



Review of the Sydney Water Corporation Operating Licence 2015-2020

Final Report

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Tribunal Members

The Tribunal members for this review are:

Dr Paul Paterson, Chair

Mr Ed Willett

Ms Deborah Cope

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

Erin Cini (02) 9113 7778

Jamie Luke (02) 9290 8460

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Executive Summary

The Independent Pricing and Regulatory Tribunal of NSW (IPART) has undertaken the end-of-term review of the Sydney Water Corporation (Sydney Water) Operating Licence 2015-2020 (the existing licence). While the term of the existing licence does not end until 30 June 2020, we have brought this review forward by one year at Sydney Water's request to avoid it coinciding with our review of Sydney Water's prices in 2019-20.¹ We expect the recommended licence to apply from 1 July 2019.

We made our decisions on this review prior to the announcement of the machinery of government changes; we understand that the changes will not commence until 1 July 2019. The agencies consulted with and referred to in this report are the agencies that exist prior to the machinery of government changes. The licence and reporting manual will need to be updated once the machinery of government changes have commenced.

This report outlines our recommendations and the recommended licence clauses, and explains how and why we made those recommendations.

1.1 Overview of our recommended changes to Sydney Water's licence

We have made 85 recommendations to revise the existing licence to address issues identified by us and by stakeholders who provided submissions to our Issues Paper and the draft licence package.

We have identified new requirements where we consider licensing is appropriate to address emerging issues. In particular, we have made recommendations to require Sydney Water to:

- ▼ Implement water conservation measures that are economical.
- ▼ Participate in and support water planning for Greater Sydney by sharing plans and information with the Government.
- ▼ Address areas of recurring low water pressure.
- ▼ Provide water and wastewater services to *Water Industry Competition Act 2006* (WIC Act) licensees on request, provide specific information to the market and negotiate in good faith with potential competitors to reduce non-price barriers of entry to the market.
- ▼ Develop and implement a family violence policy to support vulnerable customers.
- ▼ Manage cyber security and national security risks.

We have also identified opportunities to revise the existing requirements where we consider the licence can improve on its design and administration to achieve the same or better regulatory outcomes. Most significantly, we have made recommendations to:

¹ We supported this request, and the then Minister of Energy and Utilities had no objection; Letter to IPART, The Hon. Don Harwin, MLC, Minister for Energy and Utilities, received 22 February 2018.

- ▼ Optimise the water continuity standard to reflect the value that customers place on the level of service for unplanned interruptions to water supply. We also recommend changing from a maximum threshold to an optimal level with a tolerance band.
- ▼ Change the definition of the duration of water pressure failure from 15 minutes to one hour to reflect customers' preferences that a short duration event of low water pressure is considered less important by customers compared to other events.
- ▼ Change the way the measure of performance standards is expressed so that the standards allow for the effect of growth and development in Sydney.
- ▼ Allow flexibility for Sydney Water to use another economic method to determine the level of water conservation.
- ▼ Revise the Customer Contract to clarify customer protection clauses that apply to tenants and change the rebates to reflect the extent of inconvenience to customers.
- ▼ Remove the prescriptive requirements for the composition of the Customer Council.
- ▼ Require Sydney Water to publish a map of its area of operations.

In addition, we have identified opportunities to remove existing requirements from the licence where we consider these requirements are no longer the best response to address the risk or issue. We have made recommendations to:

- ▼ Remove the requirement to maintain, implement and certify an Environmental Management System (EMS) because the Environment Protection Authority already provides a financial incentive for Sydney Water to maintain a certified EMS.
- ▼ Remove the requirement to maintain, implement and certify a Quality Management System (QMS) because it duplicates functions of other clauses in the licence to achieve quality products and services.
- ▼ Remove the requirement to report on response times for water main breaks and leaks because these indicators do not reflect the time taken to restore supply to customers and appear to be of low public interest and we are comprehensively addressing water conservation through other obligations.

1.2 How we approached this review

For this licence review, we have conducted a public consultation process, and applied our *Best Practice Licensing Framework* (discussed further in section 2.4). This framework involves four stages, which answer the following key questions:

1. Is licensing appropriate?
2. Is the licence well designed?
3. Is the licence administered effectively and efficiently?
4. Is licensing the best response?²

² IPART, *A best practice approach to designing and reviewing licensing schemes*, prepared by PricewaterhouseCoopers, March 2013.

As the first step of this approach, we assessed the existing licence and the associated reporting manual by applying the first three stages of the framework, to form our preliminary views. We released an Issues Paper in June 2018 that explained these views and sought stakeholder feedback. We received 15 submissions from the following stakeholders on the Issues Paper:

- ▼ A sub-group of members from the Australian Water Association's Water Efficiency Specialist Network (AWA-WESN)
- ▼ City of Sydney Council (City of Sydney)
- ▼ Critical Infrastructure Security Division, Department of Home Affairs (Home Affairs)
- ▼ Energy and Water Ombudsman (EWON)
- ▼ Flow Systems Pty Ltd (Flow Systems)
- ▼ Hunter Water Corporation (Hunter Water)
- ▼ Institute for Culture and Society at Western Sydney University (ICS)
- ▼ Institute for Sustainable Futures at the University of Technology Sydney (ISF)
- ▼ Northern Beaches Council
- ▼ NSW Government, including comments from the Department of Planning and Environment (DPE), NSW Health, Environment Protection Authority (EPA), Fire and Rescue NSW (FRNSW), Office of Environment and Heritage (OEH), and the Office of Emergency Management (OEM)
- ▼ Open Cities Alliance (Open Cities)
- ▼ Public Interest Advocacy Centre (PIAC)
- ▼ Scotland Island Residents Association (SIRA)
- ▼ Sydney Water
- ▼ Total Environmental Centre (TEC).

As the second step, we considered all these submissions and undertook further analysis to form the proposed positions and draft recommendations on the proposed licence and reporting manual. In particular, we:

1. Considered stakeholder views to determine potential licence obligations and reporting requirements.
2. Applied the fourth stage of our *Best Practice Licensing Framework* to existing clauses that had satisfied the first three stages of the framework (refer to our Issues Paper), by using cost-benefit analysis on the proposed licence obligations to assess whether licensing is still the best response.
3. Applied all four stages of our *Best Practice Licensing Framework* to the proposed licence clauses to ensure licensing is the best response.

As the third step, we released a draft licence package in December 2018 that explained our draft positions and recommendations. We sought further stakeholder feedback to our draft licence package, including a public workshop on 5 February 2019 to provide an opportunity for stakeholders to comment on the draft licence package, prior to the close of submissions. More than 40 people attended the public workshop and 13 organisations participated at that

workshop. We received 11 submissions from the following stakeholders on the draft licence package:

- ▼ EWON
- ▼ Flow Systems
- ▼ Home Affairs
- ▼ NSW Government, including comments from DPE, FRNSW and Rural Fire Services (RFS)
- ▼ Open Cities
- ▼ PIAC
- ▼ SIRA
- ▼ Sydney Water
- ▼ WaterNSW
- ▼ Individual – P. Coombes and M. Smit
- ▼ Individual – Z. Sofoulis.

The draft licence package documents and stakeholder submissions are available on our website.

As the final step, we considered all these submissions, well as comments raised by stakeholders at the public workshop. We then undertook further analysis to inform our final recommendations for the recommended licence, including the customer contract, and the reporting manual.

This report explains our final positions and why we reached these positions and sets out our final recommendations. The findings of our cost-benefit analysis is presented in Appendix A to the draft report³. We have also prepared a recommended licence, recommended customer contract, and reporting manual that reflect our recommendations.

1.3 Structure of this report

The rest of this report provides more information about the review, and then discusses our positions and final recommendations, the analysis that underpins them, and our consideration of stakeholder comments:

- ▼ Chapter 2 explains the context for the review, including the role of Sydney Water’s licence and how we are applied the *Best Practice Licensing Framework* as part of our approach for this review.
- ▼ Chapter 3 sets out our proposed new structure for the recommended licence.
- ▼ Chapters 4 to 14 discuss the stakeholder views and our recommendations for the recommended licence. These parts are:
 - Licence context
 - Licence authorisation

³ IPART, *Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report*, December 2018, p 123.

- Water conservation and planning
- Performance standards for water quality
- Performance standards for service interruptions
- Customers and consumers
- Stakeholder cooperation
- Information and services for competitors
- Critical infrastructure security
- Performance monitoring and reporting.

1.4 List of recommendations in this report

A complete list of our recommendations is provided below.

Licence structure

- | | | |
|---|---|----|
| 1 | Revise the licence structure as shown in Table 3.1. | 19 |
|---|---|----|

Licence context

- | | | |
|---|--|----|
| 2 | Revise the licence objective so that it is outcomes-based and aligns with Sydney Water's objectives under the Act. | 22 |
| 3 | Revise the area of operations schedule to refer to the Act, and require Sydney Water to publish a map of its area of operations by 31 December 2019, and make any required updates to the area of operations within 30 days of any change. | 24 |
| 4 | Adopt a 4-year licence term from the Commencement Date. | 25 |
| 5 | Retain the existing licence amendment provisions. | 25 |
| 6 | Retain the existing non-exclusive licence and availability of licence clauses. | 26 |
| 7 | Retain the existing pricing obligation. | 27 |
| 8 | Revise the existing clauses on the end of term review of the licence to specify IPART as the person who will undertake the review. | 28 |
| 9 | Revise the notices obligations to provide that certain notices under the licence must be approved by the Managing Director of Sydney Water and that notices may be sent electronically, unless otherwise specified in the licence or reporting manual. | 29 |

Licence authorisation

- | | | |
|----|---|----|
| 10 | Revise the licence authorisation and stormwater drainage clauses to clearly differentiate between the 'required' and the 'permitted' functions of Sydney Water relating to the stormwater drainage systems. | 31 |
| 11 | Sydney Water can apply integrated water cycle management under the licence but is not required to do so. | 32 |

-
- 12 Sydney Water can adopt measures to address waterway health and liveability outcomes under the licence but it is not required to do so. Include a note in the licence to clarify Sydney Water's role in stormwater management. 33
- 13 Include an obligation to provide water and sewerage services to a WIC Act licensee on request from the WIC Act licensee, and allow Sydney Water to impose conditions to ensure safe, reliable and financially viable services. 34

Water conservation and planning

- 14 Retain the requirement for Sydney Water to use the approved economic level of water conservation method to assess water conservation options but also provide flexibility for it to use another economic method that has been approved by IPART. 37
- 15 Include a new obligation that Sydney Water must implement water conservation measures that have been assessed as economic as determined by the approved method. 39
- 16 Retain the requirement for Sydney Water to notify IPART and obtain IPART's approval for any significant changes it proposes to make to the economic level of water conservation method, and revise this requirement so it applies to any other economic method we have previously approved. 39
- 17 Include an obligation for Sydney Water to review its ELWC method, including stakeholder consultation, by 30 September 2020. 41
- 18 Revise the licence to require Sydney Water to publish on its website: 42
- The ELWC method or another economic method approved by IPART 42
 - A plain English summary of the method 42
 - The ELWC expressed as the quantity of water savings in megalitres per day, updated monthly. 42
- 19 Revise the reporting manual to specify that Sydney Water is to report additional information in its Water Conservation Report on its water conservation measures assessed and implemented under the ELWC method, and to provide the Water Conservation Report to DPE by 1 September each year. 42
- 20 Revise the reporting manual to include two performance indicators for water conservation, as the observed and weather-corrected level of water usage expressed as litres per capita per day. 43
- 21 Remove the requirements for Sydney Water to develop an economic level of water conservation method, and transition from fixed targets for water usage and water leakage. 43
- 22 Include a requirement for Sydney Water to participate cooperatively in any review of the Metropolitan Water Plan. 44

- | | | |
|----|--|----|
| 23 | Include a requirement for Sydney Water to use its best endeavours to implement those aspects of the Metropolitan Water Plan relevant to Sydney Water's functions and agreed in writing with DPE. | 44 |
| 24 | Include new requirements for Sydney Water to develop and submit to the portfolio Minister by December 2020 (or a later date approved by the Minister in writing), a long-term capital and operational plan and an emergency drought response plan that address guidance provided by the Minister, and to use its best endeavours to develop these plans as joint plans in cooperation with WaterNSW. | 46 |
| 25 | Revise the licence to include a new requirement for Sydney Water to develop and enter into a data sharing agreement with DPE by 31 July 2019 (or another date approved by IPART). | 47 |
| 26 | Retain the existing Priority Sewerage Program obligations. | 49 |
| 27 | Retain the list of areas and update the estimated number of lots in the Priority Sewerage Program shown in Schedule 3 of the existing licence. | 49 |

Performance standards for water quality

- | | | |
|----|---|----|
| 28 | Retain the existing clauses on maintaining management systems consistent with the <i>Australian Drinking Water Guidelines</i> . | 51 |
| 29 | Retain the existing clauses on maintaining management systems consistent with the <i>Australian Guidelines for Water Recycling</i> . | 51 |
| 30 | Expand the definition of <i>Australian Guidelines for Water Recycling</i> in the licence to include all volumes. | 53 |
| 31 | Remove the existing clauses on obtaining NSW Health's approval for any significant changes that Sydney Water proposes to make to the Drinking Water Quality Management System and the Recycled Water Quality Management System, as the licence does not preclude Sydney Water from engaging with NSW Health on these changes. | 53 |
| 32 | Remove the existing clauses in the licence on notifying IPART and NSW Health of any proposed significant changes to the Drinking Water Quality Management System and the Recycled Water Quality Management System, as Sydney Water is already required to do so in the reporting manual. | 54 |
| 33 | Retain the existing clause in the licence on complying with the <i>Fluoridation Code</i> , and add a clause to clarify that NSW Health can specify different requirements to those in the <i>Fluoridation Code</i> . | 54 |
| 34 | Remove the completed clause which required Sydney Water to review its public reporting on drinking water quality. | 55 |
| 35 | Move Appendix B (Drinking Water health and aesthetic water characteristics and raw water operational monitoring characteristics) in the existing reporting manual to a reporting schedule in the Drinking Water Quality Management System. | 55 |

Performance standards for service interruptions

- | | | |
|----|--|----|
| 36 | Express the measure of performance as the number of properties that meet the standard per 10,000 properties. | 58 |
| 37 | Retain the interpretation of system performance standards clause, where IPART's interpretation of the system performance standards will prevail if there were ambiguity in the interpretation or application of any system performance standards. | 58 |
| 38 | Revise the water continuity standard to introduce an optimal level and a tolerance band for single event unplanned water interruptions that last for more than five continuous hours. The lower bound of the tolerance band is to become the new recommended water continuity standard. | 61 |
| 39 | Set the optimal level for the water continuity standard to 9,840 properties per 10,000 properties per year that do not experience unplanned water interruptions that each lasts for more than five continuous hours. | 61 |
| 40 | Set the tolerance band for the water continuity standard to +/- 40 properties, which equates to a lower bound of 9,800 properties per 10,000 properties per year, and an upper bound of 9,880 properties per 10,000 properties per year that are unaffected by unplanned water interruptions that each lasts for five or more continuous hours. | 61 |
| 41 | Remove the repeat event measure from the water continuity standard, but maintain the repeat event measure as an IPART performance indicator to monitor the trend on multiple interruption events. | 62 |
| 42 | Revise the threshold level of the water pressure standard to no more than 130 properties that experience 12 or more water pressure failures per year (water pressure failures can be counted once for each property per day), and revise the expression of measure to 9,999 properties per 10,000 properties that do not experience 12 or more water pressure failures per year. | 66 |
| 43 | Revise the definition of water pressure failure to a situation in which a Property experiences a pressure of less than 15 metres head of pressure for a continuous period of one hour or more, such head of pressure measured at the point of connection (usually the main tap) of the Property to Sydney Water's Drinking Water supply system. | 66 |
| 44 | Include new obligation to address the service provided to clusters of properties affected by recurring low water pressure in a manner that takes into account its customers' willingness to pay by 31 October 2022. | 66 |
| 45 | Include new obligation to review business processes by 30 June 2020 to ensure that no new property at risk of being affected by recurring low water pressure is connected to the drinking water supply unless the owner is informed of the low water pressure and provided with options to avoid the risk of low water pressure. | 66 |
| 46 | Retain the threshold levels (for both single and multiple events) for the dry weather wastewater overflow standard, but revise the expression of measure to 9,928 properties | |

	per 10,000 properties per year that do not experience an uncontrolled wastewater overflow in dry-weather, and 9,999 properties per 10,000 properties per year that do not experience three or more uncontrolled wastewater overflows in dry-weather.	69
47	Continue to exclude public properties from the dry weather wastewater overflow standard.	69

Asset management system

48	Retain the requirement to maintain an Asset Management System (AMS) and:	71
	– Replace references to the International Standard with the Australian Standard	71
	– Remove the obligation to certify AMS	71
	– Remove the obligation to report to IPART on significant changes that Sydney Water proposes to make to the AMS.	71
49	Replace the reporting of the biennial State of the Assets Report with a one off Strategic Asset Management Plan by 1 September 2019 or another date approved by IPART.	71
50	Remove the requirement to maintain and certify an Environmental Management System because Sydney Water would maintain an Environmental Management System through its environmental regulatory instruments.	72
51	Remove the requirement to maintain and certify a Quality Management System, as it duplicates the functions of other clauses in the licence.	72

Customers and consumers

52	Retain the existing Customer Contract licence clauses.	75
53	Revise the definition of customer in the Customer Contract to specifically include that tenants will be taken as a customer for the purposes of:	75
	– Payment difficulty and assistance	75
	– Complaints and disputes	75
	– Consultation, access to information and privacy	75
	– Termination and variations of the Customer Contract.	75
54	Adopt the rebates proposed by Sydney Water in the Customer Contract.	76
55	Revise customer information obligations to provide clarity and require Sydney Water to:	79
	– Publish information in a manner that is likely to come to the attention of the public	79
	– Provide information directly to customers on request.	79
56	Retain the existing customer protection obligations for payment difficulties and payment assistance, but replace the term financial hardship with payment difficulty in the licence and the Customer Contract.	81

57	Require Sydney Water to develop and implement a family violence policy by 1 July 2020, that includes:	83
	– Protecting private and confidential customer information	83
	– Facilitating access to payment difficulty programs	83
	– Minimising the need for customers to disclose their family violence	83
	– Making customer referrals to specialist services.	83
58	Require Sydney Water to have a Customer Council that meets the requirements of the Act.	86
59	Remove the prescriptive clauses related to the Customer Council.	86
60	Include a new clause requiring Sydney Water to:	86
	– Review the existing Customer Council by 30 June 2020 to enable Sydney Water to engage with customers in ways that are relevant, representative, proportionate, objective, clearly communicated and accurate.	86
	– Report on the review process and outcomes by 30 June 2020 to IPART.	86
61	Require Sydney Water to undertake customer engagement to establish customers' preferences and willingness to pay for service levels. The customer engagement must be relevant, representative, proportionate, objective, clearly communicated and accurate.	86
62	Retain the existing internal complaints handling and external dispute resolution scheme obligations, with a revision to replace the obligation for Sydney Water to describe EWON's operations with an obligation to list the services provided by EWON.	88

Stakeholder cooperation

63	Retain obligations requiring MOUs with EPA and WAMC.	92
64	Retain the obligation requiring an MOU with NSW Health, but remove the requirement for the MOU to include arrangements for reporting to NSW Health information on any events that may pose a risk to public health.	92
65	Retain the MOU obligations with FRNSW, including the matters that the working group must consider.	93
66	Remove the completed clause on the development of an MOU with FRNSW by 31 December 2015.	93
67	Do not require Sydney Water to report to IPART on working group matters.	93
68	Sydney Water can enter into an MOU with NSW RFS, but it is not required to do so.	93
69	Remove the requirements to develop and maintain a Roles and Responsibility Protocol with DPE.	95

Information and services for competitors

- 70 Include an obligation on Sydney Water to negotiate with WIC Act licensees and potential competitors in good faith and include a definition of 'good faith' in the licence. 99
- 71 Not to specify the form of dispute resolution in the licence where WIC Act licensees and potential competitors are unable to negotiate an agreement. 99
- 72 Require Sydney Water to publish on its website at least ten years of servicing information for each major water and wastewater system by 30 September 2019 for its available information, and prepare and publish servicing information on its remaining major water and wastewater systems by 30 June 2021, which as a minimum, include information on: 103
- Current and projected demand 103
 - Current and projected capacity constraints 103
 - Indicative costs of alleviating or deferring capacity constraints 103
 - Locations where further investigation is needed 103
 - Key sources of information used to develop the servicing information where those sources are publicly available. 103
- 74 Require Sydney Water to update the published servicing information for each major system as it becomes available in a form suitable for publication, and for all major systems at least once during the term of the licence, between the date that is one year after the servicing information was first published and 30 June 2023. 105
- 75 Include in the reporting manual a requirement for Sydney Water to report annually on the following and make this report publicly available: 106
- Number of agreements established with WIC Act licensees and potential competitors 106
 - Number of negotiations commenced with WIC Act licensees and potential competitors that did not eventuate in an agreement and the reasons for this outcome 106
 - Type of information requested by WIC Act licensees and potential competitors in addition to information that is publicly available 106
 - Time taken for Sydney Water to respond to requests for provision of information or services. 106
- 76 Revise the 'code of conduct' licence clause to refer to the licence issued under the WIC Act rather than the WIC Regulation. 106

Critical infrastructure security

- 77 Require Sydney Water to maintain a cyber security management system, and that the system is fully implemented. 111

-
- 78 Require Sydney Water to provide a written cyber security audit report to IPART and the Commonwealth Representative from an independent auditor approved by IPART annually, and to report on Sydney Water's proposed response to each audit recommendation within three months of the cyber security audit. 111
- 79 Require Sydney Water to appoint a Compliance Manager who is responsible for compliance with critical infrastructure obligations and Sydney Water's obligations under the *Security of Critical Infrastructure Act 2018* (Cth), and must act as the contact person with the Commonwealth Representative. 113
- 80 Require Sydney Water, by 1 January 2020, to ensure that National Security Clearances are held by its Compliance Manager, two Board Directors and the executive level employee(s) responsible for operational technical security, network operations security and personnel security operations. 113

Performance monitoring and reporting

- 81 Retain the existing clauses on operational audits in the licence. 115
- 82 Retain and consolidate the existing obligations on reporting in the licence. 117
- 83 Retain the requirement for Sydney Water to compile and report on environment performance indicators. 119
- 84 Retain the existing environment performance indicators in the Sydney Water reporting manual. 119
- 85 Remove the obligation to report on response times for water main breaks and leaks as we are comprehensively addressing water conservation through other obligations. 120

2 Review context

To help stakeholders understand the context to this review and the approach we undertook to make our decisions and final recommendations, the following sections discuss:

- ▼ Sydney Water's role
- ▼ Sydney Water's licence
- ▼ Sydney Water's broader regulatory environment
- ▼ Our application of the Best Practice Licensing Framework as part of our approach for this review.

2.1 Sydney Water's role

Sydney Water is a public water utility, which serves a population of over five million in the Sydney, Illawarra and the Blue Mountains regions. It does not manage bulk water supply or the catchment areas. It sources its water from WaterNSW, and when required, from the Sydney Desalination Plant Pty Ltd.

Sydney Water is a statutory State Owned Corporation, wholly owned by the NSW Government. Its principal functions are to provide, construct, operate, manage or maintain systems or services for:

- ▼ Storing or supplying water
- ▼ Providing sewerage services
- ▼ Providing stormwater drainage systems
- ▼ Disposing of waste water.⁴

Sydney Water's principal objectives are prescribed by the *State Owned Corporations Act 1989* and the *Sydney Water Act 1994* (the Act), and are to:

- ▼ Be a successful business, and to this end:
 - to operate at least as efficiently as any comparable businesses, and
 - to maximise the net worth of the State's investment in the Corporation, and
 - to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates.
- ▼ Protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991*.
- ▼ Protect public health by supplying safe drinking water to its customers and other members of the public in compliance with the requirements of any operating licence.⁵

⁴ *Sydney Water Act 1994*, s 12.

⁵ *Sydney Water Act 1994*, s 21(1).

In implementing these objectives, Sydney Water has the following special objectives:

- ▼ To reduce risks to human health
- ▼ To prevent the degradation of the environment.⁶

2.2 Sydney Water's licence

The Act establishes Sydney Water. It specifies that Sydney Water can only carry out certain functions under the authority of, and in accordance with, an operating licence. A licence is a regulatory instrument that authorises and/or requires a water utility to carry out its functions.

The Act also specifies that the licence must include terms and conditions under which Sydney Water is required to:

- ▼ Provide, construct, operate, manage and maintain efficient, co-ordinated and commercial viable systems and services for supplying water, providing sewerage services and disposing of waste water.
- ▼ Provide, operate, manage and maintain a stormwater drainage system.
- ▼ Ensure that the systems and services meet the quality and performance standards specified in the licence on water quality, service interruptions, pricing and other matters determined by the Governor and set out in the licence.
- ▼ Compile indicators that directly impact on the environment of Sydney Water's activities:
 - To enable preparation of an annual report on Sydney Water's performance
 - To provide information for a year to year comparison on Sydney Water's performance in this area.⁷

The licence must also provide for a schedule that details the area of operations, the preparation of an operational audit, establishment and consultation with Customer Councils, reference to memoranda of understanding and terms and conditions of customer contracts.⁸

IPART issues a reporting manual that contains reporting requirements, such as details of report content, due dates and recipients of the reports. The licence requires Sydney Water to comply with its reporting obligations in the reporting manual.⁹ This means that a non-compliance with an obligation in the reporting manual is a non-compliance with a licence condition.

A licence is subject to a compliance monitoring regime, with penalties applicable for contravention. A licence is a more flexible regulatory instrument than legislation, and allows for regular review. Regular reviews ensure the licence remains current and reflects changes in public expectations, best practice and changing circumstances.

IPART is responsible for conducting these reviews. We are making recommendations to the Minister to revise the licence under section 16 of the Act. The Minister may accept or reject

⁶ *Sydney Water Act 1994*, s 22(1).

⁷ *Sydney Water Act 1994*, s 14(1).

⁸ *Sydney Water Act 1994*, ss 10(1), 14(2), 15(1), 34, 35, 54(1) and 54(3).

⁹ Sydney Water Corporation Operating Licence 2015-2020, cl. 8.2.1.

our recommendations. The Minister may endorse our recommended licence for approval by the Governor of NSW.

2.3 Sydney Water's regulatory environment

It is important to understand Sydney Water's broader regulatory environment, so we can identify potential regulatory duplications or gaps in the licence. For example, the licence may not need to address a particular issue if another regulatory mechanism already does so. However, it may need to include obligations to address an issue if there is a regulatory gap.

