



Independent Pricing and Regulatory Tribunal  
New South Wales

# Water NSW Draft Operating Licence

**2017-2022**

Draft Operating licence  
Water licensing

February 2017



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The Tribunal members for this review are:

Dr Peter J Boxall AO, Chair

Mr Ed Willett

Ms Deborah Cope

Inquiries regarding this document should be directed to a staff member:

Brian Gardoll (02) 9113 7778

Jessica Hanna (02)9113 7715

Mamata Titus (02)9113 7750

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# 1 Licence context and authorisations

## 1.1 Objective of this Licence

### 1.1.1 This Licence aims to:

- a) provide transparent, auditable terms and conditions for Water NSW to lawfully undertake its activities to industry good practice;
- b) consider the interests of stakeholders within its Area of Operations; and
- c) impose the minimum regulatory burden on Water NSW by avoiding duplication or conflict with other regulatory instruments.

*[Note: In accordance with sections 11 and 12 of the Act the purpose of this Licence is to:*

- a) specify the Listed Functions and other functions conferred upon Water NSW to which the Licence relates;*
- b) authorise Water NSW to carry out the Listed Functions specified in this Licence and Conferred Functions;*
- c) specify the areas and circumstances in which Water NSW is authorised to carry out the specified Listed Functions and Conferred Functions;*
- d) set out the terms and conditions which apply to the conduct of the functions authorised by the Licence;*
- e) make provision for the preparation of Operational Audits;*
- f) include terms and conditions under which Water NSW is required to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services to capture, store, release or supply water;*
- g) include terms and conditions under which Water NSW is required to ensure that the systems and services meet the Performance Standards specified in the operating licence in relation to water delivery, water quality, Service Interruptions or any other matters set out in the licence;*
- h) with respect to a Declared Catchment Area – include terms and conditions under which Water NSW is required to compile indicators of the direct impact of Water NSW's activities (including, but not limited to, the impact of energy used and waste generated) on the environment so as to provide information about its performance and enable reports to be prepared; and*
- i) specify other requirements as required and allowed for under the Act. Sections 16, 21, 25 and 60 of the Act allow for other terms and conditions of the licence. This Licence may be amended in accordance with section 13 of the Act.*

*This Licence does not reproduce Water NSW's statutory obligations in full. Water NSW's licence obligations may be subject to other laws including the Water Management Act 2000 and the Water Act 1912.]*

## 1.2 Licence Authorisations

1.2.1 Subject to any terms and conditions, areas and circumstances specified in the Licence, this Licence authorises Water NSW to undertake the following Listed Functions within its Area of Operations:

- a) to Capture and Store Water and to Release Water:
  - i) to persons entitled to take the water, including release to regional towns; and
  - ii) for any other lawful purpose, including the release of environmental water;
- b) to Supply water to Sydney Water;
- c) to Supply water to water supply authorities and to local councils or county councils prescribed by the Regulations;
- d) to Supply water to Licensed Network Operators or Licensed Retail Suppliers;
- e) to Supply water to other persons and bodies, but under terms and conditions that prevent the person or body concerned from supplying the water for consumption by others within the State unless the person or body is authorised to do so by or under an Act;
- f) to construct, maintain and operate Water Management Works (including providing or constructing systems or services for supplying water);
- g) to protect and enhance the quality and quantity of water in Declared Catchment Areas;
- h) to manage and protect Declared Catchment Areas and Water Management Works vested in or under the control of Water NSW that are used within or for the purposes of such areas;
- i) to undertake flood mitigation and management subject to clause 3.5.1 of this Licence;
- j) to undertake research on catchments generally, and in particular on the health of Declared Catchment Areas; and
- k) to undertake an educative role within the community.

*[Note: Although clause 1.2.1 largely mirrors section 7(1) of the Act, it differs in that the terms "Supply" and "Capture and Store Water and to Release Water" have the defined meanings set out in Chapter 8 of this Licence for the purposes of clause 1.2.1, whereas those terms are not defined in the Act. The intention behind that difference between clause 1.2.1 and section 7(1) of the Act is that, pursuant to section 7(3)(a) of the Act, the Listed Functions set out in sections 7(1)(a)-7(1)(e) of the Act are only intended to be authorised by this Licence to the extent that they fall within the defined meanings of the terms "Supply" and "Capture and Store Water and to Release Water" under this Licence.]*

1.2.2 Subject to any terms and conditions, areas and circumstances specified in the Licence, this Licence authorises Water NSW, within its Area of Operations to:

- a) provide facilities or services that are necessary, ancillary or incidental to its Listed Functions; and
- b) conduct any business or activity (whether or not related to its Listed Functions) that it considers will further its objectives.

- 1.2.3 Subject to any terms and conditions, areas and circumstances specified in the Licence, this Licence authorises Water NSW, within its Area of Operations, to undertake the Conferred Functions specified in Schedule A.
- 1.2.4 Subject to any terms and conditions, areas and circumstances specified in the Licence and to the maximum extent permissible by law, this Licence authorises Water NSW pursuant to section 15(4)(b) of the Act to exercise any function of a type referred to in section 15(2) of the Act, but only with the agreement of the Relevant Body.
- 1.2.5 Subject to any terms and conditions, areas and circumstances specified in the Licence, and to the maximum extent permissible by law, this licence authorises Water NSW pursuant to section 31(1) of the Act, to exercise the functions set out in section 31(1) within its Area of Operations.
- 1.2.6 Despite anything in this clause 1.2, but subject to any terms and conditions, areas and circumstances specified elsewhere in the Licence, and to the maximum extent permissible by law, this Licence authorises Water NSW, pursuant to section 15(4)(a) of the Act, to carry out any of its functions outside of the State.
- 1.2.7 For the avoidance of any doubt, where this clause 1.2 authorises a function of Water NSW, that authorisation is intended to apply in respect of the Fish River Water Supply Scheme, to the maximum extent permissible by law.

*[Note: The intention behind clause 1.2.7 is that clauses 2.1.2-2.1.5, 3.2.1, 4.2.1, 5.1.1-5.1.4, 5.2.1-5.2.4, 6.1.1-6.1.3, 6.3.1, 6.3.2, 6.5.1-6.5.4, 6.6.1-6.6.3, 6.8.1-6.8.4, 6.9.1-6.9.4, and 6.10.2 apply in respect of the Fish River Water Supply Scheme, to the maximum extent permissible by law. See section 293(2) of the Water Management Act 2000 (NSW).]*

### **1.3 Term of this Licence**

- 1.3.1 The term of this Licence is 5 years from the Commencement Date.

*[Note: This licence starts on 1 July 2017, which means that it will end on 30 June 2022.]*

### **1.4 Non-exclusive Licence**

- 1.4.1 This Licence does not prohibit another person from providing services in the Area of Operations that are the same as, or similar to, the services, if the person is lawfully entitled to do so.

### **1.5 Making copies of the Licence available**

- 1.5.1 Water NSW must make this Licence available free of charge on its website for downloading by any person.

## 1.6 Pricing

- 1.6.1 Water NSW must ensure that the level of fees, charges and other amounts payable for its services are applied subject to the terms of this Licence, the Act and any maximum prices or methodologies for fixing maximum prices determined from time to time by IPART under the IPART Act or under any other lawful determination or instrument.

*[Note: at the time of granting of the licence IPART is the body responsible for determining prices for Water NSW's services and is also an accredited determining body on behalf of the ACCC.]*

## 1.7 End of term review

- 1.7.1 It is anticipated that a review of this Licence will commence in the first quarter of 2021 to investigate:
- a) whether this Licence is fulfilling its objectives; and
  - b) any issues which have arisen during the term of this Licence, which may reduce the effectiveness of this Licence,

**(End of Term Review).**

- 1.7.2 Water NSW must provide to the person undertaking the End of Term Review such information as is reasonably required to enable the person to complete the End of Term Review. Water NSW must provide that person with such information within a reasonable time period of receiving a request for that information from that person.

## 1.8 Notices

- 1.8.1 Any notice or other communication given under this Licence must be made in writing addressed to the intended recipient at the address shown below or the last address notified by the recipient.

Water NSW	IPART
The Chief Executive Officer WaterNSW PO Box 323 Penrith NSW 2751	The Chief Executive Officer Independent Pricing and Regulatory Tribunal PO Box K35 Haymarket Post Shop, NSW 1240



## 2 Water source protection and conservation

### 2.1 Water Quality Management System

2.1.1 With respect to Declared Catchment Areas, Water NSW must maintain a water quality management system to manage the risks to water quality (**Water Quality Management System**) that is consistent with:

- a) the Australian Drinking Water Guidelines; or
- b) if NSW Health specifies any amendment or addition to the Australian Drinking Water Guidelines that applies to Water NSW, the Australian Drinking Water Guidelines as amended or added to by NSW Health.

*[Note: It is generally expected that for the Declared Catchment Areas Water NSW will develop a system consistent with the Australian Drinking Water Guidelines, including the Framework for Management of Drinking Water Quality. However, where NSW Health considers appropriate, the application of those Guidelines may be amended or added to, to take account of Water NSW's circumstances and/or Drinking Water quality policy and practices within New South Wales. It is generally expected that Water NSW will manage the Declared Catchment Areas and the associated Catchment Infrastructure Works in light of its knowledge of the whole Drinking Water Supply System. That is, Water NSW should have adequate systems and processes in place to manage Bulk Water quality to its water supply Customers, taking into account the implementation of planning and risk management across the whole Drinking Water Supply System.]*

2.1.2 With respect to Non-Declared Catchment Areas from which Water NSW Supplies water, Water NSW must maintain a Water Quality Management System. The Water Quality Management System must be consistent with at least one of the following:

- a) a relevant quality assurance program under section 25 of the *Public Health Act 2010* (NSW);
- b) the Australian Drinking Water Guidelines;
- c) the Australian Guidelines for Water Recycling; or
- d) other requirements as specified or approved by NSW Health or IPART,

as relevant to the source and final end use of water.

*[Note: It is generally expected that Water NSW will manage the water under its control in light of its knowledge of the downstream water supply system, including that of its Customers. Therefore the Water Quality Management System should be developed in consultation with the relevant Customers to whom it Supplies water.]*

2.1.3 Water NSW must ensure that the relevant Water Quality Management System(s) is fully implemented and that all relevant activities, are carried out in accordance with

the relevant Water Quality Management System, and to the satisfaction of NSW Health.

- 2.1.4 Water NSW must notify IPART and NSW Health, in accordance with the Reporting Manual, of any significant changes that it proposes to make to the Water Quality Management System.
- 2.1.5 Water NSW must ensure that any significant changes that Water NSW proposes to make to its Water Quality Management System(s) are to the satisfaction of NSW Health before implementing or carrying out its activities in accordance with them.

## **2.2 Catchment management**

- 2.2.1 Water NSW must manage and protect the Declared Catchment Areas consistently with its objectives and functions under the Act, the Water Quality Management System required under Clause 2.1 of this Licence, the Asset Management System required under Clause 5.1 of this Licence and the Environmental Management System required under Clause 5.2 of this Licence.

## **2.3 Information on the Declared Catchment Areas**

- 2.3.1 Water NSW must:

- a) reasonably cooperate with the Appointed Auditor;
- b) publish information collected by Water NSW on water quality relevant to Declared Catchment Areas (including data compiled under paragraph (d) below);
- c) provide data in relation to the Catchment Health Indicators to the Appointed Auditor, in accordance with the Reporting Manual;
- d) monitor, record and compile data on the Environmental Indicators; and
- e) report on the Environmental Indicators in accordance with the Reporting Manual.

*[Note: Section 12(2)(b) of the Act requires that, in connection with an operating licence that authorises Water NSW to exercise functions with respect to a Declared Catchment Area, the operating licence must include terms or conditions under which Water NSW is required to compile indicators of the direct impact of Water NSW's activities (including, but not limited to, the impact of energy used and waste generated) on the environment. Paragraph (c) of clause 2.3.1 is intended to fulfil that requirement.]*

## **2.4 Catchment Infrastructure Works management**

- 2.4.1 Water NSW must ensure that, in Declared Catchment Areas, the Catchment Infrastructure Works are operated and managed consistently with the Design Criteria and the Asset Management System referred to in clause 5.1.

