably foreseeable risk event with the potential to expose people or the environment to hazards.
- Outline the broad mitigation measures where the risk of exposure to a hazard is unacceptable to human health or the environment in order to reduce the risk of exposure.
- Identify critical control points and water quality targets.

A consistent methodology should be applied for identifying hazards and assessing potential impacts and risks to health and the environment. We strongly recommend that the applicant corporation utilises an established risk management system, such as outlined in AS/NZS ISO 31000 (*Risk management – Principles and Guidelines*), which is consistent with the approach outlined in the *Australian Drinking Water Guidelines* (ADWG) (element 2) for drinking water, and the *Australian Guidelines for Water Recycling* (AGWR) (element 2) for non-potable water.

The risk assessment should consider risks specific to the area of operations for which an application is sought. It should also address business, financial and environmental risks, and demonstrate, or contain a statement, that the licensee has consulted with NSW Health and the NSW Environment Protection Authority regarding health and environmental matters.

A statement noting that the proposed treatment system meets the water quality targets for the intended end uses should also be included with the risk assessment.

5.5 What is the applicant corporation's experience?

We ask for evidence of the applicant corporation's experience and details of its systems and processes.

- **Questions 18 and 19** refer to retail supplier's licence applications
- **Questions 23 and 24** refer to network operator's licence applications

For **retail supplier's** licence applications:

- You can provide evidence of suitable business systems, covering billing and customer enquiries, at a minimum. Experience in handling residential customers (i.e. small retail customers) contributes to an assessment of organisational capacity. (**Question 18**)
- We would likely consider an applicant corporation with these systems in place to have the requisite technical capacity to be a licensee (**Question 19**).

For **network operator's** licence applications:

- You can provide examples of your experience in the construction, maintenance and operation of water, sewer and/or other utility infrastructure. This may include gas, electricity or telecommunications infrastructure. We will assess this experience through a review of supplied examples and referee checks. The application should contain enough information to allow us to make our assessment, and should be limited to the last seven years, where possible (**Question 23**).
- We will consider information on the applicant corporation's existing business systems. We will assess whether the applicant corporation has developed and implemented quality, environmental and asset management systems (**Question 24**).

5.6 Staging of the scheme and the infrastructure

Question 29 asks for information on the staging of the scheme and the infrastructure to support our assessment of applicant corporation's technical capacity to service the scheme.

In terms of the staging of the scheme, a residential development may have 5 stages over 10 years from 2022 to service 1,500 homes. The licence application may cover some of those stages only or all of the stages. The roll out of each stage of the scheme should be supported by the delivery of infrastructure (the staging of the infrastructure) to provide the necessary services. For example, the applicant corporation may propose to construct reticulation by July 2022, construct sewage treatment plant by December 2022 and operate sewage treatment plant by June 2023.

5.7 What capability does the applicant corporation have to prevent significant risks of harm to the environment?

When considering whether to grant a network operator's licence, the Minister is required to consider the environmental impact of the activities to be licensed.ⁱ We ask for evidence of the applicant corporations' capability in preventing significant risks of harm to the environment in **Questions 37 to 39**.

The relevant categories of development under the EP&A Act are:

- Developments that require development consent (these are generally assessed under Part 4 of the EP&A Act)
- Activities that do not require development consent, but which require some other government approval or are undertaken by or on behalf of a public authority (these are assessed under Part 5 of the EP&A Act).^j

Where development consent under Part 4 of the EP&A Act is not required for water industry infrastructure, the applicant corporation will need to obtain planning approval under Part 5 of the EP&A Act.^k Where a "Part 5 assessment" is required you must provide an environmental impact assessment for the full scope of the activities to be licensed.^l It is likely that this assessment will be in the form of a Review of Environmental Factors (REF) for the proposed activity that is the subject of your application.^m

Where a "Part 5 assessment" is required for network operator's licence applications, the Minister will usually be the determining authority under Part 5 of the EP&A Act for any water or sewerage infrastructure. We may make a recommendation to the Minister under Part 5 of the EP&A Act at the same time as we make a recommendation to the Minister on the licence application.

We will not complete your application assessment until either an approval under Part 4 has been made, or a Part 5 environmental assessment has been undertaken.

We require you to provide either:

- Relevant environmental assessment documents to allow the Minister to make a decision under Part 5 of the EP&A Act, or
- Evidence of the approval under Part 4 of the EP&A Act for the infrastructure and activities for which a licence is being sought.

ⁱ EP&A Act, Part 5.1.