Sydney Water is governed principally by the Act and the *State Owned Corporations Act 1989*. However, it has additional obligations under various NSW and Commonwealth legislation and guidelines, including obligations relating to public health, environment and planning, competition and consumer protection and critical infrastructure.

Sydney Water has multiple state and national regulators. In NSW, IPART regulates Sydney Water's compliance with its licence, and sets maximum prices that Sydney Water may charge for its monopoly services. Some of Sydney Water's other NSW regulators, include:

- ▼ NSW Health
- ▼ Environment Protection Authority
- ▼ Department of Industry – Water
- ▼ Department of Planning and Environment
- ▼ Natural Resources Access Regulator
- ▼ Office of Environment and Heritage.

Sydney Water is also regulated by the Australian Competition and Consumer Commission (ACCC) whose role is to enforce the *Competition and Consumer Act 2010* (Cth) including the *Australian Consumer Law* and promote competition, fair trading and regulating national infrastructure for the benefit of all Australians. The *Australian Consumer Law* (in Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) provides protections for consumers (within the meaning of that law) which apply across most sectors of the economy, including on the services supplied by Sydney Water.

Further, Sydney Water is regulated by Home Affairs as a responsible entity under the *Security of Critical Infrastructure Act 2018* (Cth) (SCI Act), which came into force in July 2018. The SCI Act includes three key measures that contribute to the management of national security risks:

- ▼ The Register of Critical Infrastructure Assets
- ▼ Information gathering power
- ▼ Ministerial directions power.

2.4 Our application of the Best Practice Licensing Framework for this review

As Chapter 1 discussed, a key part of our approach for this review is to apply the Best Practice Licensing Framework. This framework involves four stages:

1. Considering whether licensing is appropriate.
2. Assessing whether the existing licence is well designed.
3. Assessing whether the existing licence is administered effectively and efficiently.
4. Confirming that licensing is the best response when comparing its costs and benefits against other options.

The Best Practice Licensing Framework was developed in 2013 as an assessment tool to both existing and proposed licensing schemes based on best practice principles. We consider the framework appropriate for the Sydney Water licence review. We have applied the framework as a guide to determine whether introducing an obligation in Sydney Water's proposed licence is the best response to address a problem or risk. We have also considered stakeholders' views as inputs to our final positions and recommendations. We have applied the framework flexibly depending on the nature of the problem or risk. In some instances, we have deviated from the framework because we consider stakeholders' views are reasonable to adopt in the context of the regulatory environment. In such cases we provide explanation in the relevant sections of this report.¹⁰

We applied Stages 1 to 3 to the existing licence clauses to form our preliminary views, then set out these views in our Issues Paper and sought stakeholder comment. We then considered stakeholder comments and applied Stages 1 to 3 to proposed new licence clauses and Stage 4 to all existing and new or revised licence clauses to form the draft recommendations set out in the draft report. We then sought further stakeholder comments on the draft licence package and re-applied Stages 1 to 4 to the recommended licence clauses where applicable to inform the final recommendations set out in this report. The sections below provide more information on each stage of the framework.

2.4.1 Stage 1 – considering whether licensing is appropriate

In Stage 1, we considered both the existing and proposed obligations, using a pragmatic approach. Where an existing obligation *must be* included in the licence due to a legislative requirement, we found that it is appropriate and moved on to Stage 2. Where an existing or proposed obligation *may be* included or is *not required* to be included under legislation, we considered whether a licence obligation is necessary and appropriate to address the specific problem or risk the obligation relates to. One of the key questions we asked was whether the same outcome would be achieved in the absence of a licence obligation.

¹⁰ IPART, *A best practice approach to designing and reviewing licensing schemes*, prepared by PricewaterhouseCoopers, March 2013.

2.4.2 Stage 2 – assessing whether the existing licence is well designed

We applied Stage 2 to existing and proposed obligations. For each obligation, we considered whether it meets the principles of a well-designed licence, which are that it:

- ▼ Is outcome-focused rather than prescriptive
- ▼ Is proportionate to the problem or risk being addressed
- ▼ Does not duplicate other existing regulatory requirements
- ▼ Requires only the minimum necessary reporting.

We also considered information from:

- ▼ Previous operational audits of Sydney Water, including its compliance with its existing licence obligations.
- ▼ Information from other recent licence reviews, including our 2017 reviews of the Hunter Water and WaterNSW licences.
- ▼ Where relevant, examples of current good or best practice in the regulation and operation of utilities, in Australia and other countries.

2.4.3 Stage 3 – assessing whether the licence can be administered effectively and efficiently

We applied Stage 3 to the existing and proposed licence obligations. After applying our risk-based compliance monitoring approach, we found that all the existing licence obligations can be, and are, administered effectively and efficiently.¹¹ In general, we audit licence clauses that are high risk with low level of compliance more frequently (eg, every year) than those that are low risk with high level of compliance (eg, once in the term of the licence). We also rely on Sydney Water's annual statement of compliance to determine whether we undertake an audit of some of the clauses.

When we audit a management system that has been certified by a third party, such as an asset management system (AMS), we generally accept surveillance/certification reports from AMS-specialist auditors rather than including an audit of the AMS in our audit scope. This allows us to minimise duplication and the burden on Sydney Water.¹²

Where the licence obligations require Sydney Water to cooperate with certain government agencies, we monitor compliance through direct annual contact with NSW Health, EPA and Water Administration Ministerial Corporation (WAMC)¹³ to provide feedback on Sydney Water's performance.

We implement continuous improvement based on our internal reviews and by seeking feedback from Sydney Water and our independent auditors at the end of each audit. Our *Audit Guideline – Public Water Utilities* sets our expectations regarding the conduct of operational audits, and we update it regularly.

¹¹ Our approach to compliance is detailed in our Compliance and Enforcement Policy, December 2017.

¹² IPART, *Audit Guideline – Public Water Utilities*, September 2018.

¹³ We contact the Department of Industry – Water, which undertakes water resource management activities on behalf of WAMC.

2.4.4 Stage 4 – confirming that licensing is the best response

Stage 4 involved conducting cost-benefit analysis to confirm that licensing is the best response. Where we found, in the previous stages, that a licence obligation was necessary and appropriate to address a problem or risk, we analysed different approaches to address that problem or risk. Where we found a non-regulatory approach to be a feasible option we returned to Stage 1 to reconsider whether licensing is appropriate to address the risk or a problem.

We have considered the most appropriate approach to conducting the cost-benefit analysis in the context of each licence obligation. Therefore, we have used several approaches, tailored to each licence condition. The mix of approaches that we have applied include a standard comparison (quantitative or qualitative) of estimated costs and benefits, economically optimising the level of standards, and drawing on other relevant cost-benefit analysis to inform our decision.

Our cost-benefit analysis report is presented in Appendix A to the draft report¹⁴. Some of the obligations included in our recommended licence are not discussed in the cost-benefit analysis report. This is either because we judged that a cost-benefit analysis of the obligation was not required, or that the cost-benefit analysis was very straightforward. In these cases, our reasoning for licensing is set out in this report.

¹⁴ IPART, *Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report*, December 2018, p 123.

3 Licence structure

We maintain our draft recommendation to revise the licence structure with some minor revisions to correct a missing heading and add in a new licence part for critical infrastructure security (discussed in Chapter 13).

As the first step of our approach for this review, we considered the structure of the existing licence to assess whether it promotes transparency of Sydney Water's operations and ease of use. We found that the existing licence structure does not provide stakeholders with a clear view of the scope of Sydney Water's operational activities. We consider the existing clauses should be grouped and sequenced more logically.

Sydney Water had no objection to the proposed change in the structure of the licence.¹⁵

Table 3.1 sets out the structure for the recommended licence, and indicates where the existing licence clauses would fit within this structure.

Recommendation

- 1 Revise the licence structure as shown in Table 3.1.

¹⁵ Sydney Water submission to IPART draft licence package, February 2019, p 8.

Table 3.1 Recommended licence (2019-2023) structure and corresponding existing licence (2015-2020) clauses

Recommended licence (2019-2023) structure		Corresponding existing licence (2015-2020) clauses
Licence Context	<ul style="list-style-type: none"> ▼ Objective of this licence ▼ Area of operations ▼ Term of this licence ▼ Licence amendment ▼ Non-exclusive licence ▼ Availability of licence ▼ Pricing ▼ End of term review ▼ Notices 	<p>Clause 1.1</p> <p>Clauses 1.4 – 1.5</p> <p>Clauses 1.7 – 1.9</p> <p>Clause 10.1</p> <p>All of Part 11</p>
Licence Authorisation	<ul style="list-style-type: none"> ▼ Licence authorisation ▼ Obligation to make services available 	<p>Clauses 1.2 – 1.3</p> <p>Clause 1.6</p>
Water Conservation and Planning	<ul style="list-style-type: none"> ▼ Economic approach to water conservation ▼ Water planning ▼ Priority Sewerage Program 	<p>All of Part 3</p> <p>Clause 4.4</p>
Performance Standards for Water Quality	<ul style="list-style-type: none"> ▼ Drinking water ▼ Recycled water ▼ Fluoridation Code 	<p>All of Part 2</p>
Performance Standards for Service Interruptions	<ul style="list-style-type: none"> ▼ Water continuity standard ▼ Water pressure standard ▼ Dry weather wastewater overflow standard ▼ Interpretation of standards ▼ Asset Management 	<p>Clauses 4.1 – 4.3</p>
Customers and Consumers	<ul style="list-style-type: none"> ▼ Customer Contract ▼ Providing information to customers ▼ Consumers ▼ Assistance options and payment difficulties and actions for non-payment ▼ Family violence policy ▼ Customer engagement ▼ Internal complaints handling ▼ External dispute resolution scheme 	<p>Clauses 5.1 – 5.7</p>
Stakeholder Cooperation	<ul style="list-style-type: none"> ▼ Memoranda of Understanding 	<p>All of Part 9</p>
Information and Services for Competitors	<ul style="list-style-type: none"> ▼ Negotiations with WIC Act licensees and potential competitors ▼ Publication of servicing information ▼ Code of Conduct 	<p>Clause 5.8</p>
Critical infrastructure security	<ul style="list-style-type: none"> ▼ Cyber security ▼ National security clearances 	<p>Nil</p>
Performance Monitoring and Reporting	<ul style="list-style-type: none"> ▼ Operational audits ▼ Reporting ▼ Provision of information for performance reporting 	<p>Clause 6.2</p> <p>All of Part 8</p>
Definitions and Interpretation	<ul style="list-style-type: none"> ▼ Definitions ▼ Interpretation 	<p>All of Part 12</p>
Schedules	<ul style="list-style-type: none"> ▼ Area of Operations ▼ Priority Sewerage Program ▼ Customer Contract 	<p>Schedules 1, 3 & 4</p>

4 Licence context

The first part of the recommended licence structure is the licence context. This part of the licence acts as an introduction to the licence, setting out its broad purpose and scope. It includes clauses related to:

- ▼ Licence objectives
- ▼ Area of operations
- ▼ Term of the licence
- ▼ Licence amendment
- ▼ Non-exclusive licence and availability of licence
- ▼ Pricing
- ▼ End of term review
- ▼ Notices.

The sections below summarise our positions on these issues, then discuss each position in more detail.

4.1 Summary of positions on licence context

After considering stakeholder comments, we have modified some of our draft views and maintained others.

We recommend to:

- ▼ Revise the licence objective so that it is outcomes-based and aligns with the Sydney Water's objectives under the Act.
- ▼ Revise the area of operations schedule in the licence so that it refers to the Act, and include a new obligation for Sydney Water to publish a map of its area of operations.
- ▼ Adopt a licence term of 4 years from the commencement date, in line with Sydney Water's proposal.
- ▼ Revise the end of term review clause to specify IPART as the person who will undertake the review.
- ▼ Retain the clauses on pricing, non-exclusivity of the licence and availability of the licence.
- ▼ Revise the notices clause to provide that certain notices must be approved by the Managing Director of Sydney Water and that notices may be sent electronically, unless otherwise specified in the licence or reporting manual.

4.2 Revise licence objective

We maintain our draft recommendation to revise the licence objective so that it is outcomes-based and aligns with Sydney Water's objectives under the Act.

Any licence (or other regulatory instrument) should clearly set out its objectives. Ideally, these objectives should describe the outcomes the licence is intended to achieve, as this helps stakeholders to understand why specific obligations have been included in the licence.

We consider that the existing licence objective describes *why* Sydney Water needs to have a licence (ie, to meet legislative requirements) rather than *what outcomes* the licence is intended to achieve.

Moving to an outcomes-based objective has the support of stakeholders including Sydney Water, EPA, FRNSW, ISF and PIAC. However, FRNSW, PIAC and Flow Systems proposed substantial revisions to the draft licence objective. We disagree with all three proposals – introducing objectives from other Acts (FRNSW), applying terminology not used in the Act (PIAC) or an objective for Sydney Water to promote competition¹⁶ (Flow Systems) – as they are not consistent with the Act.

Sydney Water indicated its support of our draft objective but proposed minor wording changes, which we have adopted as these changes align with the Act and are consistent with our intention.

Recommendation

- 2 Revise the licence objective so that it is outcomes-based and aligns with Sydney Water's objectives under the Act.

The recommended licence objective clause is shown in Box 4.1.

Box 4.1 Recommended licence objective clause

1.1 Objective of this Licence

1.1.1 The objectives of this Licence are to:

- a) authorise and require Sydney Water, within its Area of Operations, to:
 - i. store or supply water;
 - ii. provide sewerage services;
 - iii. provide Stormwater Drainage Systems; and
 - iv. dispose of Wastewater; and
- b) set efficient and effective terms and conditions, including quality and performance standards, that require Sydney Water to provide services in a way that:
 - i. supports its principal objectives under the Act to protect public health and the environment;
 - ii. supports its principal objective under the Act to be a successful business, including by having regard to the interest of the community; and
 - iii. does not prevent or hinder competition.

¹⁶ Sydney Water is a state owned corporation and is not created to promote competition.

4.3 Revise area of operations schedule and include new obligation to publish map

We maintain our draft recommendation to:

- ▼ Clarify the area of operations in the licence to reflect the Act
- ▼ Include a new obligation to clarify the area of operations by publishing a map.

The Act requires the Sydney Water licence to contain a schedule that details the area of operations to which the licence applies (the Scheduled Area of Operations).

The Act also describes Sydney Water's Statutory Area of Operations.¹⁷ This Statutory Area of Operations can only be varied by an order of the Governor¹⁸ or by further act of Parliament. The intention is that the Scheduled Area of Operations (ie, the licence) mirrors the Statutory Area of Operations, as varied by a past or future order of the Governor.

In the existing licence, the Scheduled Area of Operations is detailed by a list of the local government areas within this area (either in full or in part).

4.3.1 Clarify the area of operations in the licence to reflect the Act

We maintain our draft recommendation to clarify Sydney Water's area of operations in the licence to ensure the licence obligations apply to the entire Statutory Area of Operations. We consider that the Scheduled Area of Operations should be updated and a map of the area of operations should be published to provide this clarity.

In its submission to the draft licence package, Sydney Water stated that the area described by the Act lacks clarity for most stakeholders, and noted that it appears that legislators over time have adopted the convention of referencing the immediately preceding statute, without formally acknowledging the geographical boundaries used to define the Statutory Area of Operations.¹⁹

We have accepted Sydney Water's proposal to refer to the entire section 10 in the Scheduled Area of Operations²⁰ rather than our more specific drafting in the draft licence. We intend that the licence would apply to Sydney Water's entire Statutory Area of Operations, including any changes made by the Governor while the licence is in operation. We consider this is consistent with the requirements for a licence schedule in the Act.

4.3.2 Include a new obligation to clarify the area of operations by publishing a map

We maintain our draft recommendation to require Sydney Water to publish on its website, a map showing its area of operation containing a specified level of detail and to publish an updated map of its area of operations within 30 days of any change by the Governor to this area, but with a revision to delay the initial publication requirement to 31 December 2019.

¹⁷ *Sydney Water Act 1994*, s 10(1).

¹⁸ *Sydney Water Act 1994*, s 10(2).

¹⁹ Sydney Water submission to IPART draft licence package, February 2019, pp 9-10.

²⁰ *Ibid.*

We consider the map would need to accurately reflect Sydney Water's Statutory Area of Operations and should include:

- ▼ The area of operations
- ▼ Major waterways and coastline
- ▼ Local government area boundaries.

Sydney Water supported in principle the intent of our draft recommendation, to represent the Statutory Area of Operations in a way that is both accurate and accessible to customers and other stakeholders. However, Sydney Water proposed to change the requirement for a 'map' to an 'illustrative map' as it would be impractical to publish and maintain a map on Sydney Water's website with enough detail to exactly duplicate the Statutory Area of Operations.²¹

Sydney Water has advised that it would cost an estimated \$20,000 to upgrade its existing online map that details real-time service interruptions to include Sydney Water's Statutory Area of Operations.²² We consider the estimated \$20,000 cost would be offset by the benefit to customers and other stakeholders of providing access to accurate information about Sydney Water's Statutory Area of Operations.

We consider delaying the requirement to 31 December 2019 would allow Sydney Water sufficient time to upgrade its existing online map.

Recommendation

- 3 Revise the area of operations schedule to refer to the Act, and require Sydney Water to publish a map of its area of operations by 31 December 2019, and make any required updates to the area of operations within 30 days of any change.

The recommended licence clauses are shown in Box 4.2.

Box 4.2 Recommended area of operations clauses

1.2 Area of Operations

1.2.1 This Licence applies to the Area of Operations specified in Schedule A.

1.2.2 Sydney Water must publish on its website a map of its Area of Operations by 31 December 2019 (or another date approved by IPART in writing). Sydney Water must update the map within 30 days of any change to its Area of Operations.

4.4 Adopt 4-year licence term

We maintain our draft recommendation to adopt a 4-year licence term. The Governor may renew an operating licence for a maximum of five years at a time under the Act.²³ The licence sets the term for which the period of the licence applies from the commencement date.

²¹ Sydney Water submission to IPART draft licence package, February 2019, pp 9-10.

²² Sydney Water response to IPART's request for information, 28 February 2019, Question 151.

²³ *Sydney Water Act 1994*, s 17.

We consider that a 4-year licence term provides a balance between providing regulatory certainty, allowing an appropriate review gap and avoiding concurrent licence and price reviews. A 4-year licence term would potentially allow a 2-year gap between the next licence review (2022-23) and the following Sydney Water price review (2024-25) if we adopt a 5-year determination period at the next price review. In response to the draft licence package, Sydney Water and WaterNSW supported a 4-year licence term.

In our view, simultaneous price and licence reviews would make it difficult for stakeholders to engage in both processes at the same time. Further, it is desirable to establish licence conditions prior to the price review so that it is clear what services correspond to the prices.

To maintain the gap between the licence and price reviews, we propose reverting to a 5-year licence term from 2023. Our cost-benefit analysis (see Appendix A to our draft report²⁴) indicates returning to a 5-year licence term following the next licence review would minimise the additional average annual cost.

Recommendation

- 4 Adopt a 4-year licence term from the Commencement Date.

Our recommended licence clause is shown in Box 4.3.

Box 4.3 Recommended licence term clause

1.3 Term of this Licence

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

4.5 Retain licence amendment provisions

We maintain our draft recommendation to retain the licence amendment provisions as they contain only the minimum requirements from the Act.

In our view, we should retain the existing clauses on licence amendment, which provide that the licence may be amended by the Governor by notice in the *New South Wales Government Gazette* subject to:

- ▼ The Act
- ▼ Tabling the proposed amendment in Parliament under section 16 of the Act
- ▼ The Minister providing Sydney Water with reasonable notice of the proposed amendment to enable it to comply with the amendment if it takes effect.

Sydney Water supported this view.²⁵

Recommendation

- 5 Retain the existing licence amendment provisions.

²⁴ IPART, *Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report*, December 2018, p 123.

²⁵ Sydney Water submission to IPART draft licence package, February 2019, p 10.

The recommended licence clauses are shown in Box 4.4.

Box 4.4 Recommended licence amendment clauses

1.4 Licence amendment

1.4.1 Subject to the Act and clause 1.4.2, the Governor may amend or substitute this Licence by notice in the New South Wales Government Gazette.

1.4.2 1.4.2 Before notice of a proposed amendment to this Licence is tabled in Parliament under section 16 of the Act, the Minister must provide Sydney Water with reasonable notice of the proposed amendment to enable it to comply with the amendment if it takes effect.

[Note: The Customer Contract may be varied in accordance with section 59 of the Act and clause 14.2 of the Customer Contract. Such a variation is not an amendment to this Licence for the purpose of section 16 of the Act.]

4.6 Retain non-exclusive licence and availability of licence clauses

We maintain our draft recommendation to retain the existing clauses that clarify that the licence does not prohibit any other person from providing services in Sydney Water's area of operations (the non-exclusive licence clause), and require Sydney Water to make a copy of its licence available to any person free of charge (the availability of licence clause).

We have identified no issues with these clauses. Although the Act does not specifically require them to be included in the licence, we consider they give context to the licence as they describe the scope of Sydney Water's operation and how any person can get a copy of the licence. Sydney Water²⁶ supported our draft recommendation.

Recommendation

6 Retain the existing non-exclusive licence and availability of licence clauses.

The recommended licence clauses are shown in Box 4.5 and Box 4.6.

Box 4.5 Recommended non-exclusive licence clause

1.5 Non-exclusive Licence

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

²⁶ Sydney Water submission to IPART draft licence package, February 2019, p 10.

Box 4.6 Recommended availability of licence clause

1.6 Availability of Licence

- 1.6.1 Sydney Water must make a copy of this Licence available to any person, free of charge:
- a) on its website; and
 - b) upon request made to the Contact Centre.

4.7 Retain existing pricing obligation

We maintain our draft recommendation to retain the existing pricing obligation in the licence, which requires Sydney Water to set prices subject to the terms of the licence, the *Sydney Water Act 1994* (the Act) and IPART's price determinations. The Act requires licence obligations on pricing.

Sydney Water²⁷ supported our draft recommendation.

Recommendation

- 7 Retain the existing pricing obligation.

The recommended licence clause is shown in Box 4.7.

Box 4.7 Recommended pricing clause

1.7 Pricing

- 1.7.1 Sydney Water must set the level of fees, charges and other amounts payable for its Services in accordance with:
- a) the terms of this Licence;
 - b) the Act; and
 - c) any applicable maximum prices or methodologies for fixing maximum prices determined under the IPART Act.

4.8 Revise end of term review obligation to specify IPART as reviewer

We maintain our draft recommendation to revise the existing clauses on the end of term review of the licence to specify IPART as the person who will undertake the review. We consider this would provide additional transparency in the review process, and align with IPART's function of making recommendations to the Minister for licence amendments.

Sydney Water²⁸, and the NSW Government (FRNSW)²⁹ supported our draft recommendation.

²⁷ Sydney Water submission to IPART draft licence package, February 2019, p 10.

²⁸ Sydney Water submission to IPART draft licence package, February 2019, p 10.

²⁹ NSW Government submission to IPART Issues Paper, September 2019, p 22.

Recommendation

- 8 Revise the existing clauses on the end of term review of the licence to specify IPART as the person who will undertake the review.

The recommended licence clauses are shown in Box 4.8.

Box 4.8 Recommended end of term review clauses

1.8 End of Term Review

- 1.8.1 IPART intends to review this Licence in its final year to investigate:
 - a) whether this Licence is fulfilling its objectives; and
 - b) any issues that have arisen during the term of this Licence that may impact its effectiveness,(the **End of Term Review**).
- 1.8.2 To assist IPART with the End of Term Review, Sydney Water must provide IPART with such information as IPART reasonably requires. Sydney Water must provide IPART with such information as IPART requests within a reasonable time.

4.9 Revise the notices clause to allow electronic communication

We maintain our draft recommendation to revise the notices clause to provide that notices may be sent electronically, and that notices must be approved by the CEO of Sydney Water, but with a clarification that only certain notices require approval from the CEO of Sydney Water.

The Act does not require the licence to contain a provision regarding how Sydney Water and IPART are to send notices to each other. However, such a provision is a necessary machinery provision to facilitate compliance monitoring and our administration of the licence.

We consider a requirement to communicate in hard copy is no longer efficient or effective. We regularly communicate with Sydney Water and other regulated entities electronically, as it is more timely and less costly than providing hard copy notices via post.

We received feedback from Sydney Water that our proposed licence clause may have an unintended consequence of requiring all of Sydney Water's communication with IPART to be approved by Sydney Water's Managing Director.³⁰ We agree with Sydney Water that many communications are appropriate at the officer level (eg, inputs into reviews, discussions about audits). We have revised our recommendation to provide that certain notices under the recommended licence must be approved by the Managing Director of Sydney Water, specifically requests for extensions to due dates for licence obligations.

³⁰ Sydney Water submission to IPART draft licence package, February 2019, pp 11-12.

Recommendation

- 9 Revise the notices obligations to provide that certain notices under the licence must be approved by the Managing Director of Sydney Water and that notices may be sent electronically, unless otherwise specified in the licence or reporting manual.

The recommended licence clause is shown in Box 4.9.

Box 4.9 Recommended notices clause

1.9 Notices

1.9.1 Any notice or other communication given under this Licence must be:

- a) in writing addressed to the intended recipient; and
- b) delivered or sent to one of the addresses specified below (or the last address notified by the recipient), unless otherwise specified in the Reporting Manual.

	Sydney Water	IPART
Electronic	compliance@sydneywater.com.au	compliance@ipart.nsw.gov.au
Postal	Sydney Water The Managing Director Sydney Water 1 Smith Street Parramatta NSW 2150	IPART The Chief Executive Officer Independent Pricing and Regulatory Tribunal Level 15, 2-24 Rawson Place Sydney NSW 2000

1.9.2 Any requests for approval under the following clauses must be made by Sydney Water's Managing Director: 1.2.2, 3.1.5, 3.2.1, 3.2.6, 6.5.1, 6.6.6, 8.2.2, 8.2.3, 8.2.5, 8.2.6, 9.1.1, 9.1.2 or 9.3.1.

5 Licence authorisation

The second part of the recommended licence is the licence authorisation. This part of the licence authorises and in some cases requires Sydney Water to undertake activities in its area of operations. It includes clauses related to:

- ▼ Licence authorisation (including authorisation relating to stormwater drainage systems)
- ▼ Making services available.

The sections below summarise our positions on these issues, then discuss each position in more detail.

5.1 Summary of positions on licence authorisation

After considering stakeholder comments, we have modified some of our draft views and maintained others.

We recommend to:

- ▼ Revise the licence authorisation and stormwater drainage clauses to clearly differentiate between the ‘required’ and the ‘permitted’ functions of Sydney Water relating to the stormwater drainage systems.
- ▼ Not include an obligation for Sydney Water to apply integrated water cycle management.
- ▼ Not include requirements for Sydney Water to meet waterway health and liveability outcomes, but include a note to clarify Sydney Water’s role in stormwater management.
- ▼ Include an obligation to provide water and sewerage services to water businesses licensed under the WIC Act on request, and allow Sydney Water to impose conditions to ensure safe, reliable and financially viable services.