## **2.5 Calculating Water Supply System Yield**

2.5.1 Water NSW must recalculate the Water Supply System Yield in respect of a Declared Catchment Area on the occurrence of any one or more of the following events:

- a) the conclusion of any drought event affecting the Declared Catchment Area;
- b) the commencement of any modification or augmentation to the Catchment Infrastructure Works or Customers' infrastructure, that will have a significant impact on Water NSW's Supply of water in respect of the Declared Catchment Area;
- c) any material change to the operating rules of the Catchment Infrastructure Works in respect of the Declared Catchment Area; or
- d) any material change to the Design Criteria in respect of the Declared Catchment Area.

2.5.2 Water NSW must advise the Minister:

- a) of any changes to the Water Supply System Yield relative to the previous Water Supply System Yield (including reasons for change) following a re-calculation under clause 2.5.1; or
- b) if Water NSW considers that future demand for Bulk Water may exceed the Water Supply System Yield and when this exceedance might occur

in accordance with the Reporting Manual.

2.5.3 As soon as practicable after advising the Minister of any changes to the Water Supply System Yields under clause 2.5.2, Water NSW must make those changes and the reasons for those changes available to the public in accordance with the Reporting Manual.

## **2.6 Reviewing the model for the Water Supply System Yield**

2.6.1 By the first quarter of 2021, or on an earlier occurrence of one of the recalculation trigger events to the Water Supply System Yield referred to in clause 2.5.1, Water NSW must engage a suitably qualified independent expert to:

- a) review its modelling and procedures for calculating the Water Supply System Yield to ensure that it reflects good industry practice;
- b) test the robustness of the modelling, the key assumptions used in the modelling, and the process for calculating the Water Supply System Yield, including the appropriate frequency of yield re-calculation and the appropriateness of the trigger events in clause 2.5.1; and
- c) advise Water NSW on whether it should re-calculate the Water Supply System Yield based on the findings of the test conducted under clause 2.6.1(b).

## 2.6.2 Water NSW must consult with:

- a) Customers, including Sydney Water;
- b) stakeholders and regulators as agreed with IPART; and
- c) any other persons reasonably expected to have an interest in the review of the modelling under clause 2.6.1,

regarding the review of the modelling under clause 2.6.1, and provide the results of the consultation to the suitably qualified independent expert.

## 2.6.3 The review of the model for the Water Supply System Yield must be completed by 30 June 2021 and reported to IPART in accordance with the Reporting Manual.

## 2.7 Economic level of water conservation

### 2.7.1 By 1 November 2017, Water NSW must submit to IPART (for IPART's approval) a report outlining Water NSW's approach to, and principles for, developing a methodology for determining its economic level of water conservation.

### 2.7.2 Once the approach and principles referred to in clause 2.7.1 are approved by IPART, Water NSW must develop a methodology in accordance with the approach and principles. The methodology must be able to consider (at a minimum) water conservation measures that relate to water storage and transmission in relation to undertaking its operations under this licence.

### 2.7.3 By 1 November 2018, or a later date specified by IPART, Water NSW must submit the proposed methodology to IPART for IPART's approval. IPART may refuse approval of the methodology and require Water NSW to resubmit it by a specified date after making changes requested by IPART, or approve the methodology unconditionally, or approve the methodology subject to conditions. Water NSW must comply with any such conditions.

### 2.7.4 Once the methodology is approved by IPART, Water NSW must obtain IPART's written consent to make any changes to the methodology (other than changes to correct minor grammatical or typographical errors).

### 2.7.5 Until Water NSW has obtained IPART's approval for the methodology (in accordance with clauses 2.7.2 and 2.7.3), and developed a water conservation program, Water NSW must take all reasonable steps to conserve water and minimise water losses that result from undertaking its operations under this licence.

### 2.7.6 By 1 September 2019, or by a later date specified by IPART, Water NSW must develop and provide to IPART, a water conservation program using the methodology approved by IPART under clause 2.7.3.

*[Note: The water conservation program will be outlined in the first Water Conservation Program Report, which is to be submitted to IPART by 1 September 2019 in accordance with the Reporting Manual.]*

2.7.7 Water NSW must report to IPART on the implementation of the water conservation program in accordance with the Reporting Manual.

## **2.8 Research on catchments**

2.8.1 Water NSW must maintain a program of research on catchments generally and in particular on the health of Declared Catchment Areas which:

- a) is consistent with its objectives under section 6 of the Act; and
- b) assists Water NSW to discharge its functions under sections 7(1)(g), 7(1)(h) and 7(1)(j) of the Act and report on the program in accordance with the Reporting Manual.

## 3 Bulk Water storage and transmission

### 3.1 Construct, maintain and operate Water Management Works

- 3.1.1 Water NSW must construct, maintain and operate its Water Management Works in accordance with its Asset Management System referred to in clause 5.1.

### 3.2 Water Supplied

- 3.2.1 Water NSW must ensure that any water Supplied to Customers is Supplied in accordance with a relevant Water Quality Management System, any relevant Customer Supply Agreement, and any relevant arrangements with Sydney Water established under section 25 of the Act.

### 3.3 Capture and Store Water and Release of Water

- 3.3.1 Water NSW must take all reasonable steps to process all Water Orders promptly and efficiently.
- 3.3.2 Water NSW must take all reasonable steps to manage Water Orders so as to ensure timely water Deliveries to its Customers.

### 3.4 Bulk Water released to Local Water Utilities for Drinking Water purposes

- 3.4.1 Water NSW must maintain a register of all Local Water Utilities:
- a) for which Water NSW maintains a Water Allocation Account; and
  - b) to which Water NSW releases water that will be used for the purposes of Drinking Water (**Local Water Utility Customers**)

#### **(LWU Register).**

The LWU Register must include contact details for each Local Water Utility Customer, and the Water Source and approximate location from which the Local Water Utility Customer Extracts water.

- 3.4.2 Water NSW must maintain and implement a procedure for providing information to Local Water Utilities (**LWU Information Request Procedure**). Water NSW must follow the LWU Information Request Procedure when any Local Water Utility

requests information to inform that utility's Drinking Water quality assurance program. Water NSW must maintain the LWU Information Request Procedure during the term of this Licence.

3.4.3 Water NSW's LWU Information Request Procedure under clause 3.4.2 must:

- a) describe how a Local Water Utility is to request information;
- b) describe how Water NSW will respond to the request in a timely manner; and
- c) define any fees and charges that will be charged by Water NSW to recover reasonable costs incurred for responding to an information request, how these will be calculated, and how they are to be paid.

3.4.4 Water NSW must make details of the LWU Information Request Procedure available free of charge on its website for downloading by any person.

3.4.5 By 31 December 2018, Water NSW must, in consultation with NSW Health, the Local Water Utility Customers on the LWU Register and its customer advisory groups established under clause 6.5, complete a review of its health related monitoring of water quality released to Local Water Utilities.

3.4.6 By 30 June 2019, Water NSW must update its LWU Information Request Procedure in accordance with the review described in clause 3.4.5, as agreed with NSW Health.

*[Note: The purpose of Clause 3.4 is to ensure that there are mechanisms in place for Water NSW to share information which it currently, or is best placed to collect with interested Local Water Utilities, where that information could usefully inform a Local Water Utility's Drinking Water quality assurance program.]*

### **3.5 Dam operation during floods and spills**

3.5.1 If directed in writing to do so by the Minister, and where not already required to do so under any other statute or regulatory instrument, Water NSW must operate its Water Management Works during flood and spilling of water, so as to maintain the safety of the work and to minimise risks to public safety.

3.5.2 To the extent that it is directed to do so through a direction under Clause 3.5.1 of this Licence, Water NSW's operation of the Water Management Works, during times of flood or spilling of water, must:

- a) leave the water storage levels of the Water Management Works, at or below full supply level, at the completion of the flood or spilling of water, subject to maintenance of any airspace volume requirements under any other statute or regulatory instrument;
- b) ensure the maximum rate of outflow from the Water Management Work is less than or equal to the maximum rate of inflow;

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- c) ensure the rate of outflow from the Water Management Work does not exceed the rate of inflow to the Water Management Work until after the flood has peaked; and
  - d) lessen downstream flood damage, where possible.



## 4 Performance Standards

### 4.1 Requirement to meet Performance Standards

- 4.1.1 Water NSW is required to ensure that the systems and services meet the Performance Standards specified in this chapter.

### 4.2 Water Supplied Performance Standards

- 4.2.1 The Performance Standards set out in paragraphs (a)-(d) below apply in respect of the Supply of water by Water NSW:
- a) *Quality of Water Supplied Standard A:* Water Supplied to Customers meets relevant Bulk Water quality standards >95% of the time.
  - b) *Quality of Water Supplied Standard B:* Water Supplied to Customers meets health standards 100% of the time.
  - c) *Delivery and Service Interruption regarding Water Supplied Standard A:* Water is Supplied to Customers on time 100% of the time.
  - d) *Delivery and Service Interruption regarding Water Supplied Standard B:* Water is Supplied to Customers in the agreed quantities 100% of the time

*[Note: These are the minimum water Supply and interruption standards. Water NSW must also Supply water in accordance with the terms and conditions of the relevant Customer Supply Agreement.]*

*[Note: Clause 4.2 is intended to discharge section 12(2) of the Act in respect of the Supply of water by Water NSW.]*

### 4.3 Performance standards regarding the Capture and Store of Water and Release of Water

- 4.3.1 The Performance Standards set out in clause 4.3.2 apply in respect of the Capture and Store of Water and Release of Water by Water NSW.

*[Note: Clause 4.3 is intended to discharge section 12(2) of the Act in respect of the Capture and Storage of Water and the Release of Water by Water NSW.]*

- 4.3.2 Water NSW must ensure that:

- a) *Capture and Store Water and Release of Water Standard A:* 99% of Customers who place a Non-complying Water Order are contacted within 1 working day to rectify that order;

[Note: This indicator should be calculated as a percentage of all Non-complying Water Orders placed.]

- b) *Capture and Store Water and Release Water of Standard B: 99% of Water Orders are Delivered within +/- 1 day of the scheduled day of Delivery;*

[Note: This indicator should be calculated as a percentage of all complying Water Orders placed. The scheduled day of delivery takes into account the period of required notice specified in Water Management Work approvals, licences, or entitlements. This could be measured by Complaints and/or if Water NSW identifies a delivery delay e.g. through its staff, systems or otherwise identifies or becomes aware of a delivery delay.]

- c) *Capture and Store Water and Release of Water Standard C: 100% of Water Orders rescheduled (**Service Interruptions**) are rescheduled in consultation with an affected Customer within 1 working day of an expected water shortage, or other delivery delay;*

[Note: This indicator should be calculated as a percentage of all Water Orders rescheduled due to an expected shortage or delivery delay.]

- d) *Capture and Store Water and Release of Water Standard D: 90% of complying Temporary Trades within the State are processed within five working days of Water NSW's receipt of a correct application and fee;*
- e) *Capture and Store Water and Release of Water Standard E: 90% of Interstate Temporary Trades (except to South Australia) are processed within 10 days; and*
- f) *Capture and Store Water and Release of Water Standard F: 90% of Interstate Temporary Trades to South Australia are processed within 20 days.*

## 5 Organisational systems management

### 5.1 Asset Management System

- 5.1.1 Water NSW must maintain a Management System that is consistent with the *International Standard ISO 55001:2014 Asset Management – Management systems – Requirements* (**Asset Management System**) for carrying out the functions authorised under this Licence.
- 5.1.2 Water NSW must ensure that its Asset Management System is certified by an appropriately qualified person to be consistent with the *International Standard ISO 55001:2014 Asset Management – Management Systems – Requirements* and that certification is maintained throughout the term of this Licence.
- 5.1.3 Water NSW must ensure that the certified Asset Management System is fully implemented and that all relevant activities are carried out in accordance with the Asset Management System.
- 5.1.4 In the absence of a certified Asset Management System, Water NSW must continue to maintain Asset management programs and activities to manage risks to its Assets and to maintain appropriate levels of service of those Assets; and ensure all its activities are carried out in accordance with those programs.