^j Please contact us if the former Part 3A of the EP&A Act (repealed in 2011) applies to the relevant project approval or concept plan approval. Further information may be required in those circumstances.

^k Division 18 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (ISEPP) provides that a WIC Act licensee may carry out development for the purpose of sewage treatment plants or biosolids facilities or water recycling facilities without development consent (in prescribed zones).

^l EP&A Act, section 5.7.

^m However, if the activity is likely to have a significant effect on the environment or significantly affect threatened species, populations or ecological communities or their habitats, an environmental impact statement (EIS) and/or species impact statement (SIS) will need to be prepared and considered before approval may be granted (section 5.7 EP&A Act).

The environmental assessment documents may include the following reports:

- REF (non-significant environmental effects) or an EIS (significant environmental effects)
- Associated consultant reports (e.g. noise, odour, biodiversity, flora and fauna studies etc)
- Land capability assessments (e.g. site suitability reports), Integrated Water Cycle Management Plans, Water Balances
- Any site contamination reports.

5.7.1 Approvals under Part 4 of the EP&A Act

Your application should identify the environmental planning instrument(s) applying to each infrastructure component of the project. Please indicate whether consent is required under these instruments and, if so, the specific infrastructure components for which consent is required.

If development consent been obtained for the project to which the infrastructure relates, please provide:

- Copies of, or links to, the consent(s), including subsequent approved modification(s), if any
- Details of the component infrastructure to which each consent applies
- Details identifying the provision(s) of the consent that apply to the particular component infrastructure.

If the applicant corporation is not the entity responsible for the entirety of the development, please identify the entities responsible for carrying out various parts of the development (including related entities, as applicable).

5.7.2 Approvals under Part 5 of the EP&A Act or other approvals

If the scheme requires any other approval, consent, licence, permission or authorisation to proceed, please identify the required approvals and the relevant authority responsible for granting them.

If an environmental impact assessment has been carried out in relation to the scheme, please provide a copy of the assessment.

If there is a nominated determining authority in relation to the project under section 5.2 of the EP&A Act or former section 110A of the EP&A Act, please provide a copy of, or a reference to, the relevant Ministerial planning order.

5.8 What management plans does the application corporation need to have?

To assess the applicant corporation's technical capability, we will request evidence of various management plans, including:

- Infrastructure operating plans
- Water quality management plans (based on the 12 elements of the relevant guideline).ⁿ
- Sewage management plan, only required for schemes that collect, store, convey and/or treat sewage
- Retail Management Plan

These documents provide us with evidence of the applicant corporation's capacity to develop and implement these plans.

For licence variation applications, you should provide actual water quality plans, sewage management plans and infrastructure operating plans for the site.

Water Quality Plans

The evidence should be in the form of management plans for either the proposed scheme or other similar schemes undertaken by the applicant corporation, or in a comprehensive statement detailing the process by which the management plan will be developed. The applicant corporation needs to describe how the 12 elements of the ADWG/AGWR have been or will be addressed in the plans for the proposed scheme, in particular how and where the risk assessment has informed their water quality management plans.

Infrastructure Operating Plans

The evidence may include examples of processes and procedures for either the proposed scheme or other similar schemes undertaken by the applicant corporation. The processes and/or procedures should demonstrate good operational practice, including life cycle planning, system redundancy, contingency planning, condition monitoring, management maintenance processes and processes of supporting skills needs. The examples should demonstrate links to a risk management process.

ⁿ For drinking water – *Australian Drinking Water Guideline* (ADWG).
For recycled water – *Australian Guideline for Water Recycling* (AGWR).

Sewage Management Plans

The evidence should be in the form of management plans for either the proposed scheme or other similar schemes undertaken by the applicant corporation, or in a comprehensive statement detailing the process by which the management plan will be developed. The applicant corporation needs to describe how health and ecological assessments have been or will be undertaken for sewage management and how resulting concerns have been or will be addressed. The applicant corporation also needs to describe the arrangements for the disposal of waste.

Retail Management Plans

The evidence should be in the form of management plans for either the proposed scheme or other similar schemes undertaken by the applicant corporation, or in a comprehensive statement detailing the process by which the management plan will be developed. The applicant corporation needs to describe how events and circumstances that could adversely affect the ability to supply water and/or sewerage services, including likelihood of the events and measures to be taken to manage the events. The applicant corporation also needs to describe how the measures would prevent the occurrence, or minimise the effect, of any such event and arrange for alternative supplies of water or the provision of sewerage services in response to such events.

The applicant corporation must have arrangements for compliance with the codes of conduct and its codes of practice.

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