5.2 Revise licence authorisation to clarify stormwater function

We maintain our draft recommendation to make minor drafting revisions to the existing licence authorisation clauses to clearly differentiate between the ‘require’ and ‘permitted’ functions in relation to stormwater drainage systems. In particular, the construction of stormwater drainage systems should be part of the licence authorisation (ie, permitted), but not a requirement on Sydney Water. We made similar changes to the Hunter Water licence in the 2017 licence review.³¹

Sydney Water, Hunter Water and City of Sydney supported this view.³²

PIAC considered that use of the term “disposing of wastewater” in the licence authorisation should be revised to “use or disposal of wastewater according to conditions and standards set

³¹ Hunter Water Operating Licence 2017-2022, clauses 1.2.3 and 1.2.4.

³² Sydney Water submission to IPART Issues Paper, August 2018, p 27; Hunter Water submission to IPART Issues Paper, August 2018, p 13; City of Sydney submission to IPART Issues Paper, September 2018, p 2.

by the operating licence". PIAC submitted that the change in language could better facilitate a move to a more adaptable and efficient use of treatment of all water.³³ We do not support the proposed wording change because "disposing of wastewater" is the terminology used in the Act and we consider it appropriate that the licence authorisation is consistent with the Act.

We consider revising the licence authorisation and stormwater drainage clauses to clearly differentiate between the 'required' and the 'permitted' functions of Sydney Water relating to the stormwater drainage systems would make the clauses clearer for all stakeholders, particularly those who may work with Sydney Water on stormwater initiatives.

Recommendation

- 10 Revise the licence authorisation and stormwater drainage clauses to clearly differentiate between the 'required' and the 'permitted' functions of Sydney Water relating to the stormwater drainage systems.

The recommended licence clauses are shown in Box 5.1.

Box 5.1 Recommended licence authorisation and stormwater drainage clauses

2.1 Licence authorisation

- 2.1.1 This Licence authorises and requires Sydney Water to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for providing the following Services within the Area of Operations:
 - a) storing and supplying water;
 - b) providing sewerage services; and
 - c) disposing of Wastewater.
- 2.1.2 This Licence authorises and requires Sydney Water to provide, operate, manage and maintain a Stormwater Drainage System as described in section 14(1)(b) of the Act, except to the extent that the Minister is satisfied under sections 14(4) and 14(5) of the Act that satisfactory arrangements have been made for the applicable Service to be provided by another appropriate body.
- 2.1.3 This Licence authorises (but does not require) Sydney Water to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable Stormwater Drainage Systems (and Services for providing those Stormwater Drainage Systems) within the Area of Operations in excess of the Stormwater Drainage System it is required to provide, operate, manage and maintain under clause 2.1.2. This includes increasing the capacity of the Stormwater Drainage System included in the business undertaking transferred under Part 3 of the Act from the Water Board to Sydney Water as at the date of the transfer of the business undertaking.

[Note: For the avoidance of doubt, the provision, management and maintenance of Stormwater Drainage Systems (and Services for providing those Stormwater Drainage Systems) under clause 2.1 may include stormwater quality management and other measures as necessary to manage impacts of stormwater on waterway health.]

³³ PIAC submission to IPART draft licence package, February 2019, p 1.

5.3 Sydney Water can apply integrated water cycle management but is not required to do so

We maintain our views from the draft report that it is not appropriate to require Sydney Water to apply integrated water cycle management (IWCM). Our preferred approach to licensing is to specify the outcomes or performance standards that the licensee must achieve, and only specify the means of achieving them where necessary. The licence does not, and is not intended to, **prescribe** how Sydney Water provides its services.

Some stakeholders³⁴ supported the licence including requirements for Sydney Water to apply IWCM or other innovative approaches to facilitate stormwater management. Stakeholders expressed similar views in our 2016 Sydney Water retail price review, our 2017 wholesale water prices review, and our current review of recycled water pricing arrangements for water utilities.

IPART recognises that IWCM, and liveability, are important issues to many stakeholders. As we noted in our submission to the Productivity Commission's Issues Paper on National Water Reform, in our view, IWCM and recycled water supply are not benefits or 'ends' in themselves.³⁵ Rather, they can be **means** of achieving a range of objectives, which are largely related to environmental protection and enhanced liveability.

P. Coombes and M. Smit also commented on the external benefits of IWCM and that IPART should fully include stormwater management in the pricing mechanisms to ensure the full value of stormwater management is incorporated in water utility business cases.³⁶ We will consider these concepts as part of our current review of recycled water pricing arrangements for public water utilities.³⁷

We consider that the existing licence already **permits** Sydney Water to apply IWCM – or other cost-effective principles for water management, including considering customers' willingness to pay for broader benefits – in the delivery of services to its customers. If the application of IWCM were prescribed, there is a risk it could lead to conflicting outcomes if IWCM approach does not provide the most cost-effective servicing solution.

Recommendation

- 11 Sydney Water can apply integrated water cycle management under the licence but is not required to do so.

5.4 Sydney Water can adopt measures to address waterway health and liveability outcomes but is not required to do so

We maintain our draft recommendation to clarify that Sydney Water can adopt measures to address waterway health and liveability outcomes under the recommended licence but it is

³⁴ Coombes, P and Smit, M, submission to IPART draft licence package, February 2019 p 2; Flow Systems submission to IPART draft licence package, February 2019, p 5; Open Cities submission to IPART draft licence package, February 2019, p 1; and Sydney Water submission to IPART draft licence package, February 2019, p 13.

³⁵ IPART submission to the Productivity Commission's Issues Paper on National Water Reform, April 2017, p 24.

³⁶ Coombes, P and Smit, M, submission to IPART draft licence package, February 2019, p 2.

³⁷ Our draft report on recycled water pricing arrangements was released on 1 April 2019, this will be followed by a final report in June 2019.

not required to do so since stakeholders appear to have different expectations of Sydney Water's stormwater management role.

Sydney Water considers that it may implement measures to address waterway health and liveability which is consistent with its principal objective under the Act³⁸ to protect the environment by conducting its operations in compliance with the principles of ecologically sustainable development, as well as the special objectives set out in section 22 of the Act.³⁹

City of Sydney, Flow Systems, Open Cities and Total Environment Centre supported Sydney Water's view and submitted that water quality, waterway health and liveability outcomes should be clearly specified in the licence.

P. Coombes and M. Smit indicated the need for consideration of principles of good governance for stormwater management and recommended that we consider the wider community costs and benefits for stormwater management, beyond the financial viability of Sydney Water.⁴⁰ The submission proposed we consider the need for a strategic framework for stormwater management with binding requirements on Sydney Water, or an alternative arrangement to meet important community safety and sustainability issues.

We maintain our view that it is unnecessary for the licence to specify waterway health and liveability outcomes as Sydney Water is already required to protect the environment by conducting its operations in compliance with the principles of ecological sustainable development under the Act. In addition, where there is a need for the NSW Government to achieve certain waterway health or liveability outcomes, EPA would be the relevant environmental regulator for these outcomes.

We recommend including the following note in the recommended licence:

For the avoidance of doubt, the provision, management and maintenance of Stormwater Drainage Systems (and Services for providing those Stormwater Drainage Systems) under clause 2.1 may include stormwater quality management and other measures as necessary to manage impacts of stormwater on waterway health.

Recommendation

- 12 Sydney Water can adopt measures to address waterway health and liveability outcomes under the licence but it is not required to do so. Include a note in the licence to clarify Sydney Water's role in stormwater management.

5.5 Include WIC Act licensees in obligation to make services available

We maintain our draft recommendation to include an obligation for Sydney Water to provide services to WIC Act licensees on request, and allow Sydney Water to impose conditions to ensure safe, reliable and financially viable services.⁴¹

³⁸ *Sydney Water Act 1994*, s 21.

³⁹ Section 6(2) of the *Protection of the Environment Administration Act 1991* lists the principles and programs through which ecologically sustainable development can be achieved.

⁴⁰ Coombes, P and Smit, M, submission to IPART draft licence package, February 2019, p 2.

⁴¹ Please refer to Chapter 12 for additional recommendations including on Sydney Water to negotiate in good faith with (see section 12.2) and to provide servicing information to (see section 12.3) WIC Act licensees or potential competitors.

This obligation would address the risk that Sydney Water may not provide services to a WIC Act licensee, or would only provide services on unreasonable terms and conditions.

Sydney Water supported including a licence obligation to provide services to WIC Act licensees on licensees' request. Sydney Water submitted that this obligation is equivalent to their obligation to provide retail services on request for connection and to set conditions to ensure safe, reliable and financially viable services for retail customers.⁴²

Flow Systems considered that Sydney Water is using the obligation to provide services to property to justify its plan to service all infill and network extension to service growth that could be or will be serviced or mitigated by WIC Act licensees. Flow Systems proposed that the licence clause to provide services to property should include "and for which a WIC Act Licensee does not have a licenced [sic] connection available." Further, Flow Systems submitted that instead of having an obligation to provide services to property, implementing an operator of last resort scheme would protect consumers over the long term.⁴³

We consider Sydney Water should continue to undertake water and wastewater services planning for growth and take into account areas where WIC Act licensees have properties connected or proposed to be connected during planning and prior to construction of infrastructure. IPART's price reviews would ensure Sydney Water's expenditures are prudent and efficient. We consider Flow Systems' proposal to exclude properties where a WIC Act licensee has a connection available may result in unintended consequences by preventing Sydney Water from servicing a customer where the customer may have choice. We note that there are operator of last resort provisions in the *Water Industry Competition Amendment (Review) Act 2014* which at this stage are expected to commence in late 2019.⁴⁴ The WIC Act is the appropriate framework for such last resort provisions and not the Sydney Water licence.

Open Cities asserted that the draft licence is not consistent with the WIC Act.⁴⁵ We do not agree. Open Cities' concern appears to be based on the service obligation contained in clause 2.2.1 of the draft licence (and the recommended licence).⁴⁶ We are satisfied that the service obligation in clause 2.2.1 is not inconsistent with a regulatory environment established by the WIC Act, which facilitates service provision by WIC Act licensees. Further, the service obligation is consistent with the deeming provision contained in section 55 of the Act.⁴⁷

Recommendation

- 13 Include an obligation to provide water and sewerage services to a WIC Act licensee on request from the WIC Act licensee, and allow Sydney Water to impose conditions to ensure safe, reliable and financially viable services.

⁴² Sydney Water submission to IPART draft licence package, February 2019, p 13.

⁴³ Flow Systems submission to IPART draft licence package, February 2019, p 4.

⁴⁴ DPE, *Water Industry Reform*, <https://www.planning.nsw.gov.au/About-Us/Sydney-Metropolitan-Water/Water-Industry-Reform>, accessed 10 April 2019.

⁴⁵ Open Cities submission to IPART draft licence package, February 2019, p 2.

⁴⁶ Recommended licence clause 2.2.1 is shown in Box 5.2.

⁴⁷ Section 55 of the Act provides that an owner of land that is connected to water main or sewer main owned by Sydney Water is taken to have entered into a customer contract with Sydney Water.

The recommended licence clauses are shown in Box 5.2.

Box 5.2 Recommended services availability clauses

2.2 Obligation to make Services available

- 2.2.1 Sydney Water must ensure that Services for the supply of Drinking Water and disposal of Wastewater are available on request for connection to any Property situated in the Area of Operations for which a connection is available.
- 2.2.2 Sydney Water must provide Services for the supply of Drinking Water and disposal of Wastewater on request to any licensee under the WIC Act, where that licensee is connected to (or where a connection is available in respect of that licensee to) Sydney Water's water supply system or sewerage system.
- 2.2.3 Connection to Sydney Water's systems for the provision of Services for the supply of Drinking Water and disposal of Wastewater is subject to any reasonable conditions that Sydney Water may determine to ensure the safe, reliable and financially viable supply of Drinking Water and disposal of Wastewater to Properties.

6 Water conservation and planning

The third part of the recommended licence is water conservation and planning. This part of the licence sets out Sydney Water's obligations in relation to water conservation and urban water planning and policy processes. It includes clauses related to:

- ▼ How Sydney Water decides what water conservation activities it will undertake
- ▼ The specific method Sydney Water uses to develop its Water Conservation Program
- ▼ What Sydney Water reports on regarding this method and program
- ▼ How Sydney Water contributes to urban water planning and policy processes.

The primary objectives of including these clauses are to ensure that Sydney Water manages the water supply and demand balance effectively and efficiently, and contributes to achieving the NSW Government's urban water policies and plans.

The sections below summarise our positions on water conservation and planning, then discuss each position in more detail.

6.1 Summary of positions on water conservation and planning

After considering stakeholder comments, we maintain our draft views that licence obligations related to water conservation are necessary and appropriate, and that the existing requirements should be broadly retained but revised to improve efficiency. However, we have modified our views on the specific revisions required. We have also formed the view that a new obligation related to the implementation of water conservation measures is necessary.

We recommend to:

- ▼ Retain the requirement that Sydney Water use an economic approach to water conservation or another method approved by IPART.
- ▼ Include a new obligation for Sydney Water to implement water conservation measures that have been assessed as economic by the economic level of water conservation (ELWC) method or the approved method.
- ▼ Retain the requirement that Sydney Water obtain IPART's approval for any significant change to its ELWC method.
- ▼ Include a new obligation that Sydney Water review its ELWC method during the term of the licence, to address stakeholder concerns about the potential limitations of this method and the opportunities to improve it.
- ▼ Revise the reporting requirements so that Sydney Water report on two performance indicators for water conservation, as well as water conservation measures and related information, and provide this to DPE to improve transparency and accountability.

- ▼ Remove the requirements for Sydney Water to develop the ELWC method and transition from fixed targets for water usage and water leakage as these obligations have been completed.
- ▼ Include new obligations to ensure that Sydney Water participates in and supports the implementation of the NSW Government's urban water planning and policy processes.
- ▼ Include new obligations for Sydney Water to cooperatively develop and submit a long-term capital and operational plan and an emergency drought response plan.
- ▼ Include new obligations for Sydney Water to develop, enter into and comply with a data sharing agreement with DPE.
- ▼ Retain the existing Priority Sewerage Program obligations to provide transparency to the residents and property owners in the affected areas.

6.2 Retain requirement to use an economic approach to water conservation but provide flexibility

We maintain our draft recommendation for Sydney Water to use the ELWC method, while also providing flexibility for Sydney Water to use an alternative economic method (such as the MetroNet model)⁴⁸ if it has been approved by IPART.

The existing licence requires Sydney Water to develop a water conservation program consistent with its ELWC and in accordance with the method approved by IPART.

Sydney Water supports retaining the requirement to use the ELWC method, but proposes a revision so that any change to the economic method used by Sydney Water would need to be proposed by Sydney Water.⁴⁹ In Sydney Water's view this would avoid imposing an alternative economic method that is not practical or leads to inefficient outcomes.

We do not agree with Sydney Water's proposed revision that approval for another method should be proposed by Sydney Water. We acknowledge Sydney Water's concerns, however in approving another method we would consider issues such as Sydney Water's ability to implement a method and the potential outcomes for customers.

Recommendation

- 14 Retain the requirement for Sydney Water to use the approved economic level of water conservation method to assess water conservation options but also provide flexibility for it to use another economic method that has been approved by IPART.

⁴⁸ MetroNet is an input to the Metropolitan Water Plan and is a hydro-economic model which models supply and drought response measures to identify optimal solutions (maximum supply at least cost) for securing water for Greater Sydney.

⁴⁹ Sydney Water submission to IPART draft licence package, February 2019, p 15.

The recommended licence clause is shown in Box 6.1.

Box 6.1 Recommended economic level of water conservation method clause

- 3.1.1 Sydney Water must maintain a water conservation program consistent with the economic level of water conservation determined in accordance with:
- a) the ELWC Method; or
 - b) another economic method approved by IPART.

6.3 Include a new requirement to implement water conservation measures

We propose a new recommendation for Sydney Water to implement water conservation measures that have been assessed as economic by the ELWC method, or by another economic method approved by IPART.

In the NSW Government's submissions to this review, DPE indicated that the NSW Government has made recent updates to the urban water policy and planning framework for the 2020 Greater Sydney Water Strategy.

As part of this reform, DPE proposed a number of changes to our draft recommendations and licence obligations, including changes to ensure the NSW Government has visibility of the opportunities for water conservation beyond what may be immediately cost effective for Sydney Water to implement. Specifically, DPE proposed that Sydney Water be required to implement any water conservation measures approved by DPE, in addition to any measure(s) that Sydney Water implements under the ELWC method.⁵⁰

DPE considered these changes are important "to ensure the full potential of the role water conservation can play" in meeting Sydney's long term water needs and in ensuring the certainty of water savings delivered through water conservation measures.

While we support increased visibility and transparency for water conservation measures and the ELWC method (see section 6.6 below), we do not support DPE's proposal to require Sydney Water to implement any water conservation measures approved by DPE, as it may lead to Sydney Water implementing water conservation measures that are not economic. We note that the Minister has the power to direct Sydney Water to undertake an action under the *State Owned Corporations Act 1989*,⁵¹ and this power could be used to direct Sydney Water to undertake water conservation measures in addition to any measures that Sydney Water implements under the ELWC method.

Under the existing licence Sydney Water is required to develop a water conservation program consistent with its ELWC method and to report on the progress and the extent to which this accords with the ELWC method. We agree that Sydney Water has a role to play in water conservation however we consider that it is important that Sydney Water be required to implement those water conservation measures that are economic.

⁵⁰ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 4.

⁵¹ *State Owned Corporations Act 1989*, ss 20O and 20P.

The ELWC method promotes the economic level of investment in water conservation measures that incorporates the broader supply and community factors such as the social and environmental costs and benefits. Sydney Water's assessment of which projects are economic, inclusive of the externality levelised costs, are reported in its Water Conservation Report.⁵²

We consider that our new recommendation would address DPE's concerns and give effect to the policy intent of the NSW Government submission.

Recommendation

- 15 Include a new obligation that Sydney Water must implement water conservation measures that have been assessed as economic as determined by the approved method.

The recommended licence clause is shown in Box 6.2.

Box 6.2	Recommended implementation of water conservation measures clause
3.1.2	Sydney Water must implement water conservation measures that have been assessed as economic as determined by the approved ELWC Method or another economic method approved by IPART.

6.4 Retain requirement to obtain approval for significant changes to ELWC method

We maintain our draft recommendation to retain the existing requirement for Sydney Water to obtain our approval for any significant changes it proposes to the ELWC method, or to the economic method approved by IPART.

We consider this position is consistent with our position to allow for flexibility in the economic method outlined in section 6.2 above.

Sydney Water supports retaining the obligation.⁵³

Recommendation

- 16 Retain the requirement for Sydney Water to notify IPART and obtain IPART's approval for any significant changes it proposes to make to the economic level of water conservation method, and revise this requirement so it applies to any other economic method we have previously approved.

The recommended licence clause is shown in Box 6.3.

⁵² Sydney Water, *Water Conservation Report 2017-18*, August 2018.

⁵³ Sydney Water submission to IPART draft licence package, February 2019, p 14.

Box 6.3 Recommended economic level of water conservation significant changes clause

- 3.1.7 Before making any significant changes to the ELWC Method, or to the economic method approved by IPART, Sydney Water must:
- a) notify IPART in accordance with the Reporting Manual; and
 - b) obtain IPART's prior written approval of the changes.

6.5 Include new obligation to review ELWC method during the term of the licence

We maintain our draft recommendation to include a new obligation to review the ELWC method during the term of the licence.

PIAC and Sydney Water supported this obligation.⁵⁴

While NSW Government (DPE) supported this obligation, it proposed Sydney Water be required to provide DPE with a terms of reference for a review of the ELWC method, and following the review provide DPE with the outcomes of the review. Under the proposal, DPE would approve the terms of reference for the review of the ELWC method, and approve any revisions to the ELWC method.⁵⁵ We do not support DPE's proposal. In our view, it is important that approval of the terms of reference for a review of the ELWC method, and of Sydney Water's economic approach to water conservation be provided by an independent party, rather than the policy maker, to ensure that any water conservation measures would be economic.

We note that in their submissions to the Issues Paper review, DPE, AWA-WESN and ISF raised concerns about the existing ELWC method, and identified several potential limitations and updates to improve the method.⁵⁶

While we consider the limitations identified by stakeholders are largely considered by the existing ELWC method, we consider that a review of the ELWC method is warranted to address some of the challenges of implementation of the ELWC method, in particular the value of externalities and the value of water components. A review including consultation with stakeholders would provide an opportunity to incorporate stakeholder feedback to expand the capabilities of the ELWC method, and also assist in improving transparency of the ELWC method. The review is to occur by 30 September 2020 and should allow Sydney Water to incorporate any relevant outcomes of the current review of recycled water arrangements, and the 2020 retail price determination. The ELWC method review would be completed prior to the expected release of the 2020 Greater Sydney Water Strategy in December 2020.

⁵⁴ PIAC submission to IPART draft licence package, February 2019, p 1 and Sydney Water submission to IPART draft licence package, February 2019, p 14.

⁵⁵ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 4.

⁵⁶ AWA-WESN submission to IPART Issues Paper, September 2018 pp 3-4; ISF submission to IPART Issues Paper, August 2018, p 3 and NSW Government (DPE) Submission to IPART Issues Paper, September 2018, p 8.

Recommendation

- 17 Include an obligation for Sydney Water to review its ELWC method, including stakeholder consultation, by 30 September 2020.

The recommended licence clauses are shown in Box 6.4.

Box 6.4 Recommended economic level of water conservation review clauses

- 3.1.5 Sydney Water must, by 30 September 2020 (or another date approved by IPART in writing), review the ELWC Method, or apply another economic method approved by IPART.
- 3.1.6 Any review of the ELWC Method referred to in clause 3.1.5 must:
- a) be conducted in accordance with terms of reference approved by IPART; and
 - b) include consultation with all stakeholders that Sydney Water considers are likely to be interested.

6.6 Revise reporting requirements to improve transparency and accountability

We maintain our draft recommendation for Sydney Water to publish information on the ELWC method on its website. We modify our draft recommendation on a water usage performance indicator by requiring Sydney Water to report on two performance indicators on water usage (observed (non weather-corrected) and weather corrected). We also make a new recommendation that Sydney Water report additional detail on its water conservation measures assessed and implemented under the ELWC method and that Sydney Water provides the Water Conservation Report to DPE by 1 September 2019.

Sydney Water supported our draft recommendations but proposed minor wording changes to clarify the proposed reporting requirements in the reporting manual.⁵⁷

NSW Government (DPE) proposed Sydney Water provide a comprehensive list of water conservation measures and detailed information to DPE annually by 30 September 2019 in addition to providing information on researched or piloted measures.⁵⁸

Flow Systems indicated the need to value the water scarcity offset generated by IWCM schemes and that the ELWC method should be shared with WIC Act licensees to assist with discussions on the value of the water scarcity offset. Flow Systems also proposed that the licence be revised to require that the ELWC method inputs, calculations and outputs are clearer and publicly communicated.⁵⁹

We agree that it is appropriate that Sydney Water provides additional information on water conservation measures to DPE to support its urban water policy and planning functions and that Sydney Water should report on and be held accountable for its demand management performance.

⁵⁷ Sydney Water submission to IPART draft licence package, February 2019, pp 14-17.

⁵⁸ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 4.

⁵⁹ Flow Systems submission to IPART draft licence package, February 2019, p 5.

However, we consider it is more appropriate to address DPE's information requirements in the reporting manual, in particular reporting for the Water Conservation Report. In addition to the requirement to provide the Water Conservation Report to IPART, we have revised our draft recommendation to require Sydney Water to also provide the Water Conservation Report to DPE by 1 September each year, since that is the same date IPART receives that report.

To provide transparency and accountability, Sydney Water should be required to publish the ELWC method on its website, including a Plain English summary and the ELWC (expressed as the quantity of water savings in megalitres per day). We understand the ELWC value is currently updated annually, however we consider this could be updated and reported on more frequently. During this review, dam levels for Greater Sydney reduced from 69.0%⁶⁰ to 57.4%⁶¹, a change of more than 10 percentage points, which we would expect to have an impact on the value of water, and result in a change to the ELWC. To increase the transparency about the changing value of water, we recommend Sydney Water be required to publish the ELWC on its website monthly.

We note that Sydney Water already provides information on the number of inputs and outputs (including the value of water, levelised costs of conservation measures, amount invested and actual and anticipated water savings) in its Water Conservation Report, which is publicly available. We consider these reporting requirements will deliver the outcomes sought by Flow Systems, as well as providing transparency to customers and other stakeholders.

In our draft recommendation, in response to stakeholder comments, we proposed the inclusion of a performance indicator to capture water usage in litres per capita per day. Sydney Water noted that it currently reports on the weather-corrected water usage in litres per person per day as required under the reporting manual, and voluntarily reports on the observed non-weather-corrected water usage in its Water Conservation Report.⁶² We recommend requiring Sydney Water to report this information as two separate water conservation performance indicators. We note that since Sydney Water already reports this information there is no additional cost of reporting on the two new performance indicators.

In our view, our recommendations would improve the transparency and accessibility of the ELWC method and the information about the implementation outcomes from the Water Conservation Report.

Recommendations

- 18 Revise the licence to require Sydney Water to publish on its website:
 - The ELWC method or another economic method approved by IPART
 - A plain English summary of the method
 - The ELWC expressed as the quantity of water savings in megalitres per day, updated monthly.
- 19 Revise the reporting manual to specify that Sydney Water is to report additional information in its Water Conservation Report on its water conservation measures assessed and

⁶⁰ WaterNSW Greater Sydney weekly verified storage and supply report, Thursday 28 June 2018.

⁶¹ WaterNSW, Greater Sydney weekly verified storage and supply report, Thursday 21 March 2019.

⁶² Sydney Water submission to IPART draft licence package, February 2019, p 17.

implemented under the ELWC method, and to provide the Water Conservation Report to DPE by 1 September each year.

- 20 Revise the reporting manual to include two performance indicators for water conservation, as the observed and weather-corrected level of water usage expressed as litres per capita per day.

The recommended licence clause is shown in Box 6.5.

Box 6.5 Recommended economic level of water conservation reporting clause

- 3.1.3 Sydney Water must make a copy of the ELWC Method (or another method approved by IPART under clause 3.1.1(b)), a plain English summary of that method and the economic level of water conservation (expressed as the quantity of savings in megalitres per day) available to any person, free of charge:
- a) on its website; and
 - b) upon request made to the Contact Centre.
- 3.1.4 Sydney Water must update the economic level of water conservation:
- a) for the purposes of clause 3.1.1 and 3.1.2—annually; and
 - b) for the purposes of clause 3.1.3—monthly.