*[Note: clause 5.1.4 is only applicable if the certification of the Asset Management System is lost, lapses or is otherwise not obtained, it is not intended as an alternative Asset management obligation. The clause requires Water NSW to maintain programs for Asset management which would be regulated under this clause until certification is regained or obtained.]*

### 5.2 Environmental Management System

- 5.2.1 Water NSW must maintain an Environmental Management System consistent with the *Australian/New Zealand Standard AS/NZS ISO 14001:2016: Environmental management systems – Requirements with guidance for use* (**Environmental Management System**) for carrying out the functions authorised under this Licence.
- 5.2.2 Water NSW must ensure that its Environmental Management System is certified by an appropriately qualified person to be consistent with the *Australian/New Zealand Standard AS/NZS ISO 14001:2016 Environmental management systems –Requirements with guidance for use* and that certification is maintained throughout the term of the Licence.

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- 5.2.3 Water NSW must ensure that the certified Environmental Management System is fully implemented, and that all relevant activities are carried out in accordance with the Environmental Management System.
- 5.2.4 In the absence of a certified Environmental Management System, Water NSW must continue to maintain programs and activities to manage risks to the environment from carrying out its activities and must ensure that all its activities are carried out in accordance with those programs.

*[Note: Clause 5.2.4 is only applicable if the certification of the Environmental Management System is lost, lapses or is otherwise not obtained, it is not intended as an alternative Environmental management obligation. The clause requires Water NSW to maintain programs for Environmental management which would be regulated under this clause until certification is regained.]*

## 6 Customer and stakeholder relations

### 6.1 Customer Supply Agreements – Customers other than Sydney Water

- 6.1.1 Water NSW must establish and maintain Customer Supply Agreements with each of its Customers to whom it Supplies water (except Sydney Water), with terms and conditions for the Supply of water.

*[Note: Under section 25 of the Act, Water NSW is required to enter into arrangements with Sydney Water regarding the Supply of water by Water NSW to Sydney Water. Therefore, the operating licence does not regulate the Supply arrangements with Sydney Water under section 25 of the Act.]*

- 6.1.2 Water NSW must only Supply water to these Customers in accordance with the terms and conditions of these Customer Supply Agreements.
- 6.1.3 The terms and conditions of the Customer Supply Agreements must, at a minimum, include provisions on:
- a) water quality standard Supplied by Water NSW;
  - b) the continuity of the water Supplied by Water NSW (that is, provisions relating to interruptions, disconnections and reconnections to Supply);
  - c) any metering arrangements;
  - d) the costs to be paid by the Customers for the Supply of water to them;
  - e) dispute resolution and Complaints handling procedures; and
  - f) terms and conditions preventing the person or body concerned from supplying the water for consumption by others within the State unless the person or body is authorised to do so by or under a statute or regulatory instrument (where relevant).

### 6.2 Accounting for water

- 6.2.1 Water NSW must maintain a Water Allocation Account for each Customer that holds a Water Licence.

### 6.3 Water metering and monitoring

- 6.3.1 Water NSW must determine the volume of water Extracted by, or Supplied to, each of its Customers, at least annually, for the purpose of accurate account management, billing and reporting.

- 6.3.2 Prior to Water NSW operating, replacing, repairing, maintaining, removing, connecting, disconnecting or otherwise modifying Metering Equipment it does not own, it must obtain the agreement of the owner of that equipment.

*[Note: In accordance with section 31(1) of the Act and clause 1.2.5 of this Licence Water NSW is authorised to operate, replace repair, maintain, remove, connect, disconnect or modify Metering Equipment that Water NSW does not own. Water NSW must only exercise this authority in accordance with this condition.]*

## **6.4 Advance notification of changes to flow release patterns**

- 6.4.1 Water NSW must maintain an effective system to provide advance notification of any significant changes to flow release patterns from its Water Management Works, to Customers and other stakeholders that have registered to be notified of such changes.

## **6.5 Customer advisory groups**

- 6.5.1 Water NSW must establish and maintain area-based customer advisory groups representing a broad cross-section of its Customers for those areas.
- 6.5.2 Water NSW must regularly consult with the area-based customer advisory groups to enable Customer involvement in issues relevant to the performance of Water NSW's obligations to Customers under this Licence or the Customer Service Charter, obtain advice on the interests of Water NSW's Customers and such other key issues relating to Water NSW's planning and operations as Water NSW may determine consistent with the Customer Advisory Group Charter(s) (referred to in clause 6.6.1 of this Licence.)
- 6.5.3 For each customer advisory group, Water NSW must:
- a) Ensure that, all times, the membership of the customer advisory groups is appointed and determined by Water NSW in accordance with the Customer Advisory Group Charter; and
  - b) Use its best endeavours to include as members of the customer advisory groups at least one person representing each of the following categories (where there are Customers in this category for the area associated with the customer advisory group):
    - i) stock and domestic users
    - ii) Customers which are Regulated River water users
    - iii) Customers which are Unregulated River water users
    - iv) Customers which are groundwater users
    - v) environmental water holders
    - vi) environmental users or groups
    - vii) industrial and commercial Customers
    - viii) Local Water Utilities

- ix) Major Utilities
- x) volumetric categories of users (small/medium/large)
- xi) Indigenous Australians.

6.5.4 Water NSW must provide the customer advisory groups with adequate information within its possession or under its control necessary to enable the customer advisory groups to discharge the tasks assigned to them other than information or documents that are confidential (including documents that are subject to client legal privilege).

## 6.6 Customer Advisory Group Charter

6.6.1 Water NSW must, in consultation with relevant area-based customer advisory groups, establish and maintain a customer advisory group charter in accordance with this clause 6.6 (**Customer Advisory Group Charter**). Water NSW may have one or more Customer Advisory Group Charters, for different customer advisory groups, as it deems appropriate.

6.6.2 The Customer Advisory Group Charter must address all of the following issues:

- a) the role of the customer advisory group;
- b) how members and the chair of the customer advisory group will be appointed;
- c) the term for which members are appointed;
- d) information on how the customer advisory group will operate;
- e) a description of the type of matters that will be referred to the customer advisory group and how those matters will be referred;
- f) procedures for communicating the outcomes of the customer advisory groups' work to the public;
- g) procedures for monitoring issues raised at meetings of the customer advisory groups and ensuring appropriate follow-up of those issues;
- h) procedures for amending the charter; and
- i) funding and resourcing of the customer advisory groups by Water NSW.

6.6.3 Water NSW or any member of the customer advisory groups may propose any amendments to the Customer Advisory Group Charter(s). However, such amendments will not be effective until they have been approved by the relevant customer advisory group.

## 6.7 Customer Service Charter

6.7.1 Water NSW must, in consultation with relevant Customers and/or customer advisory groups, establish and maintain a customer service charter (**Customer Service Charter**) in accordance with this clause 6.7. Water NSW may have one or more Customer Service Charters, for different categories of Customers, as it deems appropriate.

6.7.2 The Customer Service Charter(s) must set out the mutual responsibilities of Water NSW and its Customers consistently with this Licence, the Act, the *Water Management Act 2000* (NSW), the *Water Act 1912* (NSW) and any other applicable law.

6.7.3 Water NSW must make the Customer Service Charter available free of charge on its website for downloading by any person.

*[Note: Where Water NSW has established a Customer Supply Agreement with a Customer (or category of Customers), a Customer Service Charter covering that Customer or category of Customers is not required.]*

## **6.8 Code of Practice on Payment Difficulties**

6.8.1 Water NSW must maintain and fully implement a code of practice that assists Customers experiencing financial hardship to better manage their current and future Bills (**Code of Practice on Payment Difficulties**) in accordance with this clause 6.8.

6.8.2 The Code of Practice on Payment Difficulties must:

- a) provide for a payment plan for Customers who are responsible for paying their Bills and who are, in Water NSW's reasonable opinion, experiencing financial hardship;
- b) include procedures for identifying the circumstances under which Water NSW may restrict the provision of services to a customer (including Supply of water or the Capture and Storage of Water and Release of Water);
- c) include procedures for identifying the circumstances under which Water NSW may suspend water access licences, and an overview of the process that must be followed prior to suspension.
- d) include procedures for self-identification, identification by community welfare organisations and identification by Water NSW of Customers experiencing financial hardship.

6.8.3 Water NSW must set out details of the Code of Practice on Payment Difficulties in the Customer Service Charter, or, where a Customer Supply Agreement is established in respect of a Customer, in that Customer Supply Agreement.

6.8.4 Water NSW must provide, free of charge, information on the Code of Practice on Payment Difficulties:

- a) to Customers, at least once annually with their Bills; and
- b) to Customers whom Water NSW identifies as experiencing financial hardship on the date that Water NSW first identifies that the Customer is experiencing financial hardship; and
- c) on its website for downloading by any person.



## 6.9 Internal Complaints Handling Procedure

- 6.9.1 Water NSW must maintain a procedure for receiving, responding to and resolving Complaints, which is consistent with the *Australian Standard AS/NZS 10002-2014: Customer satisfaction Guidelines for complaints handling in organisations (AS/NZS 10002:2014, MOD)* (**Internal Complaints Handling Procedure**).
- 6.9.2 Water NSW must ensure that the Internal Complaints Handling Procedure is fully implemented and that all relevant activities are carried out in accordance with the Internal Complaints Handling Procedure.
- 6.9.3 Water NSW must provide to Customers, at least annually with their Bills, information concerning internal Complaints handling, which explains how to make a Complaint and how Water NSW will receive, respond to and resolve Complaints.
- 6.9.4 Water NSW must make the information concerning internal Complaints handling referred to in clause 6.9.3 available to any person, free of charge, on its website for downloading

## 6.10 External dispute resolution scheme

- 6.10.1 Water NSW must be a member of the Energy and Water Ombudsman of NSW to facilitate the resolution, by a dispute resolution body, of disputes between Water NSW and its Customers.
- 6.10.2 Water NSW must
  - a) prepare information that explains the dispute resolution service provided by the Energy and Water Ombudsman of NSW, including any right to have a Complaint or dispute referred to the Energy and Water Ombudsman of NSW and how such a Complaint or dispute can be assessed;
  - b) provide the information prepared under clause 6.10.2(a), free of charge to Customers at least once a year with their Bills; and
  - c) make the information prepared under clause 6.10.2(a) available to any person, free of charge, on its website for downloading.

## 6.11 Education programs

- 6.11.1 Water NSW must conduct educational programs for the community on its activities and functions consistent with its objectives under the section 6 of Act, and report on its activities in accordance with the Reporting Manual.

## **6.12 Code of Conduct with WIC Act licensees**

6.12.1 Water NSW must use its best endeavours to cooperate with any Licensed Network Operator or Licensed Retail Supplier that seeks to establish with Water NSW a code of conduct required under a licence under the WIC Act.

## **6.13 Memorandum of Understanding with NSW Health**

6.13.1 Water NSW must:

- a) maintain a memorandum of understanding with the Secretary of the Ministry of Health (NSW Health) entered into under section 21(1) of the Act; and
- b) comply with the memorandum of understanding maintained under clause 6.13.1(a).

6.13.2 The purpose of the memorandum of understanding referred to in clause 6.13.1 is to form the basis for co-operative relationships between the parties to the memorandum of understanding and particularly to recognise the role of NSW Health in providing advice to the NSW Government in relation to water quality standards and public health, with respect to Water NSW's activities in the Supply of water and the Capture and Storage of Water and Release of Water.

6.13.3 The memorandum of understanding referred to in clause 6.13.1 must include arrangements for Water NSW to report to NSW Health information on any events, in relation to Water NSW's systems or services, which may impact on public health.

6.13.4 Water NSW must publish on its website for downloading by any person, the memorandum of understanding maintained with NSW Health under clause 6.13.1(a).

## **6.14 Memorandum of Understanding with Environment Protection Authority**

6.14.1 Water NSW must:

- a) maintain the memorandum of understanding with the Environment Protection Authority entered into under section 21(1) of the Act; and
- b) comply with the memorandum of understanding maintained under clause 6.14.1(a).

6.14.2 The purpose of the memorandum of understanding referred to in clause 6.14.1 is to form the basis for co-operative relationships between the parties to the memorandum of understanding and particularly to recognise the role of the Environment Protection Authority as the environment regulator of New South Wales.

6.14.3 Water NSW must publish on its website, for downloading by any person, the memorandum of understanding maintained with the Environmental Protection Authority under clause 6.14.1(a).

## 6.15 Memorandum of Understanding with Local Lands Services

6.15.1 Water NSW must use its best endeavours:

- a) to establish and maintain a memorandum of understanding with the Local Land Services; and
- b) to comply with the memorandum of understanding maintained under clause 6.15.1(a).

6.15.2 The purpose of the memorandum of understanding referred to in clause 6.15.1 is to form the basis for co-operative relationships between the parties to the memorandum of understanding.

6.15.3 Water NSW must publish on its website, for downloading by any person, the memorandum of understanding maintained with Local Lands Services under clause 6.15.1(a).

## 6.16 Roles and Responsibilities Protocol and Memorandum of Understanding with Department of Primary Industries Water

6.16.1 Water NSW must:

- a) agree with the Department of Primary Industries Water (DPI Water) the roles and responsibilities regarding the conduct of Conferred Functions specified in Schedule A of this Licence (**Roles and Responsibilities Protocol**);
- b) use its best endeavours to establish and maintain a memorandum of understanding with DPI Water. The purpose of the memorandum of understanding is to form the basis for cooperative relationships between the parties and particularly the role of Water NSW for the review and implementation of the Metropolitan Water Plan (**memorandum of understanding**); and
- c) use its best endeavours to comply with the memorandum of understanding maintained under clause 6.16(b).

6.16.2 By 30 June 2018 Water NSW must publish on its website, for downloading by any person, a statement setting out the roles and responsibilities protocol required under clause 6.16.1(a) and, if established, the memorandum of understanding required under clause 6.16.1(b).

*[Note: The statement may also include roles and responsibilities agreed with the ministerial corporation or any other relevant government departments or agencies.]*

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6.16.3 Water NSW must publish on its website for downloading by any person, the Roles and Responsibilities Protocol maintained with DPI Water under clause 6.16.1(a).

## 7 Performance monitoring and reporting

### 7.1 Operational Audits

7.1.1 IPART may annually, or from time to time as occasion requires, undertake, or may appoint an Auditor to undertake, an audit on Water NSW's compliance with:

- a) this Licence,
- b) the Reporting Manual, and
- c) any matters required by the Minister

(Operational Audit).

7.1.2 Water NSW must provide to IPART or the Auditor all information in Water NSW's possession, or under Water NSW's custody or control, which is necessary or convenient for the conduct of the Operational Audit.

7.1.3 Without limiting clause 7.1.2, Water NSW must provide to IPART or the Auditor any information necessary or convenient for the conduct of the Operational Audit which IPART or the Auditor requests in writing, within any reasonable timeframe specified by IPART or the Auditor in writing.

7.1.4 For the purpose of any Operational Audit or verifying a report on an Operational Audit, Water NSW must, within a reasonable time period of receiving a request from IPART or an Auditor, permit IPART or the Auditor to:

- a) access any Works, premises or offices occupied by Water NSW;
- b) carry out inspections, measurements and tests on, or in relation to, any such Works, premises or offices;
- c) take on to any such premises, Works or offices any person or equipment necessary for the purpose of performing the Operational Audit or verifying any report on the Operational Audit;
- d) inspect and make copies of, and take extracts from, any books and records of WaterNSW that are maintained in relation to the performance of Water NSW's obligations under this Licence (including the Reporting Manual); and
- e) discuss matters relevant to the Operational Audit or any report on the Operational Audit with Water NSW, including Water NSW's officers and employees.

*[Note: Water NSW is required under section 60 of the Act to pay to the Treasurer the cost (as certified by IPART) involved in and in connection with carrying out the Operational Audit of Water NSW.]*

## **7.2 Reporting in accordance with the licence and Reporting Manual**

- 7.2.1 Water NSW must comply with its reporting obligations set out in this Licence and in the Reporting Manual, in the manner set out in the Reporting Manual. These include:
- a) reporting to IPART and NSW Health;
  - b) making reports and other information publicly available; and
  - c) reporting to IPART on Water NSW's performance against the NWI Performance Indicators
- 7.2.2 Water NSW must maintain sufficient record systems that enable it to report accurately in accordance with clause 7.2.1.

## **7.3 Provision of information to IPART and Auditor**

- 7.3.1 Water NSW must provide IPART or an Auditor with information relating to the performance of any of Water NSW's obligations under clause 7.2 (including providing IPART with physical and electronic access to the records required to be kept under clause 7.2) within a reasonable time period of Water NSW receiving a request from IPART for that information.
- 7.3.2 Water NSW must provide IPART or an Auditor with such information as is reasonably required to enable IPART or an Auditor to conduct any review or investigation of Water NSW's obligations under this Licence within a reasonable time period of Water NSW receiving a request from IPART for that information.
- 7.3.3 If Water NSW contracts out any of its activities to any person (including a subsidiary), it must take all reasonable steps to ensure that, if required by IPART, or any Auditor, any such persons provide information and do the things specified in this clause 7.3 as if that person were Water NSW.
- 7.3.4 Where this Licence requires Water NSW to provide information to IPART or an Auditor, to the maximum extent permitted by law, Water NSW must provide that information even if it is confidential.
- 7.3.5 IPART and Auditors are to conduct themselves in respect of any confidential information, provided to them by Water NSW under this Licence, as though section 24FF(1) of the IPART Act applied to that information.

*[Note: Section 24FF(1) of the IPART Act makes provision in respect of confidential information received by IPART in connection with its licence auditing functions.]*

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## **7.4 Performance reporting**

- 7.4.1 Water NSW must maintain sufficient records and record systems that enable Water NSW to measure and accurately report its performance against the performance indicators and Performance Standards specified in this licence and the Reporting Manual.
- 7.4.2 Water NSW must maintain sufficient records and record systems to enable it to measure accurately its performance against any NWI Performance Indicators.

## 8 Definitions and interpretation

### 8.1 Definitions

In this licence, where the terms below appear in title case, they have the corresponding meaning set out below, unless context dictates otherwise.

**Act** means the *Water NSW Act 2014* (NSW).

**Appointed Auditor** means the person appointed by the Minister under section 42 of the Act to carry out functions under that section.

**Area of Operations** has the meaning given in section 15 of the Act, which is the State.

**Asset Management System** has the meaning given in clause 5.1.1.

**Asset** means the land, structures, plant, equipment, corporate and business systems of Water NSW which cause, allow or assist the delivery of the services.

**Auditor** means a person appointed by IPART to undertake an Operational Audit.

**Australian Drinking Water Guidelines** means the document entitled *Australian Drinking Water Guidelines 2011* published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council of Australia and New Zealand (as amended or updated from time to time).

**Australian Guidelines for Water Recycling** means the document entitled *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1)* published by the Environment Protection and Heritage Council, the Natural Resource Management Ministerial Council and the Australian Health Ministers' Conference in November 2006 (as amended or updated from time to time).

**Bill** means an invoice sent by Water NSW to a Customer for the provision of services supplied by Water NSW.

**Border Rivers** means "Carrier Rivers" as defined in *New South Wales – Queensland Border Rivers Act 1947* (NSW).

**Bulk Water** means either water which has not been treated in any way or water that has been treated to improve quality, whether by chemical treatment or otherwise but not treated at a water filtration plant.

**Bulk Water Supply System** means Water NSW's catchments and infrastructure for providing Bulk Water to Customers.

**Capture and Store Water and Release of Water** means the capture, store and release (but not Supply) of water by Water NSW:



- a) to persons entitled to take water; and
- b) for any other lawful purpose, including the release of environmental water,

by means of Water Management Works owned and/or controlled by Water NSW.

*[Note: Water NSW may undertake such functions by using active or passive management or operating actions to enable passage of captured and stored water into a river or channel system.]*

**Catchment Health Indicators** means the catchment health indicators which are set out in Table B.3 of the Reporting Manual.

**Catchment Infrastructure Works** has the meaning given to it by the Act.

**Code of Practice on Payment Difficulties** has the meaning given in clause 6.8.4.

**Commencement Date** is the date, by law, on which this Licence commences, being either 1 July 2017 or, if a different date is specified by the Governor in a notice published in the NSW Government Gazette, that different date.

**Complaint** means an expression of dissatisfaction made by Customers or Consumers to Water NSW in relation to its products or services, staff or the Complaints-handling process itself, where a response or resolution is explicitly or implicitly expected or legally required.

**Conferred Function** means a function conferred on Water NSW under section 12(4) of the Act.

*[Note: The functions specified in Schedule A are Conferred Functions.]*

**Customer** means any person:

- a) authorised under the *Water Management Act 2000* (NSW) or the *Water Act 1912* (NSW) to take and use Bulk Water and to whom Water NSW makes water deliveries; or
- b) to whom Water NSW provides a service and includes Fish River Water Supply Scheme Customers and environmental water entitlement holders; or
- c) a person who is Supplied Bulk Water by Water NSW.

**Customer Advisory Group Charter** has the meaning given to it in clause 6.6.1.

**Customer Service Charter** has the meaning given to it in clause 6.7.1.

**Customer Supply Agreements** are agreements established between Water NSW and its water Supply Customers under clause 6.1.1 of this Licence. They do not include the arrangements with Sydney Water established under section 25 of the Act.

**Declared Catchment Area** has the meaning given to it by the Act.

**Deliver** means to ensure the arrival of water at a defined location, made available for Extraction or in-stream use, in response to a Customer order and as a result of active or passive management or operating actions using Water Management Works owned and/or controlled by Water NSW infrastructure.

**Design Criteria** means the levels of service for security, robustness and reliability of water available for Supply to Customers in or from Declared Catchment Areas, other than Small Customers, as published by Water NSW on its website from time to time.

*[Note: The Design Criteria and the operating rules for the Catchment Infrastructure Works are used to estimate the Water Supply System Yield. The Design Criteria as at the Commencement Date are as follows:*

- ▼ *Security of level of service – Water NSW's storages do not approach emptiness (defined as 5% of water in the storage) more often than 0.001% of the time (that is, restrictions are not too severe).*
- ▼ *Robustness level of service – restrictions occur no more often than once in every 10 years on average (that is, restrictions are not too frequent).*
- ▼ *Reliability level of service – restrictions last no longer than 3% of the time on average (that is, restrictions are not for excessively long periods).]*

**Drinking Water** means water intended, or likely to be used, primarily for human consumption but which has other personal, domestic or household uses such as bathing and showering.

**Drinking Water Supply System** means the Bulk Water Supply System associated with Declared Catchment Areas together with each system for treating, storing and supplying Drinking Water of each Customer to whom Water NSW Supplies water which is sourced from Declared Catchment Areas.

**DPI Water** has the meaning given in clause 6.16.1.

**End of Term Review** has the meaning given to it in clause 1.7.1.

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

**Environmental Indicators** means the environmental indicators that are set out in Appendix B of the Reporting Manual.

**Environmental Management System** has the meaning given in clause 5.2.1.

**Environmental Protection Authority** means the Environmental Protection Authority constituted by the *Protection of the Environment Administration Act 1991 (NSW)*.

**EP&A Act** means the *Environmental Planning and Assessment Act 1979 (NSW)*.

**Extract** means taking of water by another party from a river or water body for use or subsequent Supply.

**Fish River Water Supply Scheme** has the same meaning as under the Act.

**Guidelines** means the guidelines issued by the Department of Industry as updated from time to time.

**Internal Complaints Handling Procedure** has the meaning given in clause 6.9.1.

**Interstate Temporary Trades** means the transfer of allocated water from a water access licence account held in one state or territory of Australia to a water access licence held in another state or territory.

**IPART** means the Independent Pricing and Regulatory Tribunal of New South Wales constituted by the IPART Act.

**IPART Act** means the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW).

**Irrigation Corporation** means an irrigation corporation referred to in Part 1 of Chapter 4 of the *Water Management Act 2000* (NSW).