6.7 Remove requirements to develop ELWC method and transition from fixed targets

We maintain our draft recommendation to remove the requirements to develop the ELWC method and transition from fixed targets to an economic approach to water conservation, as these requirements have been completed.

Sydney Water supported this view.⁶³ Some stakeholders opposed removing the requirement related to fixed targets, but we consider any reference to these are no longer necessary following the transition to the ELWC method.

We consider fixed targets are not an efficient economic approach to water conservation. However as discussed above, we consider that requiring Sydney Water to report on performance indicators on the observed and weather-corrected water usages (litres per capita per day) would improve transparency and accountability.

Recommendation

- 21 Remove the requirements for Sydney Water to develop an economic level of water conservation method, and transition from fixed targets for water usage and water leakage.

6.8 Include new obligations to participate in and support water planning

We maintain our draft recommendation to include an obligation for Sydney Water to participate cooperatively in urban water planning for Greater Sydney, but revise the draft

⁶³ Sydney Water submission to IPART draft licence package, February 2019, p 17.

recommendation to create two separate recommendations, one requiring Sydney Water to use its best endeavours to implement those aspects of the Metropolitan Water Plan (MWP) that are relevant to Sydney Water and agreed in writing, and to require Sydney Water to participate cooperatively in any review of the MWP.

Stakeholders generally supported our draft recommendation for including new obligations for Sydney Water to cooperate with DPE for urban water planning.⁶⁴

DPE generally supported this obligation but proposed revisions to the draft licence to facilitate implementation of the urban water policy and planning framework. DPE proposed that the draft recommendation on Sydney Water using its best endeavours to participate cooperatively in urban water planning and policy processes for Greater Sydney, should be revised to refer to both the implementation and review of the Metropolitan Water Plan (MWP), and remove the best endeavours requirement so that Sydney Water **must** participate cooperatively.⁶⁵ PIAC also supported DPE's view that it is necessary for Sydney Water to participate in the ongoing review and development of the plan.⁶⁶

Sydney Water supported this obligation in principle, subject to proposed wording changes. Sydney Water submitted that a best endeavours obligation is appropriate for the review of the MWP as its obligations can rely on input from other parties. It considered that implementation of NSW Government policy documents should be limited to where Sydney Water has been consulted, and implementation actions have been agreed.⁶⁷ We agree with Sydney Water, that the requirement for Sydney Water to implement the MWP should be limited to Sydney Water's identified functions to ensure that Sydney Water undertakes activities that are consistent with Sydney Water's functions and principal objectives under the Act.

As the largest urban water utility in the Greater Sydney area, we consider Sydney Water has a role to play in urban water policy development and planning. Our recommendations are intended to facilitate Sydney Water participating in and supporting urban water policy and planning.

Recommendations

- 22 Include a requirement for Sydney Water to participate cooperatively in any review of the Metropolitan Water Plan.
- 23 Include a requirement for Sydney Water to use its best endeavours to implement those aspects of the Metropolitan Water Plan relevant to Sydney Water's functions and agreed in writing with DPE.

The recommended licence clause is shown in Box 6.6.

⁶⁴ PIAC submission to IPART draft licence package, February 2019, p 2; Sydney Water submission to IPART draft licence package, February 2019, p 17.

⁶⁵ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 6.

⁶⁶ PIAC submission to IPART draft licence package, February 2019, p 2.

⁶⁷ Sydney Water submission to IPART draft licence package, February 2019, pp 17-18.

Box 6.6 Recommended Metropolitan Water Plan clause

- 3.2.4 Sydney Water must use its best endeavours to implement those aspects of the Metropolitan Water Plan that are relevant to Sydney Water's functions and that Sydney Water and DPE have agreed in writing Sydney Water will implement.
- 3.2.5 Sydney Water must participate cooperatively in any review of the Metropolitan Water Plan.

6.9 Include new obligation to cooperatively develop and submit plans to the portfolio Minister

We maintain our draft recommendation to include new obligations for Sydney Water to develop and submit to the portfolio Minister by December 2020, a long-term capital and operational plan and an emergency drought response plan, and to use its best endeavours to develop these plans as joint plans in cooperation with WaterNSW. However, we have modified the draft recommendation to require the plans to address guidance provided by the Minister, use terminology consistent with the urban water planning framework, and to allow Sydney Water to submit the plans by another date if approved by the Minister.

Sydney Water supported our draft recommendation, subject to proposed wording changes. Sydney Water in its submission, noted that it is working to provide these plans to the Minister by December 2020 as requested, but proposed that the licence should allow for a later date or change of scope for both plans.⁶⁸

DPE supported our draft recommendation but proposed revisions to specify that Sydney Water must develop the plans consistent with guidelines provided by the Minister to Sydney Water on 2 January 2019. DPE also proposed an obligation for Sydney Water to review the plans every five years.⁶⁹

We agree with DPE's view that the licence should be revised to refer to the guidance from the Minister. However, we have drafted the recommended licence clause flexibly, requiring Sydney Water to address the guidance, and allowing for any further written guidance provided by the Minister at a later date. We also agree with Sydney Water's view that the licence should allow flexibility for Sydney Water to submit the plans at a later date if there is a change in circumstances outside of its control.

While we consider DPE's proposal that the licence should include an obligation that the plans should be reviewed is reasonable, we note a 5-year review is outside the 4-year term of the licence. We acknowledge Sydney Water supports a review of these plans in the future and note that 5-year review is consistent with guidance provided by the Minister to Sydney Water on 2 January 2019.

We agree that it would be reasonable for Sydney Water and WaterNSW to collaborate in the development of the plans. However, we propose to only require Sydney Water to use its best endeavours to cooperate with WaterNSW. If the licence required Sydney Water to cooperate,

⁶⁸ Sydney Water submission to IPART draft licence package, February 2019, pp 17-18.

⁶⁹ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 6.

Sydney Water's compliance would depend partly on the actions of WaterNSW, which we consider inappropriate.

Recommendations

- 24 Include new requirements for Sydney Water to develop and submit to the portfolio Minister by December 2020 (or a later date approved by the Minister in writing), a long-term capital and operational plan and an emergency drought response plan that address guidance provided by the Minister, and to use its best endeavours to develop these plans as joint plans in cooperation with WaterNSW.

The recommended licence clause is shown in Box 6.7.

Box 6.7 Recommended long-term planning clauses

- 3.2.1 By 1 December 2020 (or another date approved by the Minister in writing), Sydney Water must develop, and submit to the Minister:
- a) a long-term capital and operational plan; and
 - b) an emergency drought response plan.
- 3.2.2 The plans referred to in clause 3.2.1 must address any written guidance that the Minister provides to Sydney Water.
- 3.2.3 Sydney Water must use its best endeavours to develop the plans referred to in clause 3.2.1 in cooperation with Water NSW.

6.10 New obligation for a data sharing agreement with DPE

We maintain our draft recommendation to include a new obligation for Sydney Water to develop and enter into a data sharing agreement, but revise the applicable date to 31 July 2019.

Sydney Water supported our draft recommendation subject to adhering to relevant privacy legislation and proposed minor revisions to reflect Sydney Water's existing MOU arrangements for information sharing with DPE.⁷⁰

NSW Government (DPE) supported this obligation but proposed an earlier agreement date of 31 July 2019.⁷¹ Sydney Water has advised that the arrangement of the data sharing agreement can be met earlier than the date of 30 June 2020 specified in our draft report. We understand that Sydney Water and DPE are currently meeting to negotiate and expand the terms of the existing memorandum between the two organisations, to include information sharing.⁷² We consider the existing MOU information sharing schedule could be expanded to meet the purpose of this obligation.

DPE has also proposed that the licence include additional obligations for Sydney Water to carry out its planning and policy function, including obligations for Sydney Water to:⁷³

⁷⁰ Sydney Water submission to IPART draft licence package, February 2019, pp 17-18.

⁷¹ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 6.

⁷² Sydney Water, Response to IPART Request for Information, 25 February 2019, Question 147.

⁷³ NSW Government (DPE) submission to IPART draft licence package, February 2019

- ▼ Provide information requested by DPE, such as water use and forecasting data (subject to complying with NSW and Commonwealth privacy legislation).
- ▼ Provide information requested in writing by the Deputy Secretary of DPE. The information would be required to be provided within a specified time of not less than 14 days, unless the information requested is urgent.
- ▼ Engage an independent expert to review its demand forecast method and procedures by 30 April 2022 and provide the expert's review to DPE.
- ▼ Calculate the water demand forecast for its area of operations.
- ▼ Provide DPE with the water demand forecast and notify DPE of any material changes to the demand forecast.

We do not support DPE's proposal for the licence to include additional obligations as set out above. Including the proposed obligation to require Sydney Water to provide information to DPE on request or within 14 days could create uncertainty and impose additional costs on Sydney Water especially where Sydney Water does not have such information. We consider DPE's proposal for an independent review of the water demand forecast is already addressed by Sydney Water's current processes which incorporates an external review of the method as part of its pricing proposals submitted to IPART for the retail price review.⁷⁴ Further, information on the water demand forecast can be included in the data sharing agreement between Sydney Water and DPE. A data sharing agreement is a more appropriate instrument for establishing requirements for provision of information by Sydney Water to DPE. Such an agreement would support both DPE's urban water policy and planning functions, while also ensuring that Sydney Water has certainty about the expectations for them to provide such information. We note Sydney Water and DPE acknowledged that any data provided by Sydney Water to DPE must comply with the relevant privacy legislation.⁷⁵

Flow Systems considered that the process for information sharing and planning should not exclude WIC Act licensees and that WIC Act licensees should have access to the information.⁷⁶ Further, Open Cities considered that the data sharing agreement highlights an issue of large asymmetry with the information shared between Sydney Water and the NSW Government on the one hand relative to Sydney Water's competitors on the other hand.⁷⁷ We consider this matter separately in Chapter 12 as part of our consideration of requirements for Sydney Water to provide information to WIC licensees and potential competitors.

Recommendations

- 25 Revise the licence to include a new requirement for Sydney Water to develop and enter into a data sharing agreement with DPE by 31 July 2019 (or another date approved by IPART).

⁷⁴ We understand Sydney Water has reviewed and recalibrated its short-term demand forecast model and engaged an external reviewer which is expected to be completed June 2019. Sydney Water has undertaken an external review of its short-term demand forecast model as part of its 2012, 2016 and 2020 price review.

⁷⁵ NSW Government (DPE) submission to IPART draft licence package, February 2019; and Sydney Water submission to IPART draft licence package, February 2019, p 18.

⁷⁶ Flow Systems submission to IPART draft licence package, February 2019, p 3.

⁷⁷ Open Cities, submission to IPART draft licence package, February 2019, p 3.

The recommended licence clauses are shown in Box 6.8.

Box 6.8 Recommended water planning clauses (Add final clauses)

- 3.2.6 Sydney Water must develop and enter into a data sharing agreement with DPE by 31 July 2019 (or another date approved by IPART in writing), for the purpose of two-way data and information sharing to assist in the development and review of the Metropolitan Water Plan (the **Data Sharing Agreement**).
- 3.2.7 In addition to any other matters agreed by Sydney Water and DPE, the Data Sharing Agreement must:
- a) set out the roles and responsibilities of Sydney Water and DPE under the Data Sharing Agreement;
 - b) set out the types of data that are covered by the Data Sharing Agreement;
 - c) set out the reasons for sharing the data and information;
 - d) set out the uses to which the data and information will be put;
 - e) set out the requirements that shared data and information must meet;
 - f) identify agreed timelines and the format for sharing data and information; and
 - g) identify procedures for resolving matters of conflict in providing data and information.
- 3.2.8 Once Sydney Water has entered into the Data Sharing Agreement it must comply with the Data Sharing Agreement.

6.11 Retain Priority Sewerage Program clauses

On balance, we maintain our draft recommendations to retain the existing Priority Sewerage Program (PSP) obligations to require Sydney Water to participate in any future government review, and the list of six PSP⁷⁸ areas (Schedule 3 of the existing licence).

Although Sydney Water preferred that the PSP requirements be removed from the licence, it accepted our draft recommendations.⁷⁹ Sydney Water considered that the licence should focus on general terms and conditions for the delivery of services in its area of operations, rather than the delivery of specific projects or initiatives such as the PSP. Sydney Water indicated that it plans to provide sewerage services to Austral between 2020 and 2022 and to Menangle Park between 2022 and 2024, as part of its capital infrastructure program to service Greenfield growth.⁸⁰

SIRA considered that the obligation should include a timeline for completion and SIRA has also requested that the NSW Government identifies a funding source for the delivery of the PSP.⁸¹

We consider that maintaining our draft recommendations is reasonable to provide transparency to the residents and property owners in these areas. The PSP has been a long

⁷⁸ PSP is a government program that commenced in 1997 to service unsewered areas.

⁷⁹ Sydney Water submission to IPART draft licence package, February 2019, p 19.

⁸⁰ Sydney Water submission to IPART Issues Paper, August 2018, pp 74, 75; and Sydney Water submission to IPART draft licence package, February 2019, p 19.

⁸¹ SIRA submission to IPART draft licence package, February 2019, pp 7-8.

running NSW Government program where properties in some of the unsewered areas have progressively been serviced or commitments for the provision of services have been made at various times. We do not accept the proposal from SIRA to include completion dates as this is a matter for the NSW Government and is outside the scope of this licence review.

Recommendations

- 26 Retain the existing Priority Sewerage Program obligations.
- 27 Retain the list of areas and update the estimated number of lots in the Priority Sewerage Program shown in Schedule 3 of the existing licence.

The recommended licence clauses are shown in Box 6.9.

Box 6.9 Recommended Priority Sewerage Scheme clauses

3.3 Priority Sewerage Program

- 3.3.1 Sydney Water must participate cooperatively in any NSW Government review of the Priority Sewerage Program.
- 3.3.2 If required by the Minister, Sydney Water must implement and comply with any outcomes (including timeframes) of any NSW Government review of the Priority Sewerage Program.
[**Note:** The areas to which the Priority Sewerage Program applies are Austral, Menangle, Menangle Park, Nattai, Scotland Island and Yanderra as listed in Schedule B of this Licence.]

7 Performance standards for water quality

The fourth part of the recommended licence is performance standards for water quality. This part of the licence sets out obligations that aim to ensure Sydney Water's services and systems meet specified performance standards for water quality. It includes clauses related to:

- ▼ Drinking water quality
- ▼ Recycled water quality
- ▼ Fluoridation.

The sections below summarise our positions on these issues, then discuss each position in more detail.

7.1 Summary of positions on performance standards for water quality

After considering stakeholder comments, we maintain our draft views to retain the existing water quality clauses with only minor revisions to remove duplication and the completed clause, and to improve flexibility in both water quality monitoring and end-uses for recycled water.

We recommend to:

- ▼ Retain obligations to maintain management systems consistent with the *Australian Drinking Water Guidelines* (ADWG) and the *Australian Guidelines for Water Recycling* (AGWR).
- ▼ Expand the definition of the AGWR to include all volumes of these guidelines.
- ▼ Remove obligations to obtain NSW Health's approval for any significant changes Sydney Water proposes to make to the Drinking Water and Recycled Water Quality Management Systems as the licence does not preclude Sydney Water from engaging with NSW Health on these changes.
- ▼ Remove licence requirement to notify IPART and NSW Health of any significant changes as Sydney Water is already required to do so in the reporting manual.
- ▼ Retain obligation to comply with the *Fluoridation Code*, and add a new clause to clarify that NSW Health can specify different requirements to those in the *Fluoridation Code* to help us clearly define our compliance monitoring task.
- ▼ Remove the obligation for Sydney Water to review its public reporting on drinking water quality as this has been completed.
- ▼ Move the list of water quality monitoring characteristics in the existing reporting manual to the Drinking Water Quality Management System.

7.2 Retain obligations to maintain management systems consistent with ADWG and AGWR

We maintain our draft recommendations to retain the existing obligations for maintaining management systems consistent with the ADWG and the AGWR.

NSW Health expressed support for the retention of obligations relating to water quality at the public workshop. Sydney Water also supported our draft recommendations with a proposed revision.⁸² Our cost-benefit analysis indicates that the drinking water management system obligation has a strong positive net benefit (Appendix A to the draft report⁸³). Our cost-benefit analysis suggests that retaining the recycled water management system obligation has a negative benefit, however we note that the benefits delivered by the AGWR are difficult to quantify. Due to stakeholders support, we recommend retaining the existing AGWR obligation.⁸⁴ Sydney Water submitted that auditors assessing the requirement to implement management systems “to the satisfaction of NSW Health” set out in the draft licence may assess this obligation as a standalone requirement. It proposed to add a note in the licence to clarify that for the purpose of the operational audit, performance against all aspects of draft clauses 4.1, 4.2 and 4.3 should be confirmed with NSW Health. We consider a note in the licence to this effect is not necessary because our audit approach including seeking feedback from relevant government agencies regarding the performance of the utility prior to finalising the audit scope is already specified in our Audit Guideline⁸⁵ for public water utilities.

The Act states that the licence is to include terms or conditions to ensure Sydney Water’s systems and services meet specified quality and performance standards on water quality.⁸⁶ Therefore, the licence must have obligations to ensure safe drinking water and recycled water quality.

Recommendations

- 28 Retain the existing clauses on maintaining management systems consistent with the *Australian Drinking Water Guidelines*.
- 29 Retain the existing clauses on maintaining management systems consistent with the *Australian Guidelines for Water Recycling*.

⁸² Sydney Water submission to IPART draft licence package, February 2019, p 20.

⁸³ IPART, *Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report*, December 2018, p 123.

⁸⁴ PART, *Review of the Sydney Water Operating Licence 2015-2020, Draft Report*, December 2018, p 52.

⁸⁵ IPART, *Audit Guideline - Public Water Utilities*, September 2018, p 5.

⁸⁶ *Sydney Water Act 1994*, s 14(c).

The recommended licence clauses are shown in Box 7.1.

Box 7.1 Recommended water quality management system clauses

4.1 Drinking Water

- 4.1.1 Sydney Water must maintain a Management System that is consistent with the Australian Drinking Water Guidelines and any requirements relating to Drinking Water specified by NSW Health (the **Drinking Water Quality Management System**).
- 4.1.2 In the event of inconsistency between the requirements specified by NSW Health referred to in clause 4.1.1 and the Australian Drinking Water Guidelines, the requirements specified by NSW Health prevail.
- 4.1.3 Sydney Water must ensure that the Drinking Water Quality Management System is fully implemented and that all relevant activities are carried out in accordance with the Drinking Water Quality Management System and to the satisfaction of NSW Health.
[Note: Sydney Water is to apply the Drinking Water Quality Management System to the Drinking Water system under its control, having regard to the entire Drinking Water supply system – from the water catchment to the Consumer.]

4.2 Recycled Water

- 4.2.1 Sydney Water must maintain a Management System that is consistent with the Australian Guidelines for Water Recycling and any requirements relating to water recycling specified by NSW Health (the **Recycled Water Quality Management System**).
- 4.2.2 In the event of inconsistency between the requirements specified by NSW Health referred to in clause 4.2.1 and the Australian Guidelines for Water Recycling, the requirements specified by NSW Health prevail.
- 4.2.3 Sydney Water must ensure that the Recycled Water Quality Management System is fully implemented and that all relevant activities are carried out in accordance with the Recycled Water Quality Management System and to the satisfaction of NSW Health.

7.3 Expand definition of Australian Guidelines for Water Recycling

We maintain our draft recommendation to expand the definition of the AGWR to include all volumes of the guidelines in the recommended licence because this would allow for potential future situations where Sydney Water may operate schemes with end-uses beyond those covered in the AGWR Phase 1.

Sydney Water supported our draft recommendation.⁸⁷

There are four volumes of AGWR:

- ▼ Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1) – 2006 (AGWR Phase 1)
- ▼ Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 2) – Augmentation of Drinking Water Supplies – 2008

⁸⁷ Sydney Water submission to IPART draft licence package, February 2019, p 20.

- ▼ Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 2) – Stormwater Harvesting and Reuse – 2009
- ▼ Australian Guidelines for Water Recycling: and Managing Health and Environmental Risks (Phase 2) – Managed Aquifer Recharge – 2009.

The existing definition for the AGWR in the licence includes only the AGWR Phase 1.

Recommendation

- 30 Expand the definition of *Australian Guidelines for Water Recycling* in the licence to include all volumes.

7.4 Sydney Water is not precluded by the licence from engaging with NSW Health on changes to its water quality management systems

We maintain our draft recommendation to remove the existing requirements for Sydney Water to obtain NSW Health’s approval for any significant change to the Drinking Water Quality Management System and the Recycled Water Quality Management System.

We consider that the existing requirements overlap with the existing requirement to fully implement the management systems to the satisfaction of NSW Health. In particular, the process of managing proposed significant changes to these systems is part of fully implementing the management systems. In addition, implementing the management system “to the satisfaction of NSW Health” achieves the same intent as “obtain NSW Health’s approval”. Sydney Water can choose to engage with NSW Health on changes to its water quality management systems.

Sydney Water submitted that it prefers to retain the existing licence requirements, but accepted that the draft licence may achieve a similar outcome.⁸⁸ NSW Health did not object to our view at the public workshop, noting that it would discuss actions required by Sydney Water to confirm its satisfaction through their regular liaison meetings.

Recommendation

- 31 Remove the existing clauses on obtaining NSW Health’s approval for any significant changes that Sydney Water proposes to make to the Drinking Water Quality Management System and the Recycled Water Quality Management System, as the licence does not preclude Sydney Water from engaging with NSW Health on these changes.

7.5 Sydney Water to notify IPART and NSW Health of significant changes to its water quality management systems through the reporting manual

We maintain our draft recommendation to remove the licence obligations to notify IPART and NSW Health of any proposed significant changes to the Drinking Water Quality Management System and the Recycled Water Quality Management System as these obligations duplicate the existing reporting requirement set out in the reporting manual.

⁸⁸ Sydney Water submission to IPART draft licence package, February 2019, p 21.

Sydney Water accepted IPART's intent to remove the obligations to notify NSW Health and IPART of proposed significant changes to water quality management systems, noting the obligations to report such changes would still be covered by the reporting manual.⁸⁹

Recommendation

- 32 Remove the existing clauses in the licence on notifying IPART and NSW Health of any proposed significant changes to the Drinking Water Quality Management System and the Recycled Water Quality Management System, as Sydney Water is already required to do so in the reporting manual.

7.6 Retain the fluoridation obligation and add new clause

We maintain our draft recommendation to retain the fluoridation obligation and add a clause to clarify that NSW Health can specify different requirements to those in the *Fluoridation Code*.

NSW Health expressed support for the retention of fluoridation obligations in the licence at the public workshop. Sydney Water submitted that the additional clause appears to be unnecessary but accepts that it may assist IPART in compliance monitoring activities, such as the annual operational audit.⁹⁰

Recommendation

- 33 Retain the existing clause in the licence on complying with the *Fluoridation Code*, and add a clause to clarify that NSW Health can specify different requirements to those in the *Fluoridation Code*.

The recommended licence clauses are shown in Box 7.2.

Box 7.2 Recommended Fluoridation Code clauses

4.3 Fluoridation Code

- 4.3.1 Sydney Water must comply with the Fluoridation Code and any requirements for fluoridation specified by NSW Health.
- 4.3.2 In the event of inconsistency between the requirements specified by NSW Health referred to in clause 4.3.1 and the Fluoridation Code, the requirements specified by NSW Health prevail.

7.7 Remove completed clause on review of public reporting

We maintain our draft recommendation to remove the obligation for Sydney Water to undertake a review of its public reporting on water quality by 31 December 2016, because Sydney Water has completed this review as required.

Sydney Water supported our draft recommendation.⁹¹

⁸⁹ Sydney Water submission to IPART draft licence package, February 2019, p 22.

⁹⁰ Sydney Water submission to IPART draft licence package, February 2019, p 21.

⁹¹ Sydney Water submission to IPART draft licence package, February 2019, p 21.

Recommendation

- 34 Remove the completed clause which required Sydney Water to review its public reporting on drinking water quality.

7.8 Move water quality monitoring characteristics from reporting manual to Drinking Water Quality Management System

We maintain our draft recommendation to move the list of water quality monitoring characteristics from the reporting manual to a schedule of the Drinking Water Quality Management System. These characteristics are currently in Appendix B, Health and aesthetic water characteristics and raw water operational characteristic, of the reporting manual.⁹² We consider this would enable greater flexibility for Sydney Water and NSW Health in water quality monitoring.

Sydney Water supported this draft recommendation noting that the proposed change will enable Sydney Water to respond flexibility to areas of customer interest, while maintaining NSW Health's oversight of the scope and frequency of water quality reporting to the public.⁹³

We note Sydney Water would still be required to report to the public and NSW Health on a regular basis in accordance with the reporting manual.

Recommendation

- 35 Move Appendix B (Drinking Water health and aesthetic water characteristics and raw water operational monitoring characteristics) in the existing reporting manual to a reporting schedule in the Drinking Water Quality Management System.

⁹² The Issues Paper refers to Appendix F of the previous version of the reporting manual (August 2017). The same appendix is in Appendix B of the existing Reporting Manual (July 2018).

⁹³ Sydney Water submission to IPART draft licence package, February 2019, p 22.

8 Performance standards for service interruptions

The fifth part of the recommended licence is performance standards for service interruptions. This part of the licence sets out obligations that aim to ensure Sydney Water's services and systems meet specified performance standards for service interruptions. The clauses in this part of the licence correspond to the existing system performance standards for water continuity, water pressure and wastewater overflow in the existing licence.

This part of the licence also includes obligations for an asset management system which is discussed in Chapter 9 of this report.

The sections below summarise our positions on these performance standards for service interruptions, then discuss each position in more detail.

8.1 Summary of positions on performance standards for service interruptions

After considering the results of our analysis, Sydney Water's proposed standards, and stakeholder comments, we maintain our draft views on revising the existing performance standards for water continuity, wastewater overflow and water pressure to better reflect customers' preferences and the value they place on the service outcomes Sydney Water provides, and to balance these against the cost of providing the services.

We also maintain our draft recommendation to express the performance standards as the number of properties that meet the standard per 10,000 properties.

For the water continuity standard, we recommend to:

- ▼ Revise the standard based on the results of Sydney Water's cost-benefit analysis, including adopting an optimal level and a tolerance band for single event unplanned water interruptions that last for more than five continuous hours.
- ▼ Remove the standard for multiple unplanned water interruptions, but retain the requirement to report on the number of properties affected by multiple events as an IPART performance indicator.

For the water pressure standard, we recommend to:

- ▼ Revise the standard so it focuses on multiple repeat water pressure failure events, and longer water pressure failure events.
- ▼ Add new requirements for Sydney Water to address the services provided to properties in areas affected by recurring low pressure, and review its business processes to ensure new property owners at these areas are informed.