**Licence** means this operating licence granted under section 11 of the Act to Water NSW, or any renewal of it.

**Licensed Network Operator** means an entity that holds a Network Operator's Licence under the WIC Act.

**Licensing Procedures Manual** means the licensing procedures manual issued by the Department of Industry as updated from time to time.

**Licensed Retail Supplier** means an entity that holds a Retail Supplier's Licence under the WIC Act.

**Listed Function** has the meaning given to it by section 7(1) of the Act.

**Local Land Services** means the body corporate constituted by section 8 of the *Local Land Services Act 2013* (NSW).

**Local Water Utility** has the meaning given to that term in the *Water Management Act 2000* (NSW).

**Local Water Utility Customer** has the meaning given in clause 3.4.1.

**LWU Information Request Procedure** has the meaning given in clause 3.4.2.

**LWU Register** has the meaning given in clause 3.4.1.

**Major Utility** has the meaning given to that term in the *Water Management Act 2000* (NSW).

**Management Plan** means a plan made under section 50 of the *Water Management Act 2000* (NSW).

**Management System** means a set of interrelated elements or compounds used by Water NSW to develop and implement its policies and objectives and to manage any of its activities, products, functions or services, and includes organisational structure, planning activities, responsibilities, practices, processes and resources.

**Metering Equipment** has the meaning given to it in the Act.

[Note: Metering Equipment is defined in section 3(2) of the Act, by reference to the Water Management Act 2000 (NSW).]

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**Metropolitan Water Plan** means the document entitled *2010 Metropolitan Water Plan – Water for people and water for the environment*, August 2010, published by the then NSW Office of Water (now DPI Water, as amended or updated from time to time).

**Minister** means the Minister responsible for the Act, which at the Commencement Date is the Minister for Regional Water.

**Ministerial Corporation** has the meaning given under the *Water Management Act 2000* (NSW) and the *New South Wales – Queensland Border Rivers Act 1947* (NSW)".

**National Water Initiative** means the Intergovernmental Agreement on a National Water Initiative between the Commonwealth of Australia and the Governments of New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory (as amended from time to time).

**Non-complying Water Order** means a request that would be a Water Order except that it:

- a) does not comply with the conditions of a relevant licence or entitlement; and/or
- b) contains insufficient information for Water NSW to Deliver the water requested.

**Non-Declared Catchment Areas** means all areas that are not Declared Catchment Areas.

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

**NWI Finance Indicators** has the meaning given in clause 7.2 of the Reporting Manual.

**NWI Performance Indicators** means the National Water Initiative Performance Indicators, which are set out in Table B of Appendix B of the Reporting Manual.

**Operational Audit** has the meaning given in clause 7.1.1.

**Performance Standards** means the standards defined in Chapter 4.

**Public Health Indicators** means the public health indicators that are set out in Appendix B of the Reporting Manual.

**Regulated River** has the meaning given to that term under the *Water Management Act 2000* (NSW).

**Regulation** means the *Water NSW Regulation 2013* (NSW).

**Relevant Body** has the meaning given to it under section 15(4)(b) of the Act.

**Reporting Manual** means the document entitled "Water NSW Reporting Manual" which is published by IPART (as updated from time to time).

**Roles and Responsibilities Protocol** has the meaning given in clause 6.16.1.

**Service Interruptions** has the meaning given in clause 4.3.2.

**Small Customer** means a person who is Supplied Bulk Water by Water NSW under terms and conditions that prevent that person from supplying water for consumption by others within New South Wales without authorisation under a statute or regulatory instrument, other than:

- a) Sydney Water;
- b) a Water Supply Authority that is Supplied Bulk Water by Water NSW;
- c) a council or county council (each as defined in the *Local Government Act 1993* (NSW)) that is Supplied Bulk Water by Water NSW; or
- d) a Licensed Network Operator or Licensed Retail Supplier that is Supplied Bulk Water by Water NSW.

**Supply** means the supply by Water NSW of water extracted under its water access licences to a downstream Customer (in accordance with a relevant water supply agreement) by means of Water Management Works owned and/or controlled by Water NSW.

*[Note: Water NSW may supply water to a downstream Customer by using active or passive management or operating actions. Such downstream Customer does not have their own water access licence for that water.]*

**State** means the State of New South Wales.

**Sydney Water** means the Sydney Water Corporation constituted as a corporation by the *Sydney Water Act 1994* (NSW).

**Temporary Trade** means the transfer of allocated water from one water access licence granted under the Act to another and includes transfers under the *Water Management Act 2000* (NSW) and *Water Act 1912* (NSW).

**Unregulated River** has the meaning given to that term under the *Water Management Act 2000* (NSW).

**Water Allocation Account** has the meaning given to it under the *Water Management Act 2000* (NSW) or means an account for a water access licence set up under the administrative procedures implemented under the *Water Act 1912*.

**Water Conservation Program Report** means the Report prepared in relation to the water conservation program required under clause 2.7.6.

**Water Licence** means a licence issued to a Customer under the *Water Management Act 2000* or the *Water Act 1912*.

**Water Management Work** has the meaning given to that term under the *Water Management Act 2000* (NSW).

**Water NSW** means Water NSW constituted as a statutory state owned corporation by the Act.

**Water Order** means a request for water by a Customer, which contains sufficient information for Water NSW to Deliver that water, and which is made in accordance with the relevant conditions imposed on the relevant:

- a) water access licence, to take water under the *Water Management Act 2000* (NSW); or
- b) entitlement, to take water under section 20AF of the *Water Act 1912*.

**Water Source** has the meaning given to that term in the *Water Management Act 2000* (NSW).

**Water Supply Authority** means a body listed under Schedule 3 of the *Water Management Act 2000* (NSW).

**Water Supply System Yield** means the amount of water that Water NSW estimates (using a hydrological model) can be Supplied from the Declared Catchment Areas annually over the long term, subject to:

- a) inflows to the Catchment Infrastructure Works in the Declared Catchment Areas
- b) an adopted set of operational rules; and
- c) the Design Criteria.

**Water Quality Management System** has the meaning given in clause 2.1.1.

**WIC Act** means the *Water Industry Competition Act 2006* (NSW).

**Works** in relation to Water NSW, includes any Catchment Infrastructure Works, Metering Equipment, water storages and other Water Management Works vested in or under the control of Water NSW, and any other assets of Water NSW of a kind prescribed by the Regulations.

## 8.2 Interpretation

- a) In this Licence, unless the contrary intention appears:
  - i) the word person includes an individual, a body corporate, an unincorporated body or other entity and one or more of each of them;
  - ii) headings are for convenience only and do not affect the interpretation of this Licence;
  - iii) the map provided in Schedule B does not form part of this licence, and is for noting only
  - iv) notes do not form part of this Licence but may be used to assist with interpretation if there is an ambiguity;
  - v) words importing the singular include the plural and vice versa;
  - vi) if a word or phrase is defined, its other grammatical forms, such as any conjugated verb form or cognate noun form, have a corresponding meaning;
  - vii) a reference to a law or legislation (including the Act) includes regulations made under the law or legislation;
  - viii) a reference to regulations includes ordinances, codes, licences, orders, permits and directions;
  - ix) a reference to a law or regulation includes consolidations, amendments, variations, re-enactments, or replacements of any of them;



- x) a reference to a legislative provision that is re-numbered extends to the corresponding re-numbered legislative provision;
  - xi) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and assigns;
  - xii) a reference to a year means a calendar year that ends on 31 December;
  - xiii) a reference to a financial year means a period of 12 months commencing on 1 July and ending on the following 30 June;
  - xiv) a reference to a clause or schedule is to a clause of or schedule of this Licence; and
  - xv) a reference to a quarter is a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April in a year.
- b) Terms defined in the Act, *Water Act 1912* (NSW), *Water Management Act 2000* (NSW) and the *New South Wales – Queensland Border Rivers Act 1947* (NSW) have the same meaning in this Licence, unless a contrary definition is specified in this Licence.
  - c) If any part of this Licence is prohibited, void, voidable, illegal or unenforceable, then that part is severed from this Licence but without affecting the continued operation of the remainder of this Licence.
  - d) A reference in this Licence to any organisation, association, society, group or body will, in the event of it ceasing to exist or being reconstituted, renamed or replaced or if its powers or functions are transferred to any other entity, body or group, refer respectively to any such entity, body or group, established or constituted in lieu thereof or succeeding to similar powers and functions.
  - e) A reference in this Licence to a document is a reference to the original document as amended or revised or, where the original document is replaced, to the replacing document, or the document that most closely approximates the original document.
  - f) Except where a contrary intention appears in this Licence, where there is any ambiguity or disagreement between Water NSW and IPART as to the proper application or interpretation of any term of this Licence or the Reporting Manual, IPART's interpretation or assessment will prevail.
  - g) Information provided to IPART under this Licence may be used by IPART for the purpose of an investigation or report under the IPART Act in relation to Water NSW, or in the discharge of any function lawfully conferred on IPART.







# Schedules



## A Conferral of functions

The following functions are conferred on Water NSW pursuant to s 12(4) of the Act.

### A.1 Licensing functions

The functions in the tables below under the *Water Management Act 2000* (NSW), the *Water Act 1912* (NSW), the *Water Management (General) Regulation 2011* (NSW), the *Access Licence Dealing Principles Order 2004* (NSW) and within Management Plans which relate to licensing are conferred on Water NSW except where the functions are to be exercised in relation to licences or licence applications:

- ▼ held or submitted by a Major Utility, Water Supply Authority, Local Water Utility, Irrigation Corporation, the Commonwealth, another state or territory, a New South Wales government agency or a State Owned Corporation constituted under the *State Owned Corporations Act 1989* (NSW); or
- ▼ for an Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategory of access licence; or
- ▼ which relate to activities where the applicant has been required to obtain any authority, lease or licence under the *Mining Act 1992* (NSW), the *Offshore Minerals Act 1999* (NSW) or the *Petroleum (Onshore) Act 1991* (NSW) or any permit or licence under the *Petroleum (Offshore) Act 1982* (NSW); or
- ▼ which relate to floodplain harvesting in Regulated Rivers or Unregulated Rivers; or
- ▼ which relate to activities for a development which has been:
  - declared a State Significant Development under section 89C of the EP&A Act or is declared to be a State Significant Development under a State environmental planning policy,
  - declared a State Significant Infrastructure under section 115U of the EP&A Act or is declared to be State Significant Infrastructure under a State environmental planning policy; or
  - approved under the now repealed Part 3A of the EP&A Act.

### A.2 Compliance with Department manuals and policies

In exercising functions conferred on Water NSW related to licensing, Water NSW must comply with the Licensing Procedures Manual issued by the NSW Department of Industry as updated from time to time, but only:

1. to the extent the requirements in the Licensing Procedures Manual are reasonable, relevant and practicable for Water NSW to adopt; or

2. where DPI Water acting reasonably specifically identifies the requirement as a mandatory requirement and communicates the mandatory requirement to Water NSW and to IPART.

Notwithstanding the above, compliance is not required in the event the Licensing Procedures Manual:

1. does not prescribe a procedure; or
2. prescribes a procedure requiring access to information or systems not available to Water NSW staff.'

Table A.1 *Water Management Act 2000 (NSW)*

For the purposes of this Table A.1, a reference to 'the Act' is a reference to the *Water Management Act 2000 (NSW)*.

Section	Function
61(1)	Receive applications for an access licence.
61(3)	Cause an application for an access licence to be advertised in accordance with the <i>Water Management (General) Regulations 2011</i> .
61(5)(a)	Require additional information in relation to an application.
61(5)(b)	Decide to delay considering an application, or refuse to consider an application until information is provided.
61(6)	Refuse to accept an incomplete application.
61(7)	Accept applications to amend or withdraw applications for access licences before the application is determined.
62(2)	Notify the applicant of the grounds of any objection and allow time for a response.
62(3)(a)	Require additional information in relation to an objection.
62(3)(b)	Decide to delay considering an objection or response, or refuse to consider an objection or response until information is provided.
62(4)	Notify the objector or application of a deficiency in an objection or response and allow time to rectify.
62(5)	Before making a decision on an application for an access licence where an objection has been made, endeavour to resolve the issues raised by the objection with the applicant and objector, with a view to reaching agreement on the matters raised by the objectors.
62(6)	For the purpose of reaching an agreement on the matters raised by an objection, propose that matters raised by the objection be dealt with by way of mediation or neutral evaluation or involving an independent mediator or evaluator selected by agreement.
62(7)	Dismiss an application or objection for failure to participate in mediation or neutral evaluation proceedings.
63(1)	Determine an application for an access licence by granting or refusing to grant the licence.
63(7)	Determine the form of an access licence.
64	Notify the applicant and any objectors of the grant or refusal of a licence application under Division 2 of Chapter 3 of the Act within 7 days of determination.
66(1)	Impose mandatory and discretionary condition(s) on an access licence.
66(2A)	Impose condition(s) on specific purpose access licences to ensure the licence is used for the purpose for which it was granted.
67(1)	Give written notice to an access licence holder of a proposal to impose discretionary conditions on an access licence after it has been granted, allow reasonable opportunity to make submissions and consider those submissions.
67(3)	Impose, amend, revoke or suspend mandatory conditions of an access licence whenever it is necessary to do so in order to enable compliance with or give effect to the Act, the

Section	Function
	regulations or a relevant management plan.
67(4)	Cause written notice of any conditions imposed, amended, revoked or suspended on an access licence after the time it is granted to be served on the holder of the access licence.
68	Revoke discretionary conditions on an access licence whether or not on the application of the holder of the access licence.
68A(1)	Amend the share or extraction component (or both) of an access licence in accordance with the Act or a relevant management plan.
68A(2)	Cause written notice of an amendment of an access licence under section 68A to be served on the holder of the licence and any security holder in relation to the licence.
71(3) Schedule 1A (c1 1(2) and 1(4))	Determine the form and manner for keeping information in the Access Register. <b>Note:</b> this function is also delegated to certain persons within the Land and Property Information Division, Department of Finance and Services.
71D, 71E, 71L, 71X and Schedule 10 (cl 19)	Determine the form of applications under sections 71D(1)(a), 71E, 71L(4)(a), 71X(1)(f) and clause 19 of Schedule 10.
71H(1), 71L(1)(a), 72(1), 73(1), 87B(1) and Schedule 1A (cl 2(1), 3(1), 3(5), 5(2))	Determine the form of applications under section 71H(1), 71L(1)(a), 72(1), 73(1), 87B(3), clauses 2(1), 3(1), 3(5), 5(2) of Schedules 1A.
71G	Require the access licence certificate to be produced before recording a matter in the Access Licence Register.
71I	Correct an error, omission or defect or amend for any other reason any recording in the Access Register.
71L(4)(b)	If consent is granted, enter details of an assignment in the water allocation account for the access licence.
71M(4)	Give or refuse consent to the transfer of a category or subcategory of access licence prescribed by the regulations, or the transfer of an access licence in circumstances prescribed by the regulations.
71N(4)	Give or refuse consent to the term transfer of an access licence of a category or subcategory prescribed by the regulations, or the term transfer of an access licence in circumstances prescribed by the regulations.
71N(7)	Give or refuse consent to a reduction of the period of a term transfer without the consent of the transferee if satisfied that the transferee has failed to comply with any obligations imposed on the transferee.
71O(1)	Give or refuse consent to the cancellation of an access licence and the grant of a new licence of a different category or subcategory.
71P(1)(a)	Give or refuse consent to the subdivision of an access licence by cancelling the licence and granting two or more licences in its place.
71P(1)(b)	Give or refuse consent to, the consolidation of two or more access licences that relate to the same water management area or water sources and are of the same category or subcategory by cancelling the licences and granting a single licence in their place.
71Q(1)	Give or refuse consent to the assignment of rights between two or more access licences of the same category with respect to the same water management area or water source by reduction of the share or extraction component, or both, of one or some of the licences, and a corresponding increase in the share or extraction component, or both, of the others, on the application of the holder or holders of the licences.
71R(1)	Give or refuse consent to the cancellation of an access licence and the grant of a new

Section	Function
	access licence with a share component specifying a different water source or water management area, on the application of the holder of the licence.
71S(1)	Give or refuse consent to the amendment of the extraction component of an access licence, so as to vary the times, rates or circumstances specified in the licence with respect to the taking of water under the licence, or to vary the areas or locations specified in the licence as the areas or location from which water may be taken under the licence.
71T(2)	Give or refuse consent to the assignment of water allocations between the water allocation accounts for two or more access licences, on the application of the holders of the licences.
71T(4)	Receive notice given by parties who have completed an assignment of water allocations.
71U(2)	Give or refuse consent to the grant or cancellation of an access licence to give effect to the interstate transfer of access licences and their corresponding interstate equivalents, on an application made pursuant to an agreement under section 71U(1).
71V(2)	Give or refuse consent to the crediting of water allocations to an access licence, or the debiting of water allocations from an access licence, to give effect to an interstate assignment of water allocations, on an application made pursuant to an agreement under section 71V(1).
71W(1)	Give or refuse consent to the amendment of an access licence so as: (a) to nominate a specified water supply work, or group of water supply works, as a work or group of works by means of which water allocations under the licence may be taken, or (b) to withdraw any such nomination, on the application of the holder of the licence.
71Y(6)	Deal with 2 or more related dealings at the same time and in the same application as if they comprised one dealing.
72	Record a person as the holder or co-holder of an access licence or a holding in an access licence, (a) if satisfied that the applicant is entitled to be recorded in the Access Register as he holder or co-holder, and (b) if nothing recorded in the Access Register prevents the registration, and require evidence of applicant's entitlement to be recorded in Access Register as a holder or co-holder.
74 and Schedule 1B	Give or refuse consent to the extinguishment of the holdings of one or more co-holders of an access licence and the granting of a new access licence in accordance with Schedule 1B.
76	Give or refuse consent to an application for used water allocations to be recredited to the water allocation account for an access licence and deal with an application in accordance with the water return flow rules, subject to the condition that Water NSW provide water account information to DPI Water.
77(1)	Receive a surrendered access licence.
77(4)	Cancel a surrendered access licence and record in the Access Register that the Minister is the holder of the surrendered licence.
77A(1)	Cancel a supplementary access licence when the relevant management plan ceases to make provision for the extraction of water under the access licence.
77A(2)	Cancel a specific purpose access licence, if of the opinion that the purpose for which the licence was granted no longer exists.
77A(4)	Cancel an access licence of a category prescribed by the regulations other than a specified purpose access licence.
77A(5)	Cancel an access licence if the period for which the licence is to have effect was specified in an order under section 65 and the period has expired.
78(1)	Suspend or cancel an access licence on one or more grounds.
78A(1)	Given written notice to the holder of an access licence, and if there are security holders in relation to the access licence to those security holders, of proposed action under section 77A or 78, give any such person a reasonable opportunity to make submissions with respect to the proposed action and take any such submissions into consideration.
85(1)	Keep a water allocation account for each access licence.
85(2)	Credit water allocations to the water allocation account for an access licence in accordance with any relevant available water determination, subject to the condition that Water NSW provide water account information to DPI Water.

Section	Function
85(3)	As a result of the early release of water by Snowy Hydro Limited: <ul style="list-style-type: none"> <li>▼ credit an amount of water to the water allocation account for an access licence; and</li> <li>▼ subsequently debit the same amount of water as is so credited in accordance with directions of the Minister,</li> </ul> subject to the condition that Water NSW provide water account information to DPI Water.
85(5)	Withdraw water allocations from a water allocation account as referred to in section 21(c), subject to the condition that Water NSW provide water account information to DPI Water.
87B	Issue a certificate in the approved form in respect of an access licence (an “access licence certificate”) and all other action under section 87B.
Clause 1(2) within Schedule 1A	Record the details of any Ministerial action (other than the grant of an access licence under section 63, 63A or 63B), in the Access Register and determine the form in which such actions may be recorded.
Clause 1(4) within Schedule 1A	Include in the Access Register such other information about the holder of an access licence and the conditions of and other matters relating to the licence as is considered appropriate.

Table A.2 *Water Act 1912* (NSW)

**Note: The following ‘licensing functions’ under the *Water Act 1912* include functions relating to the issuing of permits and authorities as well as licences.**

Section	Function
10	Accept applications and prescribe a form for the application of licences.
11(1)-(2C), 18G and 20A	Cause publication of applications, amended applications and notices all related to actions under sections 11(1)-(2C) (application for licence), 18G (application for permit) and 20A(1)(1D) (application for authority).
11	Decide whether to grant or refuse an application, determine period, terms, limitations and conditions, give applicant notice of decision, apply to Civil and Administrative Tribunal for an inquiry.
11A	Refer an application to the Planning Assessment Commission and all other action of the Ministerial Corporation under 11A.
12	Issue a licence in the prescribed form, impose terms, limitations and conditions, reject an application for failure to pay prescribed fee, retain deposit or any part of deposit and all other action under section 12.
13AA	Issue an amended licence to reduce area authorised to be irrigation, the capacity of the work or the quantity of water which may be taken.
13C	Refuse to grant any application for a licence, renew a licence, grant an extension of time for completion of alternations, repairs or additions and all other action under section 13C.
13D	Grant permission in writing for the holder of a licence or authority for a joint water supply scheme granted for the purpose of irrigation or water supply to take water from a river or lake by means of any work covered by the licence or authority before the whole of the works covered by the licence or authority have been constructed or provided.
13F	Give notice of proposed cancellation to licence holder.
14	Renew, or refuse to renew, a licence from time to time, deal with an application lodged after the licence expires, determine period, terms, limitations and conditions, notify applicant, notify any owners and occupiers of intervening lands and all other functions of the Ministerial Corporation under section 14.
14A	Prescribe fees for issuing and renewal of licences, including issuing or renewing licences to public authority at a nominal fee.
15	Require a separate application to be made in respect of each work, determine what works may be included as a combined work in an application for a licence or group licence and all

Section	Function
	other action under section 15.
17A, 20H and 20S	Serve notice to revoke, suspend or modify a licence and withdraw or annul a licence under 17A or an authority under 20H or a group licence under 20S.
17C, 20HB and 20U	Place notices to revoke suspend or modify licences/authorities in the Gazette.
18	Cancel an annual licence.
18F	Approve the prescribed form to apply for a permit to construct and use a work under section 18F.
18G	Grant or refuse an application for a permit.
18H	Grant a permit instead of imposing a licence, impose limitations and conditions and all other action under section 18H.
18I	Issue a permit on payment of fee, require alternations be made to or in connection with a work or to plans and specifications of the work and all other action under section 18I.
18J	Renew a permit, impose limitations and conditions and all other actions under section 18J.
18M	Prescribe fees for issuing and renewal of permits, including issuing or renewing permits to public authority at a nominal fee.
18N	Require a separate application to be made in respect of each work, determine what works may be included as a combined work in an application for a licence or group licence and all other action under section 18N.
18O	Issue notices to suspend, modify or withdraw permits, or to reduce the quantity of water authorised by the permit under section 18O.
20	Receive applications for an authority to construct and use the joint water supply scheme and to take and use the water which may be conserved or obtained via the scheme, prescribe the form of the scheme, receive the prescribed deposit.
20A(1) and (1D)	Publish application for authorities in Gazette, form the opinion changes warrant advertising an amended application and advertise amended applications.
20B	Grant an authority for a joint water supply scheme, determine the period, terms and conditions, reject an application, retain any deposit, any part of such deposit and all other action under 20B.
20BA	Refuse to grant any application for an authority, renew an authority, determine conditions, grant an extension of time for completion of alterations, repairs or additional works and all other actions under section 20BA.
20BB	Permit holders of an authority to take water in accordance with section 20BB, issue a written permission to that effect and all other action under section 20BB.
20BC	Give written notice to holders of an authority of cancellation after specified period, annul or withdraw notice given before expiration or specified period and all other action under section 20BC.
20C	Renew an authority, determine all terms and conditions and all other actions under section 20C.
20CB	Renew an authority, determine period, terms, limitations and conditions and all other actions under section 20CB.
20D	Cancel an authority, provide written consent to an alteration of a work and all other action under section 20D.
20E	Issue an amended authority, determine terms and conditions, cause publication of notice giving particulars of application, advertise any amended application, direct the Director-General or a Magistrate to hold a public inquiry, decide whether or not to grant an application, determine terms and conditions and all other actions under section 20E.
20F	Cancel an authority following breach of terms and conditions and all other action under section 20F.
20H	Serve a notice on authority holders that the authority will be revoked, suspended or modified, quantity of water reduced or right restricted.