For the dry weather wastewater overflow standard, we recommend to:

- ▼ Retain the existing threshold levels for both single and multiple events.

- ▼ Retain the existing approach that excludes public properties from the dry weather wastewater overflow standard.

We consider that there is merit in Sydney Water undertaking further work on the measures and level of performance standards for service interruptions in the future.

8.2 Our approach to the performance standards review

For the review of the water continuity standard, Sydney Water undertook cost-benefit analysis to identify the performance level that reflects customers' willingness to pay. Sydney Water commissioned the Centre for International Economics (CIE) to undertake a customer survey. We consider this survey is reliable and of good quality. We developed an optimisation model that allowed us to check Sydney Water's analysis.

For the water pressure standard, we reviewed water pressure information from Sydney Water and the results of Sydney Water's recent customer engagement surveys but did not undertake modelling. As Sydney Water proposed to remove this standard in its Issues Paper submission, it did not undertake further analysis to review this standard.

For the wastewater overflow standard, Sydney Water undertook a cost-benefit analysis to assess customers' willingness to pay, and we also developed an optimisation model to determine the appropriate performance level. However, we are not confident that this type of system failure can be reliably modelled, as it is difficult to draw reliable causal inferences on the relationship between management actions by Sydney Water, their costs and their efficacy in reducing the incidence or severity of wastewater overflows. Given that we have no better information on which to base a move from the existing standard, we accept Sydney Water's proposal to retain the standard.

8.3 Express all standards for service interruptions as number of properties that meet the standard per 10,000 properties

We maintain our draft recommendations to express the standards for water continuity, water pressure and wastewater overflow as the number of properties that meet the standard per 10,000 properties and to retain the interpretation of system performance clause.

Sydney Water supported our draft recommendations.⁹⁴ PIAC supported the adoption of proportional performance standards as a more meaningful measure.⁹⁵

We consider our approach would allow for the effect of population growth and development in Sydney, while also showing the number of properties as whole numbers which would be meaningful to customers and other stakeholders. If there is ambiguity in the interpretation or application of any system performance standard, IPART's interpretation or assessment of the application of the system performance standard will prevail. We consider this is appropriate as queries or disagreements should be resolved with the licence regulator.

⁹⁴ Sydney Water submission to IPART draft licence package, February 2019, p 24.

⁹⁵ PIAC submission to IPART draft licence package, February 2019, p 2.

Recommendations

- 36 Express the measure of performance as the number of properties that meet the standard per 10,000 properties.
- 37 Retain the interpretation of system performance standards clause, where IPART's interpretation of the system performance standards will prevail if there were ambiguity in the interpretation or application of any system performance standards.

The recommended licence clause for the interpretation of standards is shown in Box 8.1. The measure of performance standards are shown in Boxes 8.2, 8.3 and 8.4.

Box 8.1 Recommended interpretation of standards clause

5.4 Interpretation of standards

- 5.4.1 In the case of any ambiguity in the interpretation or application of the Water Continuity Standard, the Water Pressure Standard, the Dry Weather Wastewater Overflow Standard or clause 5.2.5, IPART's interpretation or assessment of the standard or clause will prevail.

8.4 Revise water continuity standard based on results of Sydney Water's cost-benefit analysis that accounts for customer willingness to pay

We maintain our draft recommendations to introduce an optimal level and a tolerance band for single event unplanned water interruptions, with some revisions to the wording in the recommended licence clauses to clarify our intent. A comparison of the existing and the recommended single event water continuity performance standard is shown in Figure 8.1.

In the draft licence, we used the term 'water continuity target' to reflect the optimal performance level that Sydney Water should try to aim for. To avoid the potential misunderstanding that a 'target' has to be always met, we revise our draft recommendations to replace the term 'target' with 'optimal level' in the recommended licence and the report.

Sydney Water strongly supported taking customer views and preferences into account when setting standards for service levels, however, it opposed setting an optimal level and tolerance band because it considered the approach may not make sense for the current water continuity measure, nor provide the best value for service option for customers. Sydney Water preferred to retain a maximum threshold limit only, using a ratio measures and a five-year rolling average to measure performance.⁹⁶

PIAC and EWON broadly supported our recommended water continuity standard.

We do not agree with Sydney Water's view in its submission to the draft licence package to remove the water continuity optimal level and the tolerance band from the recommended licence or apply a five-year rolling average to measure performance. We discuss this further in sections 8.4.1 and 8.4.2 below.

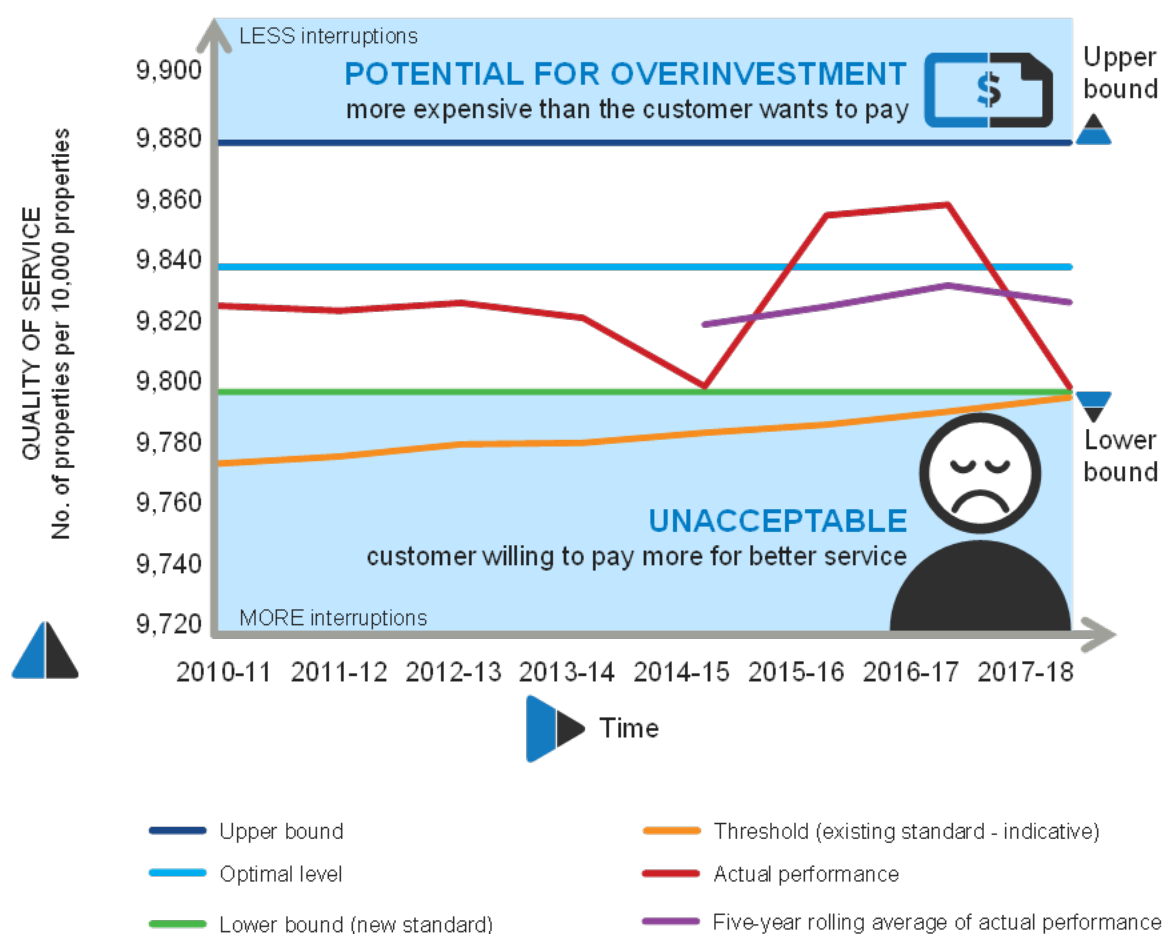
⁹⁶ Sydney Water submission to IPART draft licence package, February 2019, p 25.

8.4.1 A tolerance band protects customer from paying too much or too little

We maintain our draft recommendation to introduce a tolerance band because the tolerance band protects customers from either paying too much due to over investment, or paying too little and receiving poor service.

We do not support including only a maximum threshold as it would not protect customers from paying for over investment in a system that is more reliable than they are willing to pay for. For this reason we have proposed a lower limit and an upper limit around the optimal level resulting in a 'tolerance band'. A tolerance band, with the appropriate band width, would take into account a range of actual performances affected by a range of external factors. The tolerance band in the recommended licence, proposed by Sydney Water in November 2018, was based on Sydney Water's historical experience of performance variations, and captures variability due to external factors.⁹⁷ The proposed optimal level, tolerance band and customer preferences are shown in Figure 8.1, along with Sydney Water's actual performance since 2010-11 and a five-year rolling average of its performance since 2014-15.

Figure 8.1 Recommended water continuity standard overlaid on Sydney Water's historical performance



⁹⁷ Sydney Water submission to IPART draft licence package, February 2019, p 25.

Sydney Water's performance in 2014-15 and 2017-18 was very close to exceeding the proposed water continuity standard. Sydney Water performed within the proposed standard, which is the lower bound of the tolerance band, for each of the past eight years if the new standard is applied.

8.4.2 Uncertainty in assessing compliance in applying a 5-year rolling average

We maintain our draft recommendation to measure performance as the number of properties that meet the standard.

We do not support Sydney Water's proposal to use a 5-year rolling average because rolling average would cause uncertainty and confusion to customers on Sydney Water's actual performance for a financial year.

If we adopt the five-year rolling average approach, we would expect Sydney Water to report on both its actual performance (eg. 9,802 properties per 10,000 properties not affected by unplanned water interruption for more than five hours in 2017-18) and its average performance (eg 9,829 properties per 10,000 properties not affected by unplanned water interruption for more than five hours in 2017-18 on a five-year rolling average basis). Both numbers measure Sydney Water's performance in 2017-18 and the two different numbers could cause confusion to customers.

In our view, a move to a 5-year rolling average would require a reduction in the tolerance band which accounts for uncertainty year to year by allowing sufficient band width for natural variations in outcomes due to weather variation, and uncertainty in the optimisation model results.

8.4.3 Licence obligation should discourage over-compliance

We have clarified the wording in the recommended licence clause that Sydney Water is compliant if its performance exceeds the upper bound of the tolerance band or its performance does not meet the optimal level but remains within the tolerance band.

We have also replaced the words 'with the objective of achieving' with 'as inputs to decisions' in the recommended licence clause to demonstrate our intention to encourage Sydney Water to adopt the optimal level and tolerance band in making decisions on managing its service level for drinking water services.

We consider that where Sydney Water's performance **is better than** the tolerance band of the water continuity standard (ie, more than 9,880 properties per 10,000 are unaffected by unplanned water interruptions), the licence should not encourage Sydney Water to take actions to perform within the band. This means that Sydney Water would be considered compliant with its licence if its performance exceed the upper bound of the tolerance band. However, we would consider the prudence and efficiency of any over-performance compared to the tolerance band in our review of Sydney Water's prices.

In addition, Sydney Water's performance would be assessed as compliant if it deviates from the optimal level, but remains within the tolerance band. The inclusion of the optimal level in the licence identifies customers expected level of performance and should focus Sydney Water's attention on that expectation.

However, where Sydney Water's performance **is worse than** the lower bound of the tolerance band of the water continuity standard (ie, less than 9,800 properties per 10,000 are unaffected by unplanned water interruptions), Sydney Water would be non-compliant with its licence.

Recommendations

- 38 Revise the water continuity standard to introduce an optimal level and a tolerance band for single event unplanned water interruptions that last for more than five continuous hours. The lower bound of the tolerance band is to become the new recommended water continuity standard.
- 39 Set the optimal level for the water continuity standard to 9,840 properties per 10,000 properties per year that do not experience unplanned water interruptions that each lasts for more than five continuous hours.
- 40 Set the tolerance band for the water continuity standard to +/- 40 properties, which equates to a lower bound of 9,800 properties per 10,000 properties per year, and an upper bound of 9,880 properties per 10,000 properties per year that are unaffected by unplanned water interruptions that each lasts for five or more continuous hours.

The recommended licence clauses are shown in Box 8.2.

Box 8.2 Recommended Water Continuity Standard clauses

- 5.1.1 Sydney Water must ensure that, in each financial year, at least 9,800 Properties per 10,000 Properties (in respect of which Sydney Water provides a Drinking Water supply service) receive a Drinking Water supply service unaffected by an Unplanned Water Interruption (the Water Continuity Standard).
- 5.1.2 Sydney Water must use:
 - a) the Water Continuity Optimal Level; and
 - b) the Water Continuity Tolerance Band,as inputs to decisions regarding the design, construction, operation and maintenance of its water supply system.
- 5.1.3 For the purposes of clause 5.1.2:
 - a) the **Water Continuity Optimal Level** is 9,840 Properties per 10,000 Properties (in respect of which Sydney Water provides a Drinking Water supply service) in each financial year receiving a Drinking Water supply service unaffected by an Unplanned Water Interruption; and
 - b) the **Water Continuity Tolerance Band** is the band of deviations from the Water Continuity Optimal Level between:
 - i. the mandatory Water Continuity Standard (specified in clause 5.1.1 above); and
 - ii. an upper bound of 9,880 Properties per 10,000 Properties (in respect of which Sydney Water provides a Drinking Water supply service) in each financial year receiving a Drinking Water supply service unaffected by an Unplanned Water Interruption.

[Note: Clause 5.1.2 requires Sydney Water to use the Water Continuity Optimum Level and Water Continuity Tolerance Band as inputs into certain decisions. If Sydney Water complies with clause 5.1.2, it will be compliant with this clause 5.1 even if the number of Properties unaffected by an Unplanned Water Interruption exceeds the upper bound of the Water Continuity Tolerance Band. However, IPART may consider the prudence and efficiency of any expenditure related to this level of performance at the next review of Sydney Water's prices.]

8.5 Revise water continuity standard to remove standard for multiple unplanned water interruptions

We maintain our draft recommendation to remove the repeat event measure from the water continuity standard, but maintain the repeat event measure as an IPART performance indicator to monitor the trend on multiple interruption events. A comparison of the existing and the recommended multiple events water continuity performance standard is shown in Figure 8.2.

Sydney Water accepted our draft recommendation to remove the standard for multiple unplanned water interruptions, noting that it considered repeat events are a better indicator of how it manages its system than single events, particularly over the long-term.⁹⁸

Figure 8.2 Comparison of existing and recommended multiple event water continuity standard

Water Continuity		Multiple events
Existing standard		Recommended standard
<u>Threshold^a</u> No more than 14,000 properties per year experience three or more unplanned water interruptions > 1 hour.		No standard set in the recommended licence.

We recommend removing the multiple event measure from the water continuity standard, but maintaining the multiple event measure as an IPART performance indicator to monitor the trend on multiple interruption events.

Reasons for change:

1. We have not set a standard for multiple events for water continuity because we have insufficient information to model the effect of repeat water continuity failures.
2. Sydney Water considered that there would be minimal impact on the number of repeat interruptions experienced by customers as a result of the change in the level of the water continuity standard.

^a Threshold means the minimum level of standard that Sydney Water must achieve in any financial year.

Recommendation

- 41 Remove the repeat event measure from the water continuity standard, but maintain the repeat event measure as an IPART performance indicator to monitor the trend on multiple interruption events.

8.6 Revise water pressure standard threshold to focus on longer, repeat events

We maintain our draft recommendations to:

- ▼ Revise the threshold for the water pressure standard to focus on recurring interruptions in line with the finding that Sydney Water's customers do not view a single water pressure failure is important.

⁹⁸ Sydney Water submission to IPART draft licence package, February 2019, p 27.

- ▼ Change the definition of water pressure failure from a duration of 15 minutes to one hour. We consider the specification of the time of day, whether it is peak or off-peak, is not necessary.
- ▼ Encourage Sydney Water to address recurring low pressure issues, but not require it to eliminate these issues.
- ▼ Not require reporting on flow and pressure as we consider this is best addressed through an alternative means to the licence.



8.6.1 Revise the threshold level for water pressure standard

We maintain our draft recommendation to revise the threshold level for the water pressure standard from no more than 6,000 properties that experience one water pressure failure per year, to 130 properties (equivalent to 1 in 10,000) that experience 12 or more water pressure failures per year. This change is intended to keep the number of properties experiencing recurring water pressure failure small. It would also align with Sydney Water's customers' views that single water pressure failure⁹⁹ of short duration are less important, and would provide a more transparent measure for recurring low pressure issues. Adding a frequency of 12 or more per year to the measure should capture existing properties experiencing recurring water pressure failure (discussed further below).

Sydney Water supported our draft recommendation.¹⁰⁰ PIAC and EWON also broadly supported our draft recommendation.¹⁰¹

A comparison of the existing and the recommended single and multiple events water continuity performance standard is shown in Figure 8.3 and Figure 8.4.

Figure 8.3 Comparison of existing and recommended single event water pressure continuity standard

 Water Pressure  Single event	
Existing standard	Recommended standard
<u>Threshold^a</u> No more than 6,000 properties per year experience a water pressure failure, which is defined as pressure of less than 15 metres head of pressure for a continuous period of 15 minutes or more.	No standard set in the recommended licence.

We recommend removing the single event measure from the water pressure standard, because Sydney Water's customers do not view that a single water pressure failure is important.



^a Threshold means the minimum level of standard that Sydney Water must achieve in any financial year.

⁹⁹ Water pressure failure means a situation in which a Property experiences a pressure of less than 15 metres head of pressure for a continuous period of 15 minutes or more measured at the point of connection of the Property to Sydney Water's Drinking Water supply system, usually at the point of connection known as the 'main tap'. Pressure failures relating to temporary operational events such as water main breaks are excluded.

¹⁰⁰ Sydney Water submission to IPART draft licence package, February 2019, p 27. *Sydney Water Operating Licence 2015-2020*, clause 12.1.

¹⁰¹ PIAC submission to IPART draft licence package, February 2019, p 2; EWON submission to IPART draft licence package, February 2019, p 1.

Figure 8.4 Comparison of existing and recommended multiple event water pressure continuity standard

 Water Pressure  Multiple events	
Existing standard	Recommended standard
<u>No standard set in the existing licence</u>	Threshold^a At least 9,999 properties per 10,000 properties per year receive drinking water supply service affected by fewer than 12 water pressure failures.

We recommend introducing a multiple event measure for the water pressure standard. The recommended standard represents 130 properties experiencing 12 or more water pressure failures, where water pressure failure is defined as pressure of less than 15 metres head of pressure for a continuous period of one hour or more.

Reasons for change:

1. Short periods of low water pressure are less important in customers' views.
2. Sydney Water noted that about 130 properties have experienced very frequent water pressure failures.
3. The number of properties allowed to be affected by service interruptions will increase as the total number of properties serviced by Sydney Water increases. This is to allow for the effect of population growth in Sydney.

^a Threshold means the minimum level of standard that Sydney Water must achieve in any financial year.

Note: Performance standards are measured for each financial year. We used 1,980,000 drinking water connections as the base in calculating the equivalent number of properties in the recommended water continuity standard. Numbers in the recommended standard have been rounded.

Source: IPART analysis.

8.6.2 Change the definition of water pressure failure

We maintain our draft recommendation to change the definition of the duration of water pressure failure from 15 minutes to one hour to reflect customers' views that short periods of low water pressure are less important. This could lead to a reduction in the number of reported pressure failures, but it is unlikely to reduce the number of reported properties experiencing recurring water pressure failure.

Sydney Water supported our recommended change to the definition of water pressure failure.¹⁰²

8.6.3 Require Sydney Water to address recurring low water pressure areas

We maintain our draft recommendation to include a new obligation to require Sydney Water to address clusters of properties affected by recurring low water pressure in a manner that takes into account customers' willingness to pay by 31 October 2022, but revise the definition of property cluster to clarify that these areas are identified at the commencement of the licence. A cost-benefit analysis, informed by customers' willingness to pay and cost of providing the services, would be required to demonstrate prudent and efficient spending.

¹⁰² Sydney Water submission to IPART draft licence package, February 2019, p 28.

Sydney Water noted that about 130 properties have experienced very frequent pressure failures in six discrete locations. These locations are rural or low-density residential areas, and the properties have experienced recurring low water pressure for many decades. In most cases, they experienced water pressure failure every day during the summer of 2017-18.¹⁰³ The reason for this is that the properties are either located close to the supplying reservoir and therefore at similar or higher elevation to it.¹⁰⁴

We consider that requiring Sydney Water to address recurring low water pressure issues by 31 October 2022 should provide sufficient time for it to evaluate its customers' willingness to pay, decide on its approach, and progressively resolve the recurring low water pressure on clusters of properties on that basis. Further, we consider revising the water pressure standard to 130 properties should send a signal to Sydney Water to not encourage new connection of properties at locations where minimum pressure standard cannot be met.

For new properties seeking connections to Sydney Water's drinking water networks, we maintain that Sydney Water should review its business processes so that no new property at risk of being affected by recurring low water pressure is connected to the drinking water supply unless the owner is informed of the low water pressure and provided with options to avoid the risk of low water pressure by 30 June 2020. This would provide adequate time for Sydney Water to review its processes.

We have listed the six areas that experience recurring low water pressure in the draft licence. Sydney Water proposes to remove the prescribed areas from the licence because if these areas are named, they would continue to be identified in the licence as problematic area, even after pressure issues had been rectified. In addition, other areas that may start to experience frequent pressure failures would not be identified.¹⁰⁵

We do not support Sydney Water's proposal to remove the prescribed areas in the definition of the licence because our intention is to require Sydney Water to address recurring water pressure failures at these specific areas if there is willingness to pay, and ensure that the water pressure problem does not get worse in these areas. The prescribed areas also provide transparency in the scope of auditing compliance of this clause. We consider revising the definition of Property Cluster in the licence to clarify that the prescribed areas were identified at the commencement of the licence to avoid the potential misunderstanding that these areas are problematic for the whole term of the licence should address Sydney Water's submission.

We note that Sydney Water can choose to address additional problematic areas but in the licence we are focusing on these known areas with long-term water pressure problems.

8.6.4 Not require flow and pressure reporting

We maintain our draft position that a requirement for reporting on areas of the network where water flow available is less than 10 litres per second and water pressure at less than 100 kilopascals¹⁰⁶, as proposed by the NSW Government (FRNSW), could be addressed under

¹⁰³ Sydney Water, Response to IPART Request for Information, 9 November 2018, Question 139.

¹⁰⁴ Sydney Water submission to IPART Issues Paper, August 2018, p 68.

¹⁰⁵ Sydney Water submission to IPART draft licence package, February 2019, p 28.

¹⁰⁶ Equivalent to approximately 10 metres head of pressure.

the memorandum of understanding (MOU) between Sydney Water and FRNSW, rather than as a performance standard or reporting requirement in the licence.¹⁰⁷

We note that Sydney Water submitted that it supports reporting on where the network where water flow available is less than 10 litres per second and water pressure at less than 100 kilopascals. Sydney Water considered that development of a mapping tool to allow the reporting on water flow and water pressure is progressing well under the current MOU arrangements.¹⁰⁸ Since the reporting of water flow and water pressure is already progressing under the MOU arrangements, we maintain our position that it is not necessary to include a new licence obligation to require reporting of the same information.

Recommendations

- 42 Revise the threshold level of the water pressure standard to no more than 130 properties that experience 12 or more water pressure failures per year (water pressure failures can be counted once for each property per day), and revise the expression of measure to 9,999 properties per 10,000 properties that do not experience 12 or more water pressure failures per year.
- 43 Revise the definition of water pressure failure to a situation in which a Property experiences a pressure of less than 15 metres head of pressure for a continuous period of one hour or more, such head of pressure measured at the point of connection (usually the main tap) of the Property to Sydney Water's Drinking Water supply system.
- 44 Include new obligation to address the service provided to clusters of properties affected by recurring low water pressure in a manner that takes into account its customers' willingness to pay by 31 October 2022.
- 45 Include new obligation to review business processes by 30 June 2020 to ensure that no new property at risk of being affected by recurring low water pressure is connected to the drinking water supply unless the owner is informed of the low water pressure and provided with options to avoid the risk of low water pressure.

The recommended licence clauses are shown in Box 8.3.

¹⁰⁷ IPART, Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report, December 2018, p 70.

¹⁰⁸ Sydney Water submission to IPART draft licence package, February 2019, p 38.

Box 8.3 Recommended Water Pressure Standard clauses

- 5.2.1 Sydney Water must ensure that, in each financial year, at least 9,999 Properties per 10,000 Properties (in respect of which Sydney Water provides a Drinking Water supply service) receive a Drinking Water supply service affected by fewer than 12 Water Pressure Failures (the **Water Pressure Standard**).
- 5.2.5 For each Property Cluster, Sydney Water must:
- a) by 30 June 2020, review its business processes to ensure that no Property at risk of being affected by recurring Water Pressure Failures from the same cause is connected to Sydney Water's Drinking Water supply system, unless the owner (at the time of connection) is:
 - i. informed of that risk; and
 - ii. provided with options to reduce that risk; and
 - b) by 31 October 2022, take steps to minimise or eliminate the risk of recurring Water Pressure Failures from that cause, in a manner that takes into account its Customers' willingness to pay for Drinking Water supply services.

8.6.5 Retain dry weather wastewater overflow standard

We maintain our draft recommendations to retain the wastewater overflow standard and to express it as 'per 10,000 properties', and to continue to exclude public properties from the wastewater overflow standard.

Sydney Water supported our draft recommendation to retain the threshold levels for the wastewater overflow standard and did not comment on our draft recommendation to continue to exclude public properties from the wastewater overflow standard. PIAC and EWON broadly supported our draft recommendations.

We agree with Sydney Water's proposal to clarify that the standard is for dry weather overflow events.¹⁰⁹ We have changed the title of the standard to 'Dry Weather Wastewater Overflow Standard' rather than adding 'in dry weather' within the licence clause, because the existing definition of 'Uncontrolled Wastewater Overflows' already includes the term dry weather.

We maintain our draft position to exclude public properties from the wastewater overflow standard in the licence as we consider that the environment protection licences (EPLs) are the more appropriate instrument to require Sydney Water to manage its environmental impact from dry-weather overflows on public properties. We made this recommendation in response to OEH's submission to our Issues Paper, where it submitted that we should include public properties in the wastewater overflow standard measures due to the impact of overflows on environment, biodiversity, public health and amenity including recreational access to public lands.¹¹⁰ OEH did not comment on this in our draft licence package.

¹⁰⁹ Sydney Water submission to IPART draft licence package, February 2019, p 29.

¹¹⁰ NSW Government (OEH) Submission to IPART Issues Paper, September 2018, p 19.

A comparison of the existing and the recommended single and multiple events water continuity performance standard is shown in Figure 8.5 and Figure 8.6.

Figure 8.5 Comparison of existing and recommended single event dry weather wastewater overflow standard

Wastewater overflow		Single event
Existing standard		Recommended standard
<u>Threshold^a</u> No more than 14,000 properties per year experience an uncontrolled wastewater overflow in dry weather.		<u>Threshold^a</u> At least 9,928 properties per 10,000 properties per year receive a sewerage service unaffected by an uncontrolled wastewater overflow in dry weather.

We recommend retaining the standard level. The recommended standard represents 14,000 properties experiencing an uncontrolled wastewater overflow in dry weather.

Reasons for change:



1. This is because Sydney Water's cost-benefit analysis to date indicates that there would not be a net benefit in changing existing service levels for dry weather wastewater overflows.
2. The number of properties allowed to be affected by service interruptions will increase as the total number of properties serviced by Sydney Water increases. This is to allow for the effect of population growth in Sydney.

^a Threshold means the minimum level of standard that Sydney Water must achieve in any financial year.

Note: Performance standards are measured for each financial year. We used 1,932,000 wastewater connections as the base in calculating the equivalent number of properties in the recommended wastewater overflow standard. Numbers in the recommended standard have been rounded.

Source: IPART analysis; Letter to IPART, Mr Philip Davies, Head of Regulatory Economics, Sydney Water, 7 November 2018.

Figure 8.6 Comparison of existing and recommended multiple events dry weather wastewater overflow standard

 Wastewater overflow  Multiple events	
Existing standard	Recommended standard
<u>Threshold^a</u> No more than 175 properties per year experience three or more uncontrolled wastewater overflow in dry weather.	<u>Threshold^a</u> At least 9,999 properties per 10,000 properties per year receive a sewerage service unaffected by fewer than three uncontrolled wastewater overflows in dry weather.

We recommend retaining the standard level. The recommended standard represents 175 properties experiencing an uncontrolled wastewater overflow in dry weather.

Reasons for change:

1. This is because Sydney Water's cost-benefit analysis to date indicates that there would not be a net benefit in changing existing service levels for dry weather wastewater overflows.
2. The number of properties allowed to be affected by service interruptions will increase as the total number of properties serviced by Sydney Water increases. This is to allow for the effect of population growth in Sydney.

^a Threshold means the minimum level of standard that Sydney Water must achieve in any financial year.

Note: Performance standards are measured for each financial year. We used 1,932,000 wastewater connections as the base in calculating the equivalent number of properties in the recommended wastewater overflow standard. Numbers in the recommended standard have been rounded.

Source: IPART analysis; Letter to IPART, Mr Philip Davies, Head of Regulatory Economics, Sydney Water, 7 November 2018.

Recommendations

- 46 Retain the threshold levels (for both single and multiple events) for the dry weather wastewater overflow standard, but revise the expression of measure to 9,928 properties per 10,000 properties per year that do not experience an uncontrolled wastewater overflow in dry-weather, and 9,999 properties per 10,000 properties per year that do not experience three or more uncontrolled wastewater overflows in dry-weather.
- 47 Continue to exclude public properties from the dry weather wastewater overflow standard.

The recommended licence clauses are shown in Box 8.4.

Box 8.4 Recommended Dry Weather Wastewater Overflow Standard clauses

- 5.3.1 Sydney Water must ensure that, in each financial year, at least:
- a) 9,928 Properties per 10,000 Properties (in respect of which Sydney Water provides a sewerage service but excluding Public Properties) receive a sewerage service unaffected by an Uncontrolled Wastewater Overflow; and
 - b) 9,999 Properties per 10,000 Properties (in respect of which Sydney Water provides a sewerage service but excluding Public Properties) receive a sewerage service affected by fewer than three Uncontrolled Wastewater Overflows,
- (the **Dry Weather Wastewater Overflow Standard**).

9 Management Systems

As Chapter 8 noted, the fifth part of the recommended licence – performance standards for service interruptions – also includes obligations for an asset management system. In the Issues Paper, these obligations are included in the part on the organisational systems management, which also sets out obligations for an environmental management system and a quality management system. However, as we are recommending to remove these obligations, we recommend to move the asset management system clauses into the performance standards for service interruptions, as it supports the performance standards on service interruptions.

The sections below summarise our positions on each of these management systems, then discuss each position in more detail.

9.1 Summary of positions on organisational management systems

After considering stakeholder comments, we maintain our draft views on organisational management systems.

We recommend to:

- ▼ Retain the existing obligations on Asset Management System (AMS) with some revisions to update these obligations.
- ▼ Remove the existing obligations for an Environmental Management System (EMS).
- ▼ Remove the existing obligations for a Quality Management System (QMS).

9.2 Retain Asset Management System obligations with some revisions

We maintain our draft recommendations to:

- ▼ Replace the International Standard with the current Australian Standard.
- ▼ Remove obligations to certify and maintain certification of its AMS, to notify IPART of proposed significant changes to its AMS, and completed transitional clauses.
- ▼ Remove the Assets Reports and replacing it with a requirement to provide a one-off Strategic Asset Management Plan by 1 September 2019.

The Act does not require the licence to include obligations on an AMS. However, a robust AMS should ensure that Sydney Water meets its asset management objectives, including the performance standards for service interruptions (discussed in Chapter 8). The AMS is designed to monitor Sydney Water's asset performance which determines its overall system performance.

Sydney Water and WaterNSW generally supported our draft recommendations.

Sydney Water stated that it accepts removing the obligation to certify its AMS, but considered that certification should reduce the overall regulatory burden on both Sydney Water and IPART. It noted that IPART's Audit Guideline¹¹¹ outlines that for certified management systems surveillance/certification reports may be accepted in lieu of having an audit of the relevant obligation. Sydney Water also supported replacing the biennial State of the Assets Report with a one off Strategic Asset Management Plan.¹¹² WaterNSW stated that while certification of Sydney Water's existing management systems provides numerous benefits, this is appropriately an internal business decision and does not need to be included in the licence.¹¹³

We maintain our draft view that should Sydney Water certify its AMS, it is appropriate that this be a business decision rather than a licence obligation.

Recommendations

- 48 Retain the requirement to maintain an Asset Management System (AMS) and:
 - Replace references to the International Standard with the Australian Standard
 - Remove the obligation to certify AMS
 - Remove the obligation to report to IPART on significant changes that Sydney Water proposes to make to the AMS.
- 49 Replace the reporting of the biennial State of the Assets Report with a one off Strategic Asset Management Plan by 1 September 2019 or another date approved by IPART.

The recommended licence clauses are shown in Box 9.1.

Box 9.1 Recommended asset management system clauses

5.5 Asset management

- 5.5.1 Sydney Water must maintain a Management System in relation to Sydney Water's Assets that is consistent with the Australian Standard AS ISO 55001:2014 Asset management – Management systems – Requirements (the Asset Management System).
- 5.5.2 Sydney Water must ensure that the Asset Management System is fully implemented and that all relevant activities are carried out in accordance with the Asset Management System.

9.3 Remove Environmental Management System obligations

We maintain our draft recommendation to remove the obligation to maintain and certify an EMS.

The Act does not require the licence to include obligations on EMS. However, Sydney Water's principle objectives include protecting the environment by conducting its operations in compliance with the principles of ecologically sustainable development and preventing the degradation of the environment.

¹¹¹ IPART, *Audit Guideline – Public Water Utilities*, September 2018.

¹¹² Sydney Water submission to IPART draft licence package, 15 February 2019, p 32.

¹¹³ WaterNSW submission to IPART draft licence package, 15 February 2019, p 2.

Both Sydney Water and WaterNSW supported our draft recommendation, Sydney Water stated that it intends to continue to maintain a certified EMS.

We do not rely on the EMS to monitor Sydney Water's environmental performance. This is because EPA is the NSW environment regulator, and Sydney Water is subject to more specific environmental obligations under a range of NSW laws and regulatory instruments. We consider licence obligations for Sydney Water to maintain an EMS duplicates the regulatory role of EPA. Further, EPA already provides a financial incentive for Sydney Water to maintain a certified EMS that far outweighs the costs of Sydney Water maintaining its EMS.

Recommendation

- 50 Remove the requirement to maintain and certify an Environmental Management System because Sydney Water would maintain an Environmental Management System through its environmental regulatory instruments.

9.4 Remove Quality Management System obligations

We maintain our draft recommendation to remove the requirement to maintain and certify a QMS.

The Act does not require the licence to include obligations on a QMS. We introduced QMS obligations into Sydney Water's licence in 2015 to ensure that Sydney Water effectively manages its systems and assets to deliver and maintain a suitable level of service.¹¹⁴

Sydney Water and WaterNSW supported our draft recommendation, Sydney Water stated that it intends to continue to maintain a certified QMS.

We do not rely on the QMS to monitor the performance of Sydney Water to deliver quality products and services to customers. We consider the QMS obligations duplicate the functions of other clauses in the licence to achieve the same outcomes, for example performance standards for water quality, performance standards for service interruptions, and customer service obligations. In the absence of QMS obligations, these other performance standards should ensure quality products and services.

We consider that Sydney Water is able to decide whether to maintain a QMS as a business decision, and a licence obligation on the QMS is not necessary. We consider that removing the QMS requirements from the licence should not reduce the performance of Sydney Water.

Recommendation

- 51 Remove the requirement to maintain and certify a Quality Management System, as it duplicates the functions of other clauses in the licence.

¹¹⁴ IPART, Sydney Water Corporation Operating Licence End of Term Review, Report to the Minister, May 2015, section 7.1

10 Customers and consumers

The sixth part of the recommended licence is customers and consumers. This part includes Sydney Water's obligations for customer protection, including the customer contract and customer engagement. It includes clauses related to:

- ▼ The Customer Contract
- ▼ Communication with customers
- ▼ Financial hardship and payment assistance
- ▼ Developing and implementing a family violence policy
- ▼ Customer engagement
- ▼ Internal complaints handling
- ▼ External dispute resolution.

The sections below summarise our positions on these issues, then discuss each in more detail.

10.1 Summary of positions on customers and consumers

After considering stakeholder comments, we have modified some of our views and maintained others.

We recommend to:

- ▼ Revise the Customer Contract to revise the way tenants are covered, and adopt the rebates proposed by Sydney Water.
- ▼ Revise the existing obligations in relation to how Sydney Water communicates with its customers to provide for more flexibility.
- ▼ Continue to allow customers to choose how they will receive their bill.
- ▼ Retain the financial hardship and payment assistance obligations, but replace the term financial hardship with payment difficulty.
- ▼ Include a new obligation to develop and implement a policy that supports customers experiencing family violence.
- ▼ Retain the existing obligation to have a Customer Council, but remove the prescriptive requirements for this council and require Sydney Water to review its Customer Council by 30 June 2020.
- ▼ Retain the existing obligations on internal complaints handling and external dispute resolution with minor revisions.

We have also included a recommendation to the NSW Government that it reviews the water utility-tenant relationship in NSW to resolve long standing issues which impact on Sydney Water's customers. We discuss this recommendation in section 10.9.

10.2 Revise the Customer Contract

We largely maintain our draft recommendations for the Customer Contract to:

- ▼ Revise the way the Customer Contract applies to tenants.
- ▼ Adopt the rebates proposed by Sydney Water.

We also recommend a range of relatively minor revisions. A full summary of changes to the Customer Contract is provided at Appendix A.

In this section we also discuss two opportunities for Sydney Water to consider:

- ▼ Whether monthly billing would be beneficial for customers.
- ▼ A review of the approach to undercharging in line with industry best practice.

10.2.1 Revise the way the Customer Contract applies to tenants

We maintain our draft recommendation to specifically include tenants as a customer for accessing payment assistance options, with revisions to further clarify the types of assistance available to tenants, including, deferral of payment for at least four weeks, as proposed by Sydney Water.

Under the Act, Sydney Water is not taken to have entered into a Customer Contract with tenants.¹¹⁵ We maintain our draft view that it is important to ensure tenants are provided certain protections under the Customer Contract, but that some provisions of the Customer Contract do not comfortably apply to both the owner and the tenant as the customer (such as maintenance responsibilities).

Sydney Water, PIAC, EWON and Z. Sofoulis supported our draft recommendation on clarifying how the Customer Contract applies to tenants. PIAC considered that revisions should be made to restriction and disconnection clauses to require Sydney Water to investigate how its systems and processes can better support more effective, direct relationships with residential tenants. It considered this requirement should include a plan to identify and communicate with residential tenants to ensure they receive protections equal to other residential consumers.

We do not recommend requiring Sydney Water to investigate options to communicate directly with tenants as proposed by PIAC. We note that Sydney Water proactively tries to engage with customers who have not paid their bill, including sending letters, cold calling and arranging home visits.¹¹⁶ Sydney Water also commits to hand delivering a notice to the occupant and offers tenants protections under its Overdue Payment Policy¹¹⁷.

Sydney Water proposed that a separate clause be included in the Customer Contract for private residential tenants to clarify the options available to them if they are facing payment difficulties or if their landlord has not paid their account, and they are facing restriction or disconnection. Sydney Water also proposed that tenants be allowed to seek deferral of payment for a period of at least four weeks to give them time to make a payment or seek resolution with their landlord.¹¹⁸

¹¹⁵ s 55(1) of the *Sydney Water Act 1994* provides that “an **owner of land** that is connected to a water main or sewer main owned by the Corporation is taken to have entered into a customer contract with the Corporation”.

¹¹⁶ Sydney Water, Response to IPART Request for Information, 19 October 2018, Question 100.

¹¹⁷ Sydney Water, *Overdue Payments Policy*, February 2018.

¹¹⁸ Sydney Water, Response to IPART Request for Information, 1 March 2019, Question 156.

We support Sydney Water's recommendation to further clarify the support available to tenants, and consider our recommended changes to the Customer Contract achieve this without the need for a separate clause. We also support Sydney Water's proposal to allow tenants to seek deferral of payment for at least four weeks, as this is comparable to the length of time a residential customer receives.

Recommendations

- 52 Retain the existing Customer Contract licence clauses.
- 53 Revise the definition of customer in the Customer Contract to specifically include that tenants will be taken as a customer for the purposes of:
 - Payment difficulty and assistance
 - Complaints and disputes
 - Consultation, access to information and privacy
 - Termination and variations of the Customer Contract.

The recommended licence clauses are shown in Box 10.1.

Box 10.1 Recommended Customer Contract clauses

6.1 Customer Contract

- 6.1.1 The Customer Contract sets out the rights and obligations of Customers and Sydney Water in relation to the Services provided in accordance with this Licence. The Customer Contract is set out in Schedule C of this Licence.
- 6.1.2 Sydney Water must make a copy of the Customer Contract available to any person, free of charge:
 - a) on its website; and
 - b) upon request made to the Contact Centre.

6.3 Consumers

- 6.3.1 Sydney Water's obligations under the following clauses of the Customer Contract are extended to Consumers as though the Consumers were parties to the Customer Contract:
 - a) clause 5.1 (Payment difficulties and assistance options for all customers);
 - b) clause 6.5 (Occupiers (tenants) may pay charges to avoid restriction or disconnection);
 - c) clause 12 (If I am unhappy with the service provided by Sydney Water what can I do?);
 - d) clause 13 (Consultation, information and privacy); and
 - e) clause 14 (When does this contract with Sydney Water terminate?).

10.2.2 Adopt the rebates proposed by Sydney Water which are informed by its engagement with customers

We maintain our draft recommendation to adopt the rebates proposed by Sydney Water in the Customer Contract.

Stakeholders generally supported adopting the rebate values proposed by Sydney Water¹¹⁹ in the Customer Contract, which were informed by the findings of its engagement with customers.

We consider the recommended rebates for events that cause inconvenience to customers are set at a level proportionate with the extent of inconvenience.

A summary of Sydney Water's proposed rebates is provided in Table 10.1.

Recommendation

54 Adopt the rebates proposed by Sydney Water in the Customer Contract.

¹¹⁹ See 'Additional information, Rebates in Customer Contract 26 September 2018' on our website.

Table 10.1 Overview of recommended rebates

Event	Existing Rebate	Recommended rebate
Planned interruption >5 hours	\$35	\$20
Unplanned interruption >5 hours	\$35	\$40
Repeat unplanned interruptions >1 hour (in a 12-month period)	Water service charge, paid after three events	Water service charge, paid after three events About \$80
Wastewater overflow onto private property	\$60	\$75
Repeat wastewater overflows onto private property (in a 12-month period)	Wastewater service charge paid after two events	Increasing rebate on sliding scale: 2 events - \$150 3 or more events – wastewater service charge About \$600 for residential
	Varies for non-residential	Varies for non-residential
Water pressure failure > fifteen minutes (excludes operational-related failures, eg due to main breaks)	\$35 (paid once per quarter)	\$40 (paid once per quarter) Equivalent to \$160 over 12- months for customers experiencing recurring water pressure failure (repeat events). This is about twice the water service charge.
Dirty water event (usually due to sediment in pipes after maintenance)	\$35	\$40
Boil water alert/s issued by NSW Health for water quality incident (one rebate per incident)	\$35	\$50

10.2.3 Sydney Water could consider whether monthly billing would be beneficial

Options for payment arrangements are already available for customers with payment difficulties, however, in response to stakeholder feedback Sydney Water could consider engaging with its customers to determine whether monthly billing would be beneficial to customers.

In response to our draft licence package, Z. Sofoulis submitted that the licence should allow Sydney Water to offer customers the option to receive monthly bills and considers this would assist some vulnerable customers. Z. Sofoulis stated that if monthly billing was provided as an option for customers “Then Sydney Water need [to] get involved or make referrals to financial help and welfare services only when people were in particular hardship, dealing with domestic violence, etc.”¹²⁰

We consider that smaller monthly bills (compared to quarterly bills) may assist some customers, including those experiencing payment difficulties, in paying their bill. Sydney Water already has a payment difficulty policy and procedures relating to a payment plan (these are requirements under the existing licence and the recommended licence) to assist residential customers experiencing payment difficulty to better manage their current and future bills. In addition, we have included a new obligation on Sydney Water to develop and implement a family violence policy (see section 10.6). We do not have sufficient information on the demand or costs for monthly billing, and we consider Sydney Water could engage with its customers to determine whether monthly billing would be beneficial to customers.

10.2.4 Sydney Water could review its approach to undercharging in line with best practice

We consider customers should be protected from excessive undercharging, particularly in circumstances where it may be back-charged over several years or where a customer is unaware that their meter is inaccessible. However, we have not established the extent of the issue and what level of protection would be most appropriate for Sydney Water’s customers. We suggest Sydney Water review its undercharging policy and procedures in line with industry best practice.

The draft Customer Contract allowed Sydney Water to adjust a customer’s bill to recoup fees where the customer has been undercharged, regardless of whether the undercharge is the fault of Sydney Water or the customer.

EWON submitted that the provisions related to undercharging provide less customer protection than the current protections provided by energy utilities, and considers a similar level of protection should be afforded to Sydney Water’s customers.¹²¹

We note that Sydney Water’s current business practice is to backdate charges to a maximum of one year where it has not charged a property for services they are receiving, or where the customer has been incorrectly charged. However, Sydney Water may correct water usage

¹²⁰ Sofoulis, Z, submission to IPART draft licence package, 1 February 2019, p 2.

¹²¹ EWON submission to IPART draft licence package, 14 February 2019, p 2.

charges back to a maximum of six years if it is unable to read the meter due to inaccessibility and subsequently receives a correct reading.¹²²

Sydney Water stated that it has no record of customers being undercharged due to Sydney Water's error over the past five years. It also had no record of any complaints from customers on being undercharged over the past five years due to Sydney Water's error. EWON stated that it considered there is a strong link between the back-billing complaints it has received and meter access problems. EWON stated that in some cases customers are not aware that their meter is inaccessible and have not been notified by Sydney Water that this is the case. EWON expressed that while the number of complaints it has received is low, the customer detriment can be high.¹²³

In response to stakeholder comments, we suggest Sydney Water review its undercharging policy and procedures in line with industry best practice.

10.3 Revise obligations on how Sydney Water communicates with its customers to provide more flexibility

We maintain our draft recommendation for how Sydney Water communicates with its customers to provide more flexibility. However, we are recommending minor revisions to the relevant licence clause to allow Sydney Water to prepare more than one pamphlet.

Sydney Water and PIAC supported our draft recommendation and licence requirements for how Sydney Water communicates with its customers.¹²⁴

PIAC submitted that the requirement to prepare a pamphlet potentially limits the accessibility of information, particularly for consumers who are vulnerable or disadvantaged. PIAC recommended that the licence be revised to require Sydney Water to provide "accessible information in electronic and hard-copy formats" in preference to a pamphlet.¹²⁵ We consider the draft licence already achieves the outcomes proposed by PIAC. The licence requires Sydney Water to make the pamphlet available on its website free of charge, as well as at least annually with their bills, and to any person upon request made to the Contact Centre. We consider a 'pamphlet' can include both hardcopy and electronic documents, and the pamphlet would be provided to a customer in the same format as their bills. We are making a minor revision to the licence to allow Sydney Water to prepare more than one pamphlet if it sees fit, which maintains the intent of the licence requirement to communicate effectively with its customers.

Recommendation

- 55 Revise customer information obligations to provide clarity and require Sydney Water to:
- Publish information in a manner that is likely to come to the attention of the public
 - Provide information directly to customers on request.

¹²² Sydney Water response to IPART's Request for Information, 25 February 2019, Question 148.

¹²³ Email to IPART, Mr Chris Dodds, Senior Policy Officer, EWON, 21 February 2019.

¹²⁴ Sydney Water submission to IPART draft licence package, 15 February 2019, p 34; PIAC submission to IPART draft licence package, 19 February 2019, p 3.

¹²⁵ PIAC submission to IPART draft licence package, 19 February 2019, p 3.

The recommended licence clauses are shown in Box 10.2.

Box 10.2 Recommended communication and information clauses

6.2 Providing information to Customers

- 6.2.1 Sydney Water must prepare one or more pamphlets that:
- a) provide a brief explanation of the Customer Contract;
 - b) summarise the key rights and obligations of Customers under the Customer Contract;
 - c) refer to the types of account relief available for Customers experiencing financial hardship;
 - d) outline the rights of Customers to claim a rebate and the conditions that apply to those rights;
 - e) contain information regarding how to contact Sydney Water by telephone, email or post; and
 - f) contain information regarding the ability of a Customer to enter into agreements with Sydney Water separate to the Customer Contract for the provision of Services by Sydney Water to the Customer.
- 6.2.2 Sydney Water must update the pamphlet or pamphlets to reflect any variations made to the Customer Contract.
- 6.2.3 Sydney Water must:
- a) provide the pamphlet or pamphlets and any updates, free of charge to:
 - i. Customers at least annually with their Bills; and
 - ii. any person upon request made to the Contact Centre; and
 - b) make the pamphlet or pamphlets and any updates publicly available on its website, free of charge, within 60 days of the commencement of the Customer Contract or any pamphlet update.
- 6.2.4 Sydney Water must publish on its website and advertise at least annually in a manner that Sydney Water is satisfied is likely to come to the attention of members of the public, information as to:
- a) the types of account relief available for Customers experiencing payment difficulty; and
 - b) rights of Customers to claim rebates and the conditions that apply to those rights.

10.4 Continue to allow customers to choose how they will receive their bill

We maintain our draft view that customers should be given the choice of how they prefer to receive their bill.

In our draft report, we considered customers should be given the choice of how they prefer to receive their bill, which is currently allowed through the Customer Contract.¹²⁶ The existing licence also provides that Sydney Water may send bills electronically at a customer's request.

¹²⁶ Sydney Water Customer Contract 2015-2020, Clause 4.4.3, How bills are sent.

We maintain this view and have clarified in the Customer Contract that Sydney Water may send customers' bills or other communications regarding payment electronically.

We may consider if there is opportunity to pass on the benefits of e-billing to customers in the upcoming price review.

10.5 Replace the term financial hardship with payment difficulty

We maintain our draft recommendation to retain the existing obligations for financial hardship and payment assistance, but revise our draft recommendation to include replacing the term 'financial hardship' with 'payment difficulty' in the licence and the Customer Contract.

Sydney Water supported our draft recommendation to retain the existing financial hardship and payment assistance obligations.¹²⁷ PIAC submitted that increasingly there is an understanding that consumers, even in circumstances of extreme financial distress, are unlikely to identify themselves as being in hardship. In PIAC's view replacing the term 'financial hardship' with 'payment difficulty' is important in assisting consumers to understand that assistance is available and intended for them, and increasing the likelihood that they access this assistance.¹²⁸

Sydney Water stated that it accepts the term 'financial hardship' may lead to a reluctance to self-identify compared to the term 'payment difficulty'. However, Sydney Water stated it is concerned that 'payment difficulty' is broader and would potentially require Sydney Water to extend assistance to a much larger number of customers.¹²⁹

We agree with PIAC that the term 'payment difficulty' would assist customers experiencing financial distress to self-identify and increase the likelihood of these customers seeking assistance and support from Sydney Water. We have revised the Customer Contract so that the term 'payment difficulty' has the same meaning as the existing Customer Contract term 'financial hardship'. In our view, a change in terminology does not require changes to Sydney Water's existing processes for assessing customers in financial hardship.

Recommendation

- 56 Retain the existing customer protection obligations for payment difficulties and payment assistance, but replace the term financial hardship with payment difficulty in the licence and the Customer Contract.

¹²⁷ Sydney Water submission to IPART draft licence package, February 2019, p 34.

¹²⁸ PIAC submission to IPART draft licence package, 19 February 2019, p 3-4.

¹²⁹ Sydney Water response to IPART's request for information, 19 October 2019, Question 99.

The recommended licence clauses are shown in Box 10.3.

Box 10.3 Recommended payment difficulties and payment assistance clauses

6.4 Assistance Options for Payment Difficulties and Actions for Non Payment

6.4.1 Sydney Water must maintain and fully implement:

- a) a payment difficulty policy that assists residential Customers experiencing payment difficulty to better manage their current and future Bills;
- b) procedures relating to a payment plan for residential Customers who are responsible for paying their Bills and who are, in Sydney Water's reasonable opinion, experiencing payment difficulty;
- c) procedures for identifying the circumstances under which Sydney Water may disconnect or restrict the supply of water to a Customer's Property; and
- d) provisions for self-identification, identification by community welfare organisations and identification by Sydney Water of residential Customers experiencing payment difficulty,

(the **Assistance Options for Payment Difficulties and Actions for Non-Payment**).

6.4.2 Sydney Water must provide, free of charge, an explanation of the Assistance Options for Payment Difficulties and Actions for Non-Payment on its website and to:

- a) all residential Customers, at least annually with their Bills;
- b) residential Customers who Sydney Water identifies as experiencing payment difficulty on the date that Sydney Water first identifies that the Customer is experiencing payment difficulty; and
- c) any other person upon request made to the Contact Centre.

10.6 Include new obligation to develop and implement a policy that supports customers experiencing family violence

We maintain our draft recommendation to require Sydney Water to develop and implement a family violence policy, with a revision to clarify that the policy does not rely on customers actively disclosing their family violence.

We consider that Sydney Water has a role to play in supporting customers experiencing family violence, and propose to include a new licence obligation for Sydney Water to develop and implement a family violence¹³⁰ policy. In response to our draft recommendation, Sydney Water, EWON, PIAC and Z. Sofoulis supported the requirement to develop and implement a family violence policy. We support PIAC's proposal to clarify that the family violence policy should not need or rely on customers actively disclosing their experience of violence.

We understand Sydney Water has a range of measures to identify, support and protect customers who experience family violence. We consider Sydney Water's current business practices are already progressing towards improved customer protection in line with best

¹³⁰ The *Family Law Act 1975* (Cth) defines 'family violence' as meaning violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member) or causes the family member to be fearful (s 4AB(1)).

practice and propose that the licence be updated to reflect this, and require Sydney Water to develop and implement a family violence policy.

Recommendation

- 57 Require Sydney Water to develop and implement a family violence policy by 1 July 2020, that includes:
- Protecting private and confidential customer information
 - Facilitating access to payment difficulty programs
 - Minimising the need for customers to disclose their family violence
 - Making customer referrals to specialist services.

The recommended licence clauses are shown in Box 10.4.

Box 10.4 Recommended family violence policy clauses

6.5 Family violence policy

- 6.5.1 Sydney Water must develop and implement a family violence policy by 1 July 2020 (or another date approved by IPART in writing).
- 6.5.2 The family violence policy must, at a minimum, provide for:
- a) the protection of private and confidential information;
 - b) access to payment difficulty programs;
 - c) processes that minimise the reliance on individuals to disclose their family violence; and
 - d) processes for referrals to specialist services.

10.7 Require meaningful customer engagement but not necessarily through the Customer Council

We maintain our draft recommendations for customer engagement, to:

- ▼ Require Sydney Water to have a Customer Council that meets the requirements of the Act
- ▼ Remove the prescriptive clauses related to the Customer Council
- ▼ Require a review of the Customer Council by 30 June 2020.

We also propose a new recommendation to require Sydney Water to undertake customer engagement to establish customers' preferences and willingness to pay for service levels.

10.7.1 Require Sydney Water to have a Customer Council that meets the requirements of the Act

We maintain our draft recommendation that Sydney Water be required to have a Customer Council that meets the requirements of the Act.

The Act requires Sydney Water's licence to include terms and conditions to establish and consult with one or more Customer Councils on Sydney Water's provision of systems and services.¹³¹

Sydney Water supported our draft recommendation in principle, but did not support the draft licence wording.

Our draft licence included an obligation that Sydney Water regularly consult with its Customer Council for the purpose of achieving customer engagement that is relevant, representative, proportionate, objective, clearly communicated and accurate. Instead Sydney Water proposed using the wording in the Act. Sydney Water stated that while it agreed that engaging with customers is a positive outcome for the community, the proposed draft obligation to use the Customer Council to achieve customer engagement may not be helpful in practice.¹³²

We agree with Sydney Water that specifying that it must consult with the existing Customer Council for the purpose of meeting the customer engagement principles may not be effective, and that it may also pre-empt the review of the Customer Council (see section 10.7.3).

We make a new recommendation that addresses our intention for Sydney Water to achieve meaningful customer engagement, but separate from the Customer Council requirements (see section 10.7.4).

10.7.2 Remove prescriptive requirements for the Customer Council

We maintain our draft recommendation to remove the prescriptive requirements for the Customer Council and remove the licence clauses on the membership of the Customer Council and Customer Council Charter. We consider that removing the prescriptive requirements for the membership of the Customer Council and Customer Council Charter will give Sydney Water flexibility to determine membership and seek advice on issues as determined by Sydney Water and the Customer Council.

We also maintain our draft recommendation to require Sydney Water to provide Customer Council meeting minutes to any person, free of charge, upon request to the Contact Centre, and remove the requirement that Sydney Water make these minutes publicly available on its website. Sydney Water notes that there is very little public interest in accessing these minutes, with very few members of the public accessing copies through its website.¹³³ Members of the public will continue to be able to access these minutes if required.

Sydney Water supported our draft recommendation in principle.¹³⁴

¹³¹ *Sydney Water Act 1994*, section 15.

¹³² Sydney Water submission to IPART draft licence package, 15 February 2019, p 35.

¹³³ Sydney Water submission to IPART Issues Paper, August 2018, p 100. The June 2017 meeting minutes have been downloaded twice, and the September 2017 meeting minutes have been downloaded five times.

¹³⁴ Sydney Water submission to IPART draft licence package, 15 February 2019, p 36.

10.7.3 Require Sydney Water to review its Customer Council

We maintain our draft recommendation that Sydney Water review its existing Customer Council by 30 June 2020 to enable Sydney Water to engage with customers in ways that are relevant, representative, proportionate, objective, clearly communicated and accurate.

We envisage that a review of the effectiveness of the existing Customer Council should include, but not be limited to, an assessment of the Customer Council's role, objectives, outcomes and membership, to ensure Sydney Water's customer engagement through the Customer Council meets our principles for customer engagement (see section 10.7.4 for further information).

Sydney Water supported our draft recommendation to review its Customer Council and considers the review is timely in light of its broader Customer Engagement Strategy. Z. Sofoulis stated that community engagement activities could imply more open consultative and participatory processes beyond customer transactions. She considers a name change to 'Community Advisory Council'¹³⁵, implies a broader scope which may allow Sydney Water to develop a more mature partnership with the community.¹³⁶ Z. Sofoulis further notes that currently, Sydney Water's reports on social research and engagement with customer and communities is not publically available.

We maintain our view in the draft report to not change the name of the Customer Council in the licence and that any name change should reflect the outcomes of the review. The licence would not prevent Sydney Water giving the Customer Council a different name. We consider it is not necessary to require Sydney Water to publish its reports on social research and engagement with customers. However, as stated in section 10.7.2, we intend to retain the requirement for Sydney Water to make a copy of Customer Council minutes available to any person, free of charge, upon request to the Contact Centre.

10.7.4 Require Sydney Water to undertake customer engagement to establish customers preferences and willingness to pay for service levels

We make a new recommendation to require Sydney Water to undertake customer engagement to establish customers' preferences and willingness to pay for service levels. We recommend that this customer engagement be consistent with IPART's principles for customer engagement: relevant, representative, proportionate, objective, clearly communicated and accurate.

As discussed in section 10.7.1, Sydney Water stated that while it agreed that engaging with customers is a positive outcome for the community, using the Customer Council to achieve customer engagement may not be helpful in practice, as Sydney Water requires flexibility to use other methods such as surveys and forms when engaging with customers.¹³⁷

Instead of requiring Sydney Water to use the Customer Council to achieve meaningful customer engagement, our recommendation allows Sydney Water to determine how to

¹³⁵ Sydney Water proposed changing the name of the Customer Council to the Community Advisory Council in its submission to the Issues Paper, August 2018, p 8.

¹³⁶ Sofoulis, Z, submission to IPART draft licence package, 1 February 2019, p 4.

¹³⁷ Sydney Water submission to IPART draft licence package, 15 February 2019, p 35.

undertake its customer engagement. By requiring Sydney Water to establish customers' preferences and willingness to pay for service levels, we expect Sydney Water to continue to build on the good work undertaken to inform the revisions to the performance standards in this licence review (see Chapter 8).

We note that following the review of the Customer Council (see section 10.7.3) Sydney Water may decide to use its Customer Council to undertake customer engagement to establish customers' preferences and willingness to pay for service levels.

Recommendations

- 58 Require Sydney Water to have a Customer Council that meets the requirements of the Act.
- 59 Remove the prescriptive clauses related to the Customer Council.
- 60 Include a new clause requiring Sydney Water to:
 - Review the existing Customer Council by 30 June 2020 to enable Sydney Water to engage with customers in ways that are relevant, representative, proportionate, objective, clearly communicated and accurate.
 - Report on the review process and outcomes by 30 June 2020 to IPART.
- 61 Require Sydney Water to undertake customer engagement to establish customers' preferences and willingness to pay for service levels. The customer engagement must be relevant, representative, proportionate, objective, clearly communicated and accurate.

The recommended licence clauses are shown in Box 10.5.

Box 10.5 Recommended customer engagement clauses

6.6 Customer engagement

- 6.6.1 Sydney Water must undertake customer engagement to understand its customers' preferences and willingness to pay for service levels. The customer engagement must be relevant, representative, proportionate, objective, clearly communicated and accurate.
- 6.6.2 Sydney Water must establish and regularly consult with its Customer Council.
- 6.6.3 Sydney Water must provide the Customer Council with information in Sydney Water's possession or under its custody or control necessary to enable the Customer Council to discharge the tasks assigned to it, other than information or documents that are confidential or privileged.
- 6.6.4 Sydney Water must keep minutes of proceedings of the Customer Council and make a copy of the minutes available to any person, free of charge, upon request made to the Contact Centre.
- 6.6.5 Sydney Water must undertake a review of the operation of the Customer Council. The review must include an assessment of the Customer Council's role, objectives, outcomes and membership, including whether the Customer Council could be used to better support customer engagement, as required by clause 6.6.1.
- 6.6.6 Sydney Water must report to IPART on the completed review and its outcomes by 30 June 2020 (or another date approved by IPART in writing).

10.8 Retain internal complaints handling and external dispute resolution obligations with minor revisions

We maintain our draft recommendation to retain the existing internal complaints handling and external dispute resolution scheme obligations, but propose revisions to the Customer Contract to clarify that customers can contact EWON directly at any time.

Sydney Water supported our draft recommendation to retain the existing internal complaints handling and external dispute resolution obligations, with a revision to replace the obligation for Sydney Water to describe EWON's operations with an obligation to list the services provided by EWON. EWON recommended that the Customer Contract be revised to clarify that customers can contact EWON directly at any time for independent advice and information.¹³⁸

We agree with EWON and recommend that the Customer Contract be revised to clarify that customers can contact EWON directly at any time.

¹³⁸ EWON, submission to IPART draft licence package, 14 February 2019, p 2.

Recommendation

- 62 Retain the existing internal complaints handling and external dispute resolution scheme obligations, with a revision to replace the obligation for Sydney Water to describe EWON's operations with an obligation to list the services provided by EWON.

The recommended licence clauses are shown in Box 10.6 and Box 10.7.

Box 10.6 Recommended internal complaints handling clauses

6.7 Internal Complaints handling

- 6.7.1 Sydney Water must maintain a procedure for receiving, responding to and resolving Complaints. The procedure must be consistent with Australian Standard AS/NZS 10002:2014 – Guidelines for complaint management in organizations (the **Internal Complaints Handling Procedure**).
- 6.7.2 Sydney Water 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.
- 6.7.3 Sydney Water must provide to Customers, at least annually with their Bills, information concerning internal Complaints handling. The information must explain how to make a Complaint and how Sydney Water will receive, respond to and resolve Complaints.
- 6.7.4 Sydney Water must make the information concerning internal Complaints handling referred to in clause 6.7.3 available to any person, free of charge:
- a) on its website; and
 - b) upon request made to the Contact Centre.

Box 10.7 Recommended external dispute resolution clauses

6.8 External dispute resolution scheme

- 6.8.1 Sydney Water must be a member of the Energy & Water Ombudsman NSW to facilitate the resolution of disputes between Sydney Water and its Customers and Consumers.
- 6.8.2 Sydney Water must:
- a) prepare a pamphlet that:
 - i. lists the dispute resolution services provided by the Energy & Water Ombudsman NSW, including any right to have a Complaint or dispute referred to the Energy & Water Ombudsman NSW; and
 - ii. explains how a Consumer can contact the Energy & Water Ombudsman NSW;
 - b) provide a copy of that pamphlet, free of charge to Customers at least once a year with their Bills; and
 - c) make a copy of that pamphlet available to any person, free of charge:
 - i. on its website; and
 - ii. upon request made to the Contact Centre.

10.9 NSW Government review of the water utility-tenant relationship in NSW

We reiterate our recommendation to the NSW Government to consider a review of the water utility-tenant relationship including, policy implications, the costs and benefits of any changes, identification of legislative constraints and consideration of necessary protections for tenants.

Currently tenants are entitled to rebates, provided certain conditions are met under the *Residential Tenancies Act 2010*. Where tenants do receive rebates, this is arranged between the landlord and tenant. Sydney Water pays the rebate to the landlord (or managing agent) who is then responsible for passing this on to the tenant.

Z. Sofoulis questioned whether there is a way to ensure that landlords who pass on usage charges to their tenants can also pass on rebates to those actually inconvenienced by service disruptions.¹³⁹ Sydney Water also noted that participants at its deliberative forums expressed support for Sydney Water to consider ways of providing rebates that could be more easily passed on to renters.¹⁴⁰

We consider there are benefits to establishing a more direct relationship between Sydney Water and tenants including ensuring that tenants receive rebates for interruptions to services. However, we are not recommending obligations in the licence or Customer Contract that Sydney Water provides rebates to tenants at this time. Sydney Water stated that it has property based billing in accordance with the Act and does not hold tenant information that would enable it to pay rebates directly to tenants.¹⁴¹ We consider the costs of requiring

¹³⁹ Sofoulis, Z, submission to IPART draft licence package, 1 February 2019, p 3.

¹⁴⁰ Sydney Water submission to IPART Issues Paper, August 2018, p 93.

¹⁴¹ See 'Additional information, Rebates in Customer Contract 26 September 2018' on our website.

Sydney Water to provide rebates directly to tenants would be significant to Sydney Water in terms of restructuring its billing systems, including providing separate bills for tenants and property owners, and identifying when occupants change.

Providing rebates to tenants is a long standing issue in NSW. In our 2017 review of the Hunter Water licence, we noted that in NSW there would be significant costs borne initially by the water utility if there was a change to a user pays system.¹⁴² The water utility would also be exposed to additional costs and risks associated with consumer debts and recovery activities.¹⁴³

We note that in Victoria, a number of protections exist for both the consumer and the water utility that allow for a user pays system and includes easier payment of rebates to tenants.¹⁴⁴

We have previously recommended to the NSW Government that it review the relationship between water utilities and tenants in NSW including, in our price determination for Sydney Water in 2000 and in our final report to the Minister for the Hunter Water licence review in 2017. We reiterate this recommendation.

¹⁴² IPART, *Review of the Hunter Water Corporation Operating Licence – Report to Minister*, May 2017, 91.

¹⁴³ Currently, outstanding debts are tied to a property and is generally settled when a property changes hands. Where outstanding debts are related to a tenant, debt recovery is unable to be enforced by being attached to a property title.

¹⁴⁴ In 2012, the Parliament of Victoria passed the *Water Amendment (Governance and other reforms) Act 2012* (the Governance Act). One of the amendments concerned tenancy arrangements and the occupier's liability to pay. The Governance Act also amended a number of existing sections of Victoria's Water Act, including changes to debt recovery provisions, customer rights, powers to require property owners to connect to sewer and billing arrangements.

11 Stakeholder cooperation

The seventh part of the recommended licence includes Sydney Water's obligations in relation to cooperation with stakeholders, including requirements to have memoranda of understanding with stakeholders. It includes clauses related to:

- ▼ Memorandum of understanding with the WAMC, NSW Health and EPA
- ▼ Memorandum of understanding with Fire and Rescue NSW (FRNSW).

The existing licence includes requirements for developing and/or maintaining cooperative relationships with stakeholders through memoranda of understanding (MOUs) or other instruments. In some cases, these instruments are required by the Act.

The sections below summarise our positions on stakeholder cooperation, and then discusses each position in more detail.

11.1 Summary of positions on stakeholder cooperation

After considering stakeholder comments, we maintain our views on cooperative relationships with stakeholders.

We recommend to:

- ▼ Retain obligations for MOUs with EPA, WAMC and NSW Health, but remove the reporting obligation to NSW Health.
- ▼ Retain obligations for an MOU with FRNSW with some revisions.
- ▼ Remove the obligation for a Roles and Responsibilities Protocol with DPE.

11.2 Retain obligations for MOUs with EPA, WAMC and NSW Health, but remove the reporting obligation to NSW Health

We maintain our draft recommendations to retain all existing obligations in relation to MOUs, and to remove the obligation for Sydney Water to report incidents to NSW Health as part of its MOU obligations.

The Act states that Sydney Water must enter into separate MOUs with EPA, WAMC and NSW Health as referred to in the licence.¹⁴⁵

Sydney Water supported retaining the MOUs with EPA and WAMC. It also supported retaining the MOU with NSW Health and accepted the removal of reporting requirement from the licence. We do not agree with Sydney Water's proposed addition of "use its best endeavours"¹⁴⁶ to maintain the MOUs because maintaining the MOUs is the minimum requirement under the Act.

¹⁴⁵ *Sydney Water Act 1994*, ss 34, 35 and 36.

¹⁴⁶ Sydney Water submission to IPART draft licence package, February 2019, p 37.

Recommendations

- 63 Retain obligations requiring MOUs with EPA and WAMC.
- 64 Retain the obligation requiring an MOU with NSW Health, but remove the requirement for the MOU to include arrangements for reporting to NSW Health information on any events that may pose a risk to public health.

The recommended licence clauses are shown in Box 11.1.

Box 11.1 Recommended Memoranda of understanding required by the Act clauses

7.1 Memoranda of Understanding with WAMC, NSW Health and EPA

- 7.1.1 Sydney Water must maintain the memoranda of understanding entered into under section 35 of the Act with:
 - a) the Water Administration Ministerial Corporation (**WAMC**);
 - b) the Secretary of the Ministry of Health (**NSW Health**); and
 - c) the Environment Protection Authority (**EPA**).
- 7.1.2 The purpose of the memoranda of understanding referred to in clause 7.1.1 is to form the basis for cooperative relationships between the parties. In particular:
 - a) the purpose of the memorandum of understanding with WAMC is to recognise the role of WAMC in regulating water access, use and management and Sydney Water's right to use water vested in WAMC;
 - b) the purpose of the memorandum of understanding with NSW Health is to recognise the role of NSW Health in providing advice to the NSW Government in relation to Drinking Water quality standards and the supply of water which is safe to drink; and
 - c) the purpose of the memorandum of understanding with EPA is to recognise the role of EPA as the environment regulator of New South Wales and to commit Sydney Water to environmental obligations.

11.3 Retain MOU obligations with FRNSW with some revisions

We maintain our draft recommendations to:

- ▼ Retain the MOU obligations with FRNSW, including the matters the working group must consider.
- ▼ Remove the completed clause on the development of an MOU with FRNSW by 31 December 2015.
- ▼ Do not require Sydney Water to report to IPART on working group matters.
- ▼ Do not require Sydney Water to enter into an MOU with NSW RFS.

However, the recommended licence does not prevent Sydney Water from entering into an MOU with NSW RFS, nor from including them in working group matters.

The Act does not require the licence to contain obligations for Sydney Water to develop and maintain a cooperative relationship with FRNSW. However, both Sydney Water and FRNSW

supported retaining licence obligations to maintain a cooperative relationship under an MOU, and considered the MOU has helped them to resolve a number of issues.

Sydney Water supported our draft views, and in response to feedback from other stakeholders to the Issues Paper questioned whether allowing for the inclusion of NSW RFS (or other organisations) in the working group is necessary.¹⁴⁷ NSW Government (NSW RFS) proposed to include NSW RFS in the MOU with FRNSW and Sydney Water, however the benefit of doing so was not quantified.¹⁴⁸

FRSNW submitted that Sydney Water must provide a report to IPART on the provision of fire-fighting water in selected local areas.¹⁴⁹ We consider this reporting requirement is not necessary for IPART because we consider FRNSW could obtain this information from Sydney Water as part of the working group discussions under the MOU.

As stakeholder submissions did not provide additional costs or benefits information that would change our analysis, we maintain our draft recommendation to not include licence obligations for Sydney Water to enter into an MOU with NSW RFS. Further, we do not require a report on working group matters as proposed by FRNSW.

Recommendations

- 65 Retain the MOU obligations with FRNSW, including the matters that the working group must consider.
- 66 Remove the completed clause on the development of an MOU with FRNSW by 31 December 2015.
- 67 Do not require Sydney Water to report to IPART on working group matters.
- 68 Sydney Water can enter into an MOU with NSW RFS, but it is not required to do so.

¹⁴⁷ Sydney Water submission to IPART draft licence package, February 2019, p 37.

¹⁴⁸ NSW Government (RFS) submission to IPART draft licence package, February 2019, p 8.

¹⁴⁹ NSW Government (FRNSW) submission to IPART draft licence package, February 2019, pp 2, 8.

The recommended licence clauses are shown in Box 11.2.

Box 11.2 Recommended Memorandum of understanding with FRNSW clauses

7.2 Memorandum of understanding with FRNSW

- 7.2.1 Sydney Water must use its best endeavours to maintain a memorandum of understanding with Fire and Rescue NSW (**FRNSW**).
- 7.2.2 Sydney Water must use its best endeavours to comply with the memorandum of understanding with FRNSW.
- 7.2.3 The purpose of the memorandum of understanding with FRNSW is to form the basis for cooperative relationships between the parties. In particular, the purpose is to:
- a) develop the roles and responsibilities of the parties as they relate to each other;
 - b) identify the needs and constraints of the parties as they relate to each other; and
 - c) identify and develop strategies for efficient and effective provision of firefighting water consistent with the goals of each party.
- 7.2.4 The memorandum of understanding with FRNSW must require the maintenance of a working group and must provide that:
- a) the working group must include representatives from Sydney Water and FRNSW and may include representatives from other organisations such as the NSW Rural Fire Service; and
 - b) the working group is to consider the following matters (at a minimum):
 - i. information sharing arrangements between Sydney Water and FRNSW;
 - ii. agreed timelines and a format for Sydney Water to provide a report to FRNSW detailing the network performance with regard to availability of water for firefighting (taking into account the minimum available flow and pressure in localised areas of the network);
 - iii. arrangements for Sydney Water to consult with FRNSW in the design of new assets and planning of system maintenance, where planning indicates that minimum available flow and pressure may unduly impact firefighting in the network section under consideration; and
 - iv. other matters as agreed by both Sydney Water and FRNSW.

11.4 Remove the obligation for a Roles and Responsibilities Protocol with DPE

We maintain our draft recommendation to remove the requirements to develop and maintain a Roles and Responsibilities Protocol with DPE.

Sydney Water and DPE supported removing licence obligations for Sydney Water to develop a Roles and Responsibilities Protocol with DPE and considered there are other mechanisms established to address specific issues and develop collaborative responses.¹⁵⁰

We have considered licence obligations for Sydney Water to cooperate with DPE specifically on water supply planning and data sharing in section 6.10 of this report.

Recommendation

- 69 Remove the requirements to develop and maintain a Roles and Responsibility Protocol with DPE.

¹⁵⁰ Sydney Water submission to IPART Issues Paper, August 2018, p 103; NSW Government (DPE) submission to IPART Issues Paper, September 2018, p 12.

12 Information and services for competitors

The eighth part of the recommended licence is information and services for competitors. This part sets out Sydney Water's obligations to provide information and services for competitors, particularly water businesses licensed under the *Water Industry Competition Act 2006* (WIC Act). It includes clauses related to:

- ▼ Negotiating in good faith
- ▼ Provision of servicing information
- ▼ Codes of conduct with WIC Act licensees.¹⁵¹

The sections below summarise our positions on information and services for competitors, then discuss each position in more detail.

12.1 Summary of positions on information and services for competitors

After considering stakeholder comments, we maintain our draft views about providing information and services for competitors but with some revisions.

We recommend to:

- ▼ Include an obligation in the licence for Sydney Water to negotiate with WIC Act licensees and potential competitors in good faith and include the definition of good faith in the licence, but not to prescribe processes or specify a form of dispute resolution.
- ▼ Include obligations in the licence for Sydney Water to publish on its website at least ten years of servicing information for each major water and wastewater system by 30 September 2019 for its available information, and prepare and publish servicing information on its remaining major systems as it becomes available in a form suitable for publication and in any case by 30 June 2021. The information must include, at a minimum:
 - Current and projected demand
 - Current and projected capacity constraints
 - Indicative cost of alleviating or deferring capacity constraints
 - Locations where further investigation is needed
 - Key sources of information used to develop the servicing information where those sources are publicly available.
- ▼ Include in the licence, a requirement for Sydney Water to update the servicing information for each major water and wastewater system as it becomes available, and at least once during the term of the licence for all major water systems and wastewater systems between one year after it is published and 30 June 2023.
- ▼ Include in the reporting manual, a requirement for Sydney Water to report annually on the following, and make this report publicly available:

¹⁵¹ We note section 5.5 of this report and recommendation 13 addresses our recommendation to include an obligation to provide water and sewerage services to a WIC Act licensee on request from the WIC Act licensee.

- Number of agreements established with WIC Act licensees and potential competitors
 - Number of negotiations commenced with WIC Act licensees and potential competitors that did not eventuate in an agreement and the reasons for this outcome
 - Type of information requested by WIC Act licensees and potential competitors in addition to information that is publicly available
 - Time taken for Sydney Water to respond to requests for provision of information or services.
- ▼ Revise the existing ‘code of conduct’ clause in the licence to refer to the licence issued under the WIC Act rather than the WIC Regulation.

Stakeholders’ submissions generally supported obligations to provide timely information to inform the market. However, they provided limited quantitative data to inform the benefits of a cost-benefit analysis. Stakeholders also identified a range of other issues they considered we should consider. Unfortunately, these matters related to NSW Government policy and so are outside the scope of this review.

We note that the recently released report by Frontier Economics (prepared on behalf of Infrastructure NSW (INSW)) on the economic regulatory barriers to cost-effective water recycling also made a recommendation to require public water utilities to develop and publish annual system limitation reports, “that make key information publicly available on long-term growth servicing plans, system constraints and the costs (or savings) of alleviating (or deferring) constraints in each water and wastewater system in a consistent, timely and accessible way”.¹⁵² In relation to the recommendation made by Frontier Economics for a ‘systems limitations report’, the NSW Government’s response stated that it “supports the intention of the recommendation, but will further consider the proposed ‘system limitation report’ and the arrangements to best achieving it.”¹⁵³

12.2 Include obligation to negotiate in good faith

We maintain our draft recommendations to introduce an obligation on Sydney Water to negotiate with WIC Act licensees and potential competitors in good faith and not to prescribe processes or specify a form of dispute resolution. In addition, as part of the negotiation obligation, we recommend including a definition of ‘good faith’ in the recommended licence.

By acting ‘in good faith’, we mean acting:

- ▼ Honestly (including not providing false information or concealing material facts).
- ▼ Fairly and reasonably, having regard to the interests of the other party (but not to the extent of Sydney Water subordinating its own interests).

In practice, before a ‘potential competitor’ becomes a WIC Act licensee, it would negotiate and seek information from Sydney Water prior to or while it applies for a licence under the WIC Act. We therefore consider it important that potential competitors are able to rely on the negotiation provisions to enable them to consider entering the market.

¹⁵² Frontier Economics, *Economic regulatory barriers to cost-effective water recycling*, July 2018 (released in January 2019 on DPE’s website), p 50.

¹⁵³ NSW Government, *Independent Recycled Water Review – Government response*, undated (released in January 2019 on DPE’s website), p 2.

Stakeholders generally supported our draft recommendation to include an obligation on Sydney Water to negotiate services with WIC Act licensees or potential competitors in good faith. In addition, Flow Systems proposed including the term “good faith” in the definition of the licence to reflect the definition set out in the draft report.

Flow Systems reiterated in its submission that the licence should include some form of compulsory dispute resolution mechanism if negotiation fails.¹⁵⁴ It considered that a dispute resolution process is necessary as otherwise Sydney Water could “simply refuse to agree to terms for such a period until the WIC Act licensee’s window of opportunity to participate in the development the subject of the connection application could pass”. Flow Systems considered that dispute resolution only by agreement is inadequate to protect WIC Act licensees, particularly in the absence of an express licence objective requiring Sydney Water to promote competition in the provision of its services. Flow Systems also considered that the licence could nominate IPART to arbitrate disputes particularly for non-pricing terms and conditions for the provision of services.¹⁵⁵

We consider that there are several non-binding alternative dispute resolution approaches, not involving IPART, which could be used to resolve disputes – for example CEO meetings, mediation and non-binding expert opinion.¹⁵⁶ These dispute resolution approaches are available to Sydney Water, WIC Act licensees and potential competitors when needed, provided that both parties agree to them. An operating licence is not an ideal legal instrument for establishing an arbitration mechanism because in the absence of an arbitration framework in legislation, it is difficult to confer rights and impose obligations on both parties, as well as imposing constraints on the arbitrator.

We acknowledge Flow Systems’ concerns about the potential for protracted negotiation processes. In the reporting manual, we include requirements to monitor the effectiveness of the licence obligation to negotiate in good faith (discussed in section 12.512.5 below). This will inform us of the extent of failed negotiation and whether further licensing requirements are required. Further, if we receive information from any stakeholder about a dispute, we can use our compliance monitoring function to assess the situation and take appropriate action. We are not required to wait for the next operational audit of Sydney Water’s licence to address any potential non-compliance.

Sydney Water submitted that an alternative to specifying a dispute resolution mechanism in the licence could be addressed in an Industry Code of Conduct or Regulations under the WIC Act, and we agree with Sydney Water that this is a matter for the NSW Government for consider.¹⁵⁷

An obligation to negotiate in good faith would help address WIC Act licensees’ concern about the time taken to reach service agreements with Sydney Water, as we would monitor Sydney Water’s compliance with this obligation. In undertaking this monitoring, we would consider the information provided by our proposed reporting requirement (discussed in section 12.5 below), as well as complaints we receive from WIC Act licensees or potential competitors. In

¹⁵⁴ Flow Systems submission to IPART draft licence package, February 2019, p 6.

¹⁵⁵ Flow Systems submission to IPART draft licence package, February 2019, p 6.

¹⁵⁶ IPART, *Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report*, December 2018, p 106.

¹⁵⁷ Sydney Water submission to IPART draft licence package, February 2019, p 39.

addition, in an operational audit of the licence, Sydney Water would be required to provide evidence that it has negotiated in good faith.

Recommendations

- 70 Include an obligation on Sydney Water to negotiate with WIC Act licensees and potential competitors in good faith and include a definition of 'good faith' in the licence.
- 71 Not to specify the form of dispute resolution in the licence where WIC Act licensees and potential competitors are unable to negotiate an agreement.

The recommended licence clauses are shown in Box 12.1.

Box 12.1 Recommended negotiation clause

8.1 Negotiations with WIC Act licensees and Potential Competitors

- 8.1.1 Sydney Water must negotiate the provision of Services to WIC Act licensees and Potential Competitors in Good Faith.

12.3 Include obligation to provide information to WIC Act licensees and potential competitors

We maintain our draft recommendation to require Sydney Water to publish servicing information, but with some revisions to the scope of information and timing of publishing the information. We also make a new recommendation to allow Sydney Water to seek approval from IPART to not publish servicing information for a particular major water system or wastewater system where there are critical infrastructure security concerns.

Given stakeholders have expressed concerns about the lack of information on servicing strategies and forecast costs, we consider that there is a need to improve information provision to provide transparency to the market.

12.3.1 We consider there is a need to improve information provision but benefits are unclear

We consider that it is important to keep the costs of meeting this obligation low as the benefits are unclear at this stage.

In order to analyse the costs and benefits of an information provision obligation, Sydney Water provided high-level cost estimate for publishing the required information in the draft licence, which totalled to \$7.6 million. The cost comprised of:

- ▼ \$2 million in IT costs to set up a website in a similar format to that used in the energy industry
- ▼ \$2.5 million to assess major water systems that are not covered in the last planning updates
- ▼ \$3.1 million to assess major wastewater systems that are not covered in the last planning updates.

Sydney Water stated that there would also be an additional cost of \$1.6 million for each servicing information update.¹⁵⁸ This information from Sydney Water suggests that if the licence requires information to be updated annually there would be an annual cost of \$1.6 million.

In our view, the estimated \$2 million for IT costs is unnecessary as we expect PDF copies of the plans containing servicing information on Sydney Water's website would be sufficient to meet the proposed licence obligations. Further, we consider that other costs estimated by Sydney Water appear high, and may not represent efficient costs.

However, we received no additional information from stakeholder submissions or from the Public Workshop about the quantitative benefits of publishing servicing information. We note that DPE submitted that the information provision obligation should be implemented without imposing additional costs to Sydney Water materially above the identified benefits. We are unable to conduct a cost-benefit analysis of an information provision obligation at this time, however we consider Sydney Water's customers would benefit over time from Sydney Water publishing servicing information. This is because disclosure of this information to potential competitors should promote competition by reducing barrier to entry. Over time, competition should improve prices and the quality of services available to Sydney Water's customers.

12.3.2 We consider making existing information publicly available is a sensible way to start

We consider requiring Sydney Water to publish available information that it already has on servicing, including cost, would be a low-cost starting-point to fill the current information gap in the market.

We note that Sydney Water already produces plans that contain some of the information that WIC Act licensees, potential competitors or other stakeholders have indicated might be useful.¹⁵⁹ We consider that an efficient public water utility should already be carrying out forward planning to analyse projected water demand and identifying projected capacity constraints in its systems to inform its short to medium term investment plan.

Flow Systems proposed a date of 30 June 2019¹⁶⁰ to publish the servicing information, whereas Sydney Water proposed a commencement date of 30 June 2021. We have considered these dates and recommend staging the publishing of information to start with the release of information that Sydney Water already has available by 30 September 2019. This allows Sydney Water three months from the expected commencement of the recommended licence to publish its available information. Sydney Water would then be required to prepare and publish information on the remaining major systems by 30 June 2021.¹⁶¹ We consider publishing the remaining information by 30 June 2021 is achievable and appropriate.

¹⁵⁸ Sydney Water submission to IPART draft licence package, February 2019, pp 42-43.

¹⁵⁹ IPART, *Review of the Sydney Water Corporation Operating Licence 2015-2020, Draft Report*, December 2018, p 108.

¹⁶⁰ We note this is outside the licence term, we expect the licence to commence on 1 July 2019.

¹⁶¹ Sydney Water requested a start date of 30 June 2021 for draft licence clause 8.2.1 due to the pre-work required to update existing data and undertake new work, refer to Sydney Water submission to IPART draft licence package, February 2019, p 44.

We recommend prescribing information that Sydney Water must provide (rather than outcomes-based information) and requiring Sydney Water to publish servicing information electronically in a form accessible from its website. This means that Sydney Water and its competitors would have certainty on the type of information that would be provided and WIC Act licensees and potential competitors can access the information any time, without having to wait for Sydney Water to prepare system-specific information for each request.

We consider that the licence should move towards an outcome-based obligation for information provision and we would consider it in a future review of Sydney Water's licence. However, at this stage, we decided not to impose such an obligation as initially it would be difficult to measure quality, relevance and timeliness, and would provide less certainty to the market.

We note that our recommended approach is broadly consistent with the recommendation made by Frontier Economics on the economic regulatory barriers to cost-effective water recycling, to require public water utilities to develop and publish 'system limitation reports'.

12.3.3 Require Sydney Water to publish short to medium term servicing information

We consider servicing information for each major water and wastewater system should include, at a minimum:

- ▼ Current and projected demand
- ▼ Current and projected capacity constraints
- ▼ Indicative costs of alleviating or deferring capacity constraints
- ▼ Locations where further investigation is needed
- ▼ Key sources of information used to develop the servicing information where those sources are publicly available.

A 10-year horizon of serving information

We have specified a 10-year horizon (at least) to minimise the risks identified by Sydney Water on the indicative nature of the information in the plans which the above information would be drawn from. Publishing servicing information for a short to medium term rather than a 20 or 30 year horizon reduces the risk of long-term speculative investment. Forecast information of less than five years would not be useful to the market as Sydney Water would already have servicing plans close to or in delivery phase, limiting the amount of avoided costs available to be realised.

Flow Systems supported the provision of a forecast of at least ten years of servicing information, as it considered the timeframe matches well with development planning timeframes.¹⁶² Sydney Water also supported the 10-year horizon as it aligns with Sydney Water's internal processes that it could adapt to publish the type of information required.¹⁶³

¹⁶² Flow Systems submission to IPART draft licence package, February 2019, p 8.

¹⁶³ Sydney Water submission to IPART draft licence package, February 2019, p 42.

Coverage of servicing information

We have specified in the recommended licence to require Sydney Water to publish servicing information for each major water and wastewater system because we accept that Sydney Water has existing information on its major water and wastewater systems. We consider specifying the publishing of information that is available would keep the cost of the information provision obligation low.

We consulted with stakeholders on a broader description of “region, development or major system” in the draft licence. Our initial drafting was intended to provide a broad definition in the licence to allow Sydney Water flexibility in publishing any servicing information that it already has available.

Sydney Water submitted that the broad description would potentially create the need to produce planning information for single developments, which it did not have. Flow Systems submitted that a broad description is appropriate because removing “development” or “region” from the formulation may mean that the information provided by Sydney Water is not specific enough to allow for commercial planning.¹⁶⁴ In line with our intent to keep the cost of information provision low, we consider specifying information that Sydney Water is able to provide is appropriate at this stage. Further, introducing monitoring of the type of additional information requested by WIC Act licensees and potential competitors (discussed in section 12.5 below) would allow us to further understand the information need and therefore better quantify the benefits. Potential information in addition to servicing information may include asset renewal or replacement information.

The recommended licence does not prevent WIC Act licensees or other potential competitors asking for other specific servicing information or updates to published information. We understand there could be benefits to WIC Act licensees or other potential competitors in receiving more specific information, and there could be a fee involved to cover the cost to Sydney Water to prepare such additional information if the information is not already available.

We have excluded stormwater information as Sydney Water’s stormwater network coverage is limited and Sydney Water submitted that it does not have this type of information available for stormwater systems.

Type of information

Sydney Water provided comments on the details of the type of information referred to in the draft licence clause (eg, indicative cost of servicing, opportunities to investigate servicing options and assumptions made in developing the servicing information).¹⁶⁵ Subsequently, we made some revisions to the licence clause to clarify the type of information required to be published.

We consider publishing key sources of inputs in developing the servicing information would allow the information user to go directly to the data source to undertake its own assessment if required. Sydney Water is not required to disclose data sources that they cannot legally release.

¹⁶⁴ Flow Systems submission to IPART draft licence package, February 2019, p 8.

¹⁶⁵ Sydney Water submission to IPART draft licence package, February 2019, pp 43-44.

Open Cities submitted that all data shared with DPE should be available to all WIC Act licensees to overcome information asymmetries in favour of Sydney Water.¹⁶⁶ We do not agree with the proposal because the data shared with DPE is primarily used for the long-term demand and supply planning for Greater Sydney, and may not be of the type, scale, frequency, date range, or format suitable for WIC Act licensees or potential competitors.

Critical infrastructure security considerations

Sydney Water raised that there may be security concerns about making information about making its infrastructure assets and capacity constraints publicly available.¹⁶⁷ In response to Sydney Water's concerns we consulted with Home Affairs.

Home Affairs' view is that sensitive information about critical infrastructure assets, such as Sydney Water's network, that could potentially enable a malicious actor to more easily compromise those assets and in those circumstances, should not be made publically available. Home Affairs acknowledged that publishing general information about some assets, such as water and electricity networks, may have other benefits. Home Affairs was unable to comment specifically on precisely what information should or should not be published. Home Affairs considered that critical infrastructure operators (ie, Sydney Water) are best placed to understand what information about their assets is particularly sensitive. Further, Home Affairs stated that where information which may be of sensitive nature has a good reason to be published it would be appropriate to consider whether the information needs to be published in an uncontrolled way, or whether access controls can be put in place.¹⁶⁸

After considering Home Affairs' comments, we support providing flexibility in the licence to ensure critical infrastructure security is maintained on a case by case basis. We agree that Sydney Water is best placed to understand what information about their asset is particularly sensitive. We make a new recommendation to allow Sydney Water to seek approval from IPART to not publish servicing information for a particular major water system or wastewater system where there are critical infrastructure security concerns. We intend to consult with Home Affairs in making our decision where we receive such a request.

Recommendation

- 72 Require Sydney Water to publish on its website at least ten years of servicing information for each major water and wastewater system by 30 September 2019 for its available information, and prepare and publish servicing information on its remaining major water and wastewater systems by 30 June 2021, which as a minimum, include information on:
- Current and projected demand
 - Current and projected capacity constraints
 - Indicative costs of alleviating or deferring capacity constraints
 - Locations where further investigation is needed
 - Key sources of information used to develop the servicing information where those sources are publicly available.

¹⁶⁶ Open Cities submission to IPART draft licence package, February 2019, pp 3-4.

¹⁶⁷ Sydney Water submission to IPART draft licence package, February 2019, pp 44-45.

¹⁶⁸ Email to IPART, Director, Risk Assessments (Energy and Water), Critical Infrastructure Security Division, Home Affairs, 21 March 2019.

- 73 Sydney Water can seek approval from IPART to not publish servicing information for a particular major water system or wastewater system where there are critical infrastructure security concerns.

The recommended licence clauses are shown in Box 12.2.

Box 12.2 Recommended publishing of Servicing Information clause

- 8.2.1 Sydney Water must by the dates specified in this clause 8.2 publish electronically in a form accessible from its website at least ten years of servicing information for each major water system and wastewater system. The servicing information for each major water system and wastewater system must, at a minimum, include information on:
- a) current and projected demand;
 - b) current and projected capacity constraints;
 - c) indicative costs of alleviating or deferring capacity constraints;
 - d) locations where further investigation is needed; and
 - e) key sources of information used to develop the servicing information where those sources are publicly available,
- (Servicing Information).
- 8.2.2 Sydney Water must, by 30 September 2019 (or another date approved by IPART in writing), publish electronically the Servicing Information for each major water system and wastewater system that it has available by that date that is in a form suitable for publication.
- 8.2.3 Sydney Water must continue to publish Servicing Information for each major water system and wastewater system as it becomes available. Sydney Water must publish all Servicing Information by 30 June 2021 (or another date approved by IPART in writing).
- 8.2.6 Sydney Water is not required to comply with clauses 8.2.1 to 8.2.5 in relation to a particular major water system or wastewater system to the extent approved by IPART in writing. Sydney Water may apply to IPART for approval under this clause only where there are critical infrastructure security concerns in relation to a particular major water system or wastewater system.

12.4 Include requirement to update servicing information when it becomes available and at least once during the term of the licence

We maintain our draft recommendation to require Sydney Water to update the servicing information, but change the frequency of update from annually, to update the servicing information for each major water system and wastewater system as it becomes available, and at least once during the term of the licence for all major water systems and wastewater systems between one year after it is published and 30 June 2023.

Having up-to-date servicing information, especially information that provides an indication of the potential avoided costs, is important for WIC Act licensees or potential competitors to estimate the wholesale price that would apply to their schemes.

We consulted with stakeholders on an annual update of servicing information in the draft licence. Flow Systems supported the frequency, whereas Sydney Water proposed a two-year interval, instead of annually. Sydney Water submitted that this would help to reduce the cost impact on Sydney Water, which is ultimately borne by its customers.

We have specified in the recommended licence to require Sydney Water to update the servicing information for each major water system and wastewater system as it becomes available in a form suitable for publication, and for all major water systems and wastewater systems between the date that is one year after the servicing information was first published and 30 June 2023 (ie, two years after the requirement for all servicing information to be published). This means as information becomes available it must be published, and then updated at least once during the term of the licence for all major water and wastewater system information. In our view requiring Sydney Water to provide an update more than once in the term of the licence would increase the cost unnecessarily.

Keeping the cost of information provision low is important until the benefits of information provision are established. We could reconsider the frequency of update at a future licence review once we have more information about the benefits of the information and the effectiveness of the recommended licence provisions.

Recommendation

- 74 Require Sydney Water to update the published servicing information for each major system as it becomes available in a form suitable for publication, and for all major systems at least once during the term of the licence, between the date that is one year after the servicing information was first published and 30 June 2023.

The recommended licence clauses are shown in Box 12.3.

Box 12.3 Recommended updating of Servicing Information clause

- 8.2.4 Sydney Water must publish updated Servicing Information for each major water system and wastewater system as soon as practicable after any such updated Servicing Information becomes available in a form suitable for publication.
- 8.2.5 Sydney Water must review and update the Servicing Information for each major water system and wastewater system at least once between:
- a) The date that is 12 months after the initial publication of the Servicing Information for that major water system or wastewater system under clause 8.2.2; and
 - b) 30 June 2023 (or another date approved by IPART in writing).

12.5 Include requirement in the reporting manual to report on negotiations with WIC Act licensees

We maintain our draft recommendation to require Sydney Water to report on the:

- ▼ Number of agreements established with WIC Act licensees or potential competitors
- ▼ Number of negotiations that commenced but did not eventuate in an agreement and provide reasons

- ▼ Type of information requested by WIC Act licensees or potential competitors in addition to the information that is publicly available
- ▼ Time taken for Sydney Water to respond to request for provision of information or services.

The information set out above will allow us to monitor the effectiveness of the new obligations to provide information and services for competitors, and undertake compliance monitoring of Sydney Water.

Sydney Water supported this reporting obligation but proposed some minor wording changes,¹⁶⁹ which we accept. NSW Government (DPE) noted that the reporting requirements should not be unnecessarily onerous or disclose commercially confidential information.¹⁷⁰ We consider reporting on numbers of agreements and negotiations, type of information, and time taken to respond to an information request would not require disclosure of confidential information.

Recommendation

- 75 Include in the reporting manual a requirement for Sydney Water to report annually on the following and make this report publicly available:
- Number of agreements established with WIC Act licensees and potential competitors
 - Number of negotiations commenced with WIC Act licensees and potential competitors that did not eventuate in an agreement and the reasons for this outcome
 - Type of information requested by WIC Act licensees and potential competitors in addition to information that is publicly available
 - Time taken for Sydney Water to respond to requests for provision of information or services.

12.6 Revise the ‘code of conduct’ clause with correct reference

We maintain our draft recommendation to revise the ‘code of conduct’ licence clause to refer to the licence issued under the WIC Act rather than the WIC Regulation, as the requirement for a WIC Act licensee to establish a code of conduct with the public water utility is in the licence issued under the WIC Act. The ‘code of conduct’ referred to in the WIC Regulation is an industry-wide code of conduct that would be established by the Minister.

Sydney Water supported our draft recommendation but proposed minor wording change, which we accept.¹⁷¹ PIAC also supported our draft recommendation.¹⁷²

Recommendation

- 76 Revise the ‘code of conduct’ licence clause to refer to the licence issued under the WIC Act rather than the WIC Regulation.

¹⁶⁹ Sydney Water submission to IPART draft licence package, February 2019, pp 39-40.

¹⁷⁰ NSW Government (DPE) submission to IPART draft licence package, February 2019, p 7.

¹⁷¹ Sydney Water submission to IPART draft licence package, February 2019, p 45.

¹⁷² PIAC submission to IPART draft licence package, February 2019, p 4.

The recommended licence clauses are shown in Box 12.4.

Box 12.4 Recommended Code of conduct clauses

8.3 Code of conduct

- 8.3.1 Sydney Water must use its best endeavours to cooperate with each WIC Act licensee to establish a code of conduct required by a WIC Act licence where Sydney Water has received a written request from the WIC Act licensee to establish such a code.
- 8.3.2 Where the Minister administering the WIC Act has established a code of conduct under clause 25 of the WIC Regulation, Sydney Water will be taken to have satisfied its obligation under clause 8.3.1 by applying the code of conduct to the relevant licensee under the WIC Act.

12.7 Stakeholders identified other issues that are not part of this licence review

Stakeholders also identified a range of other issues they suggested we should consider in relation to Sydney Water's dealings with WIC Act licensees. Unfortunately, we were not able to consider these issues as they relate to NSW Government policy, and so are outside the scope of this review (and are a matter for the NSW Government). However, we have identified these issues below.

Flow Systems and Open Cities suggested establishing an Independent Market Operator (IMO), separate to IPART, to introduce a level playing field between Sydney Water and WIC Act licensees. They submitted that an IMO would identify new growth areas best suited to market competition and oversee the infrastructure planning and servicing strategies for these areas.

Flow Systems and Open Cities also submitted that NSW must strengthen its commitment to moving towards zero discharge of sewage to waters, including from ocean outfalls, which is an "ultimate aim" for Sydney Water under s 27(1) of the Act. In their view, WIC Act licensees can contribute to reducing discharge to waters. We note that EPA is the relevant regulator for discharge of sewage to waters in the context of protection of the environment. In contrast, the Sydney Water licence addresses dry-weather wastewater overflows in the context of service provision to customers.

Sydney Water expressed the view that the underlying barrier to competition in the water industry is the NSW Government's decision to set developer charges for water and wastewater at zero. It submitted that re-introducing developer charges may benefit competition by creating a more level playing field between incumbents and private utilities.^{173,174} We note that the policy on developer charges in Greater Sydney and the Hunter areas is a matter for the NSW Government and therefore not within the scope of this review.

¹⁷³ Sydney Water submission to IPART Issues Paper, August 2018, p 40.

¹⁷⁴ Sydney Water submission to IPART draft licence package, February 2019, p 40.

Open Cities also submitted that:

- ▼ Recycled water and Integrated Water Cycle Management should be mandated as minimum standards for new growth and compel houses to connect.
- ▼ Competitors should be allowed to bid for water management servicing solutions and services in new growth areas.
- ▼ The licence should require Sydney Water to use WIC Act licensees, to provide water for liveability including increased greening and canopy cover to mitigate urban heat island effect, and for environment flows.

In our view, the WIC Act allows for competitors to provide services to new growth areas. We consider our recommendations for obligations on Sydney Water to service WIC Act licensees, negotiate in good faith with WIC Act licensees and potential competitors and to provide information would improve competition and contribute to levelling the playing field. The other matters related to NSW Government policy and so are outside the scope of our review.

Open Cities and ISF made suggestions for improving stakeholder engagement. Open Cities proposed the licence should “require Sydney Water to provide a resource to represent industry and the community so they are able to respond to reviews of Sydney Water”.¹⁷⁵ It argued that this would lead to more meaningful engagement which in turn would lead to better outcomes for all. ISF proposed that IPART consider how to initiate and implement a resourcing mechanism in the water sector to fund representatives for industry and/or community to adequately engage in reviews. Again, these suggestions relate to NSW Government policy and are therefore beyond the scope of this licence review. We continue to look for better ways to engage with stakeholders in our reviews and encourage stakeholders to suggest ways we can improve our engagement.

¹⁷⁵ Open Cities submission to IPART Issues Paper, August 2018, p 7.

13 Critical infrastructure security

The ninth part of the recommended licence includes Sydney Water's obligations in relation to critical infrastructure security. It includes clauses related to:

- ▼ Cyber security
- ▼ Security clearances.

The existing licence does not include requirements for critical infrastructure security.

The sections below summarise our positions on critical infrastructure security, and then discusses each position in more detail.

13.1 Summary of positions on critical infrastructure security

After considering stakeholder comments, we revise our draft recommendation to not include any requirements to manage critical infrastructure security in the licence.

Sydney Water and WaterNSW supported our draft recommendation, however in its confidential submission Home Affairs proposed that the licence include obligations on Sydney Water relating to cyber security and security clearances.¹⁷⁶ The NSW Government Chief Information Security Officer (GCISO) and DPE supported Home Affairs' submission.¹⁷⁷

We recommend to:

- ▼ Include new obligations for Sydney Water to maintain and implement a cyber security management system, and a new reporting requirement for Sydney Water to provide to IPART and the Commonwealth Representative an independent audit report of its cyber security management system.
- ▼ Include new obligations for Sydney Water to appoint a Critical Infrastructure Compliance Manager, and to obtain and maintain security clearances for certain executive staff and two Board Directors.

13.2 Include new obligations to maintain and implement a cyber security management system

We recommend including obligations on Sydney Water to maintain and implement a cyber security management system, and a new reporting requirement for Sydney Water to provide to IPART and the Commonwealth Representative an independent audit report of its cyber security management system.

¹⁷⁶ Home Affairs confidential submission to IPART draft licence package, February 2019; Email to IPART from Director, Risk Assessments (Energy and Water), Critical Infrastructure Security Division, Department of Home Affairs, 18 March 2019.

¹⁷⁷ Ibid.

On balance, we consider that regulation of critical infrastructure under the licence is required to address critical infrastructure risks. However, we recommend that the obligations included in the licence are outcomes focused where possible and allow flexibility in the way Sydney Water manages its critical infrastructure, and its cyber security risks in particular.

Home Affairs noted that given Sydney Water is the largest operator of water and wastewater services in the Sydney, Illawarra and Blue Mountains areas, Sydney Water's networks and assets are critical. In Home Affairs' view understanding and managing national security risks to Sydney Water's network and assets, primarily in the cyber security space is important. Home Affairs' proposed requiring Sydney Water to undergo an annual audit of its cyber security and report back to IPART and the Commonwealth on what action Sydney Water would take as a result of the audit.¹⁷⁸ Home Affairs' proposal does not include any licence requirements for Sydney Water to implement a cyber security management system (although the proposed obligations imply that a cyber security management system is in place in order for it to be audited) or to implement the recommendations arising from an audit.

The GCISO supported Home