Section	Function
20AF	Temporarily vary or waive a condition of an entitlement relating to the ordering of supplies under the water allocation of the entitlement, debit the quantity of water taken and all other action under section 20AF.
20AH	Approve the transfer of the whole or part of a water allocation, including a transfer between different schemes whether for a limited period or without limitation as to duration and all other action under section 20AH.
20AI	Accept and consider an application for transfer of a water allocation, approve a farm water management plan, be satisfied water allocation will be used in accordance with such a plan, and all other action under section 20AI.
20AJ	Determine an acceptable form for the particulars of a transfer, prescribe payment of the fee due and all other action under section 20AJ.
20AK	Cancel an existing entitlement.
20AQ	Cancellation of an entitlement where a new entitlement is granted that includes a water allocation purchased under Division 4D.
22B	Once DPI Water has formed the view that there is a water shortage, issue, amend, alter, modify or cancel notices under section 22B to restrict or suspend the rights held under licences, group licences, authorities or permits.
107	Refer any proposal for construction of an artesian well by the Crown to the Director-General by notification in the Gazette, declare land to be a district with which charges may be levied, carry out work and all other action under s 107.
109	Approve a request on petition of occupiers and construct a well, channels and other works following the petitions of occupiers and all other action under s 109.
111	By notice in the Gazette, extend the supply of water from an artesian well to the lands of occupiers, owners and mortgagees and all other functions under s 111.
113	Cause advertisement of application, receive application and prescribe form of application, plans and descriptions.
113A	Issue or revoke orders or notices relating to invalidation of applications for licences under section 113A and reject applications.
115	Issue a licence to the applicant in the prescribed form, determine limitations and conditions and all other action under section 115.
116	Grant a licence for a limited period, renew a licence on payment of the prescribed fee, limit the period of renewal, grant an extended time for sinking bores and for enlarging, deepening or altering bores and all other action under section 116.
116A	Issue or renew a licence at a nominal fee where the applicant is a public authority.
116B	Reject an application for non-payment of prescribed fee under section 116B.
116C	Impose limitations and conditions on a licence, cause written notice of intention to impose, have regard to any submissions made and all other action under section 116C.
117A	Declare, vary, revoke or amend restricted sub-surface water areas, issue orders and all other actions under section 117A .
117B	Prescribe, vary, revoke and amend prescribed areas, fix charges in relation to prescribed areas and remit or waive the payment of any charge paid or payable.
117E	Once DPI Water has formed the view that there is a water shortage, restrict or suspend rights held under licences during period of water shortage and cause publication of the necessary notice under section 117E.
117G	Vary a licensee's water allocation and all other action under section 117G.
117H	Cancellation or suspension of licences, providing written notice, having regard to written notices duly made.
117J	Determine sub-surface water basins (or part of basins), approve applications to transfer the whole or part of the water allocation licence under section 117J, refuse to approve a transfer, require information to be provided and all other actions under s 117J.
118A	Issue or cancel a drillers licence, require information to be provided, require information in

Section	Function
	relation to a construction of a bore, cancel drillers licences.

**Table A.3** *Water Management (General) Regulation 2011 (NSW)*

Clause	Function
9(1)(a)	Approve the form of an application for a water access licence.
15(2)(b)(ii)	Determine priority for the debit of water allocations where nomination is not made or is incapable of being implemented.
18(4)	Extend the date an exemption with respect to approved water for basic human water needs.
Schedule 5 clause 14	Determine whether it is satisfied that the proposed watering is in the public interest and urgently required for basic human watering needs, and approve in writing a watering program that addresses the amount of water proposed to be taken and the water source from which the water will be taken.

**Table A.4** *Management plans/ Minister's plans*

Function
Functions of the Minister under a Management Plan relating to the following:
Amending access licence share components when informed by DPI Water;
Granting access licences;
Managing water allocation accounts;
Imposing daily access rules;
Managing access to daily flows other than supplementary water;
Granting and amending water supply work approvals;
Imposing restrictions on water supply works located within restricted distances specified in a water sharing plan;
Managing local access rules in local impact areas declared by the Minister; and
Imposing mandatory conditions in accordance with any model conditions developed by DPI Water.

**Table A.5** *Access Licence Dealing Principles Order 2004 (NSW)*

Section	Function
11	Determine the conversion factor for the calculation of the share component on a new access licence. This is performed in accordance with any rules set out in the relevant management plan.
20(7)	For water supply works dealings under 71W, determine capacity that would conserve water consistent with the share component of the access licence.

### A.3 Approval functions

The functions in the table below under the *Water Management Act NSW 2000* (NSW) and the *Water Management (General) Regulations 2011* (NSW) which relate to approvals are conferred on Water NSW except where functions are to be exercised in relation to approvals or approval applications:

- ▼ where the relevant approval is a controlled activity approval or an aquifer interference approval; or

- ▼ held or submitted by a Major Utility, Water Supply Authority, Local Water Utility, Irrigation Corporation, the Commonwealth, another State or Territory, a New South Wales government agency or a state owned corporation constituted under the *State Owned Corporations Act 1989* (NSW); or
- ▼ which relate to activities where the applicant has obtained or will obtain an Aboriginal commercial, Aboriginal community development, Aboriginal cultural or Aboriginal environmental subcategory of access licence; or
- ▼ which relate to activities where the applicant has been required to obtain any authority, lease or licence under the *Mining Act 1992* (NSW), the *Offshore Minerals Act 1999* (NSW), or the *Petroleum (Onshore) Act 1991* (NSW) or any permit or licence under the *Petroleum (Offshore) Act 1982* (NSW); or
- ▼ which relate to activities for a development which has been:
  - declared a state significant development under section 89C of the EP&A Act or is declared a state significant development under a State environmental planning policy,
  - declared a state significant infrastructure under s 115U of the EP&A Act or is declared a state significant infrastructure under a State environmental planning policy; or
  - approved under the now repealed Part 3A of the EP&A Act.

#### **A.4 Compliance with licensing procedure manual**

In exercising functions conferred on Water NSW related to approvals, Water NSW must comply with the Licensing Procedures Manual issued by the NSW Department of Industry as updated from time to time, but only:

1. to the extent the requirements in the Licensing Procedures Manual are reasonable, relevant and practicable for Water NSW to adopt; or
2. where DPI Water acting reasonably specifically identifies the requirement as a mandatory requirement and communicates the mandatory requirement to Water NSW and to IPART.

Notwithstanding the above, compliance with the Licensing Procedures Manual is not required in the event the Licensing Procedures Manual either:

1. does not prescribe a procedure; or
2. prescribes a procedure requiring access to information or systems not available to Water NSW staff.

**Table A.6     *Water Management Act 2000 (NSW)***

For the purposes of this Table A.6, a reference to 'the Act' is a reference to the *Water Management Act 2000 (NSW)*.

Section	Function
92(4)	Require a separate application to be made in relation to one or more approvals.
92(5)(a)	Require an application for an approval to provide additional information within a specified time if of the opinion that additional information would be relevant to consideration of the application.
92(5)(b)	Delay consideration of an application until additional information required under section 92(5)(a) is provided, or refuse to consider an application if the additional information is not provided within the time specified.
92(6)	Refuse to accept an application for an approval if it appears that the application is incomplete.
93(2)	Inform the applicant for an approval of the grounds of any objection to the granting of the approval and allow the applicant a specified time within which to make a written response in relation to the objection.
93(3)(a)	Require an objector or applicant to provide additional information within a specified time if of the opinion that additional information would be relevant to consideration of the objection or response.
93(3)(b)	Delay consideration of an objection or response until the additional information is provided, or refuse to consider the objections or response if additional information is not provided within the time specified.
93(4)	Notify the objector or application of a deficiency in an objection or response and allow time to rectify.
93(5)	Endeavour to resolve the issues raised by an objection through consultation with the applicant and objector, with a view to reaching agreement on the matters raised by the objection.
93(6)	Propose that matters raised by an objection be dealt with by way of mediation or a neutral evaluation involving an independent mediator or evaluator appointed by agreement between the applicant and objector.
93(7)	Payment of costs where conditions have been incorrectly applied to a licence.
93(8)	Dismiss an application or objection for failure to participate in mediation or neutral evaluation proceedings.
94(2)(a)	Refer an application for an approval and any objection to the application to a Planning Assessment Commission, including any information furnished in relation to the application.
95(1)	Grant or refuse an application for a water use approval, water management work approval.
95(4)	Determine the form of an approval.
97	Refuse an application for a water use approval or water management work approval.
98	Notify the applicant of the determination of an application, and if the application relates to an approval that has been advertised pursuant to section 92, to each person who has made an objection to the Minister in connection with the application.
99	On application or on own motion, grant 2 or more approvals by means of a single approval document.
100(1)	Impose mandatory and discretionary conditions on an approval.
101(2)	Impose conditions on a water management work approval for a water management work the subject of a joint scheme, as required by the regulations or as agreed by the landholders concerned.
102(1)	Impose or amend discretionary conditions on an approval after the approval has been granted. Give notice to the approval holder, provide opportunity to make submissions and take submissions into consideration.
102(3)	Impose, amend, revoke or suspend mandatory conditions on an approval.

Section	Function
102(4)	Cause written notice of any conditions imposed, amended, revoked or suspended under section 102 to be served on the holder of the approval concerned.
103	Revoke any discretionary conditions to which an approval is subject, whether or not on the application of the holder of the approval.
104(4)	Fix a date for expiration of an approval once an application for an extension has been lodged.
104(5)	Accept or reject reasons for delay in making an application for an extension of an approval.
105	Grant or refuse an application for an extension of the period for which an approval has effect and all related action.
107(1)	Amend an approval on the application of the holder of the approval.
108	Receive a surrendered approval.
109(1)	Suspend or cancel an approval on one or more grounds.
109(2A)	Amend an approval to give effect to suspension or cancellation of part of an approval.
109(3)	Give written notice to an approval holder of proposed action under section 109, provide the approval holder a reasonable opportunity to make submissions, and take any submissions into consideration.
114(1)	Impose fees and charges for the purposes of the Act consistent with any relevant determination in relation to the price of Bulk Water made by IPART or any other pricing authority vested with the power to determine prices for Water NSW.
114(2)	Waive or reduce fees or charges, in a particular case or class of cases, if of the opinion that the circumstances warrant it.

**Table A.7      *Water Management (General) Regulation 2011 (NSW)***

Section	Function
23(1)(a)	Approve form for approval applications made under Part 3 of Chapter 3 of the <i>Water Management Act 2000</i> (NSW).
23(1)(b)	Require an application under Part 3 of Chapter 3 to include or to be accompanied by an assessment of the likely impact of the water use, work or activity concerned.
23(3)	Issue requirements for an assessment of the likely impact of water use, work or activity concerned for an application under Part 3 of Chapter 3 of the <i>Water Management Act 2000</i> (NSW).
24(1A)&(1B)	Assess whether an application for a flood work approval is a non-complying flood work and being satisfied that the work complies with the converted floodplain management plan.
24(5)	Cause publication of notice of application for an approval.
28(1), (2), (3), (4) &(8)	Impose a condition requiring a security be provided, take a security from an approval holder for the cost of the holder's obligations under the approval, determine the amount of a security, retain a security deposit and refund a security deposit.
31(4)	Set applicable requirements on an exemption conferred under section 31 and publish these in the Gazette or notify the person in writing.
36(1)(f)(ii) & 36(4)	Determine a period in writing for the removal of a water supply work and impose any applicable requirements on an exemption conferred under 36(1)(f).

## A.5 Compliance functions

The functions in the tables below under the *Water Management Act NSW 2000* (NSW) and the *Water Act 1912* (NSW) which relate to compliance are conferred on Water NSW to the extent that the person who the compliance activity is being taken against holds, or is required to

hold, a license or an approval which it is within the authority of Water NSW to grant under this operating licence.

## A.6 Compliance with compliance procedures guidelines

All compliance action taken by Water NSW must be done in accordance with the Guidelines but only:

1. to the extent the requirements in the Guidelines are reasonable, relevant and practicable for Water NSW to adopt; or
2. where DPI Water acting reasonably specifically identifies the requirement as a mandatory requirement and communicates the mandatory requirement to Water NSW and to IPART.

Notwithstanding the above, compliance with the Guidelines is not required in the event the Guidelines either:

1. does not prescribe a procedure; or
2. prescribes a procedure requiring access to information or systems not available to Water NSW staff.

**Table A.8** *Water Management Act 2000 (NSW)*

For the purposes of this Table A.8, a reference to 'the Act' is a reference to the *Water Management Act 2000 (NSW)*.

Section	Function
60G(1)	Impose on a person a charge for water taken and/or order that any water allocations credited or to be credited to the water allocation account for the access licence held by the person be debited up to 5 times the quantity of water taken.
60G(2)	Give written notice to a person of proposed action under section 60G(1), allow a reasonable opportunity for submission and take any submissions made into consideration.
324(1)	Once DPI Water has formed the view that there is a water shortage, by order in writing, direct that for a specified period the taking of water from a specified water source is prohibited, or is subject to specified restrictions, as the case requires. In such cases, Water NSW must notify the Director-General of DPI Water as soon as practicable after making any such direction.
324(2)	By order in writing, direct that, within a specified area and for a specified period, the taking of water from an aquifer, or from any other aquifer above, below or adjacent to that aquifer, is prohibited or is subject to specified restrictions, as the case requires.
324(3)	Cause a copy of an order under 324 to be published.
324(4)	Cause notice of the order to be broadcast by a television or radio station transmitting to the part or parts of the State within which the water source is situated.
325	By order in writing, direct a landholder to take specified measures to ensure water is not wasted.
327	Form the opinion that a water management work is being or will be constructed or used in contravention of the Act and by order in writing, direct a person to take specified measures: (a) to prohibit or discontinue its construction or use, or (b) to construct or use the work only as specified.
329(2)	By order in writing, direct a person to take specified measures to demolish, remove, modify or dismantle a water management work or otherwise render it ineffective.
330(1)	By order in writing, direct that for a specified period, the use of a water management work,



Section	Function
	or the carrying out of an activity, is prohibited, or is subject to specified restrictions or specified measures as the case requires.
332	By order in writing, direct a landholder to take specific measures (a) to prevent stock from straying from the landholder's land into or onto a water management work that is owned by, or is under the control or management of, the Ministerial Corporation, or (b) to repair any damage caused to any such water management work as a consequence of stock having strayed from the landholder's land.
333(2)	By order in writing, direct a person to take specified measures to prevent, minimize or mitigate any adverse effect on a water source or water front land, as a consequence of the construction or use of the work or the carrying out of the activity.
334(1)	Require a person to prepare and submit reports as to: (a) the measures the person proposes to take for the purpose of complying with a direction, (b) the progress made by the person in implementing any such measures.
334(2)	Prohibit a person from implementing measures the person proposes to take for the purpose of complying with a direction pursuant to section 334(1) and approve measures that a person proposes to take for the purposes of complying with a direction under Part 1 of Chapter 7.
336A(1)	Where a person fails to take measures specified in a direction under Part 3 of Chapter 7 of the Act, authorise any other person to take those measures.
336A(2)	Authorise the recovery, in a court of competent jurisdiction as a debt due to the Ministerial Corporation from a person on whom a direction was served, the amount of any costs and expenses incurred as a result of taking measures under 336A(1).
338A(1)	By notice in writing, require a person to furnish information or records (or both) for the purposes of the Act, under section 338A(1).
338B(2)	By notice in writing, require a corporation to nominate in writing, within the time specified in the notice, a director or officer of the corporation to be the corporation's representative for the purpose of answering questions.
339E(2)	By notice in writing, require the owner or occupier of a premises to provide such reasonable assistance and facilities as specified in the notice, within a specified time and in a specified manner.
339G	Compensate parties for damage caused by authorised officers where the authorised officer is carrying out a function conferred on Water NSW under this or any other operating licence.
340C(1)	Revoke or vary a notice by a subsequent notice or notices.
343(1)	Authorise a person to take water from a water supply work owned by, or under the control and management of, the Minister or the Ministerial Corporation.
356	Charge interest on an overdue rate. The rate of interest is not to exceed the rate of interest payable on an unpaid judgement of the Supreme Court.
362A	Co-holders of a licence are jointly and severally liable to the Minister for fees, charges and civil penalties related to the licence.
362B	Issue a certificate as to the specified amount that is payable in relation to an access licence pursuant to fees, charges and civil penalties imposed under the Act, or that no amount is payable.
362C	Recover unpaid fees, charges or civil penalties, under section 362C (including commencement of court proceedings to do so).
365(7)	Withdraw a penalty notice for an offence.
367(1) & (2)	Issue an evidentiary certificate which is admissible in legal proceedings as evidence of facts stated, including that instruments have been made by authorised delegates and that payments have been made under the Act.
367(5)	By order, approve a gauge of a type or design, as an approved river gauge, for the purposes measuring the level or flow of water in a river or lake.
372(1)(a),(a1), (b) and (c)	Construct, maintain and operate water management works, gauging stations and other monitoring equipment, conduction research, collection information and develop technology

Section	Function
	in relation to water management and acquire rights to water whether within or beyond New South Wales.
390	Appoint authorised officers and authorised analysts.
Schedule 1A	All action in relation to recording matters in the access licence register and all other action under Schedule 1A excluding those already listed above.

**Table A.9      *Water Act 1912 (NSW)***

Section	Function
20AE	Authorise persons as agents to enter on any land and inspect any work used for taking water from a water source which is subject to a volumetric water allocation scheme and to dismantle a meter or other device.
21A	Issue notices to abate or cease an offence, authorise persons to enter upon and inspect any land or premises and take such measures as are considered necessary to abate any act, matter or thing mentioned in section 21A(1) and recover expenses incurred in making entry.
21B	Issue directions to remove the whole or any part of a work or to carry out any work.
22	Authorise persons to enter on any land and take levels and make surveys and marks, fix pegs and stakes and inspect any works, remove any unlawful dam or weir.
120(2)	Issue a notice to effect repairs and do other things in order to put a channel in an efficient condition, cause repairs and other such things specified in a notice to be done, if, after one week, the notice is not complied with.
121A	Issue an order or written permission for the interference with, or obstruction of, sub-surface water.
121B	Remove or render ineffective an unlawful artificial obstruction to the flow of subsurface water or render ineffective an unlicensed bore and recover associated costs under section 121B.
122A	Make declarations regarding the cessation of supply from an artesian well and cause publication of the necessary notice.
123	Issue order for wasteful or improper use of water from an artesian well.
124(1)	Authorise persons to enter any land and take levels and make surveys and marks, and fix pegs and stakes, and inspect any artesian well or bore and works in connection therewith, and measure and take the pressure of any artesian well or bore under section 124(1).

## A.7      Metering functions

The functions in the table below under the *Water Management Act 2000 (NSW)*, *Water Act 1912 (NSW)* and specified clauses of the *Water Management (General) Regulation 2011 (NSW)* which relate to meters are conferred on Water NSW.

**Table A.10      *Water Management Act 2000 (NSW)***

Section	Function
91I(3)	Authorise a person in writing to take water by means of a metered work while its metering equipment is not operating properly or is not operating and specify conditions in any such authorisation.
326(1)	By order in writing, direct a landholder or person to take specified measures to install, replace or to properly maintain metering equipment for use in connection with the water supply work.
372A(1)	Install, test and remove metering equipment.



**Table A.11     *Water Act 1912 (NSW)***

Section	Function
20AC	Approve the taking of water when a work is not connected to a water meter or other measuring device or approve a water meter or other measuring device, or consent to interference with a meter or measuring device and all other action under section 20AC.
117D	Provide consent in writing for interfering with a measuring or metering device, authorise persons as agents to enter land and dismantle for inspection metering or measuring devices for the purpose of ascertaining whether an offence has been committed.

**Table A.12     *Water Management (General) Regulation 2011***

Section	Function
231(2)	Modify metering equipment.
231(3)	Maintain, repair, modify, replace and operate metering equipment that is either metering equipment installed, modified or replaced: <ul style="list-style-type: none"> <li>▼ by the Ministerial Corporation on or after 4 March 2011; or</li> <li>▼ by the Ministerial Corporation before 4 March 2011 pursuant to the Funding Deed dated 15 April 2009 between the Commonwealth of Australia and the New South Wales Government in relation to the Hawkesbury Nepean River Recovery Project.</li> </ul>

## A.8     Border Rivers functions

The functions in the table below of the Water Administration Ministerial Corporation under the *New South Wales – Queensland Border Rivers Act 1947 (NSW)* are conferred on Water NSW subject to any requirements imposed by the Minister administering the *New South Wales – Queensland Border Rivers Act 1947* or the Border Rivers Commission.

**Table A.13     *New South Wales – Queensland Border Rivers Act 1947 (NSW)***

Section	Function
14	Constructing, maintaining, operating and controlling relevant works in New South Wales.
20	Exercising the powers and obligations of a Controlling Authority.

## A.9     General administrative functions

The functions in the table below under the *Water Management Act 2000 (NSW)* are conferred on Water NSW, but only to the extent they enable Water NSW to delegate any other function conferred upon it under this Licence.

**Table A.14     *Water Management Act 2000 (NSW)***

Section	Function
377	Delegate to any Water NSW employee exercise of any power of the Ministerial Corporation conferred on Water NSW via this operating licence, other than this function of delegation.
389(1)	Delegate to any person any functions of the Minister conferred on Water NSW via this operating licence, other than this function of delegation.

## A.10 Joint private works functions

The functions in the table below under the *Water Management Act 2000* (NSW) are conferred on Water NSW.

**Table A.15 Private irrigation board powers**

Section	Function
156(3)	Consider application for private irrigation board to take over water supply work and cause notice of application to be published.
157(4)	Where an objection is lodged to an application from a private irrigation board to take over a water supply work, consult with the objector and make a recommendation with respect to the objection.

**Table A.16 Private water trust powers**

Section	Function
229(2)	Give approval or refuse to approve the cessation or supply of water or deviation of water in a water supply district.
229(4)(b)	Direct members of a private trust to reduce or discontinue the taking of water from a water source.

## A.11 Group licences functions

The functions in the table below under the *Water Act 1912* (NSW) are conferred on Water NSW.

**Table A.17 Group licences functions**

Section	Function
20K	Approve the prescribed form for a group access licence.
20L	Decide whether to grant a group licence. Notify the Board of; any prescribed fee, the period of time for which the licence is to be issued and the terms, limitations and conditions attached to the licence. Issue a Board with a group licence and reject an application due to failure to pay a fee.
20M	Determine not to lapse pre-existing licences, group licences or authorities within the private district of the Board when a group licence is issued and set any terms, limitations and conditions (including by restrictions, modifications or variations) in relation to such pre-existing licences.
20N	Waive an amount of the prescribed group licence fee where any licence or authority lapses under s 20M.
20O	Renew group licences. Notify the Board of any prescribed fee, the period of time for which the licence is to be issued and the terms, limitations and conditions attached to the licence renewal. Issue a Board with a group licence renewal.
20Q	Approve the prescribed form for an application to amend a group licence, grant an amendment to a group licence and set a fee for an amendment to a group licence.
20S	Be satisfied that a notice may be issued, issue a notice to a Board and revoke, suspend or modify a group licence.
20T	Consent to make alternations in connection with a work covered by a group licence.
20U	Notify the revocation or cancellation of a group licence in the Gazette.

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## B Indicative map of operations



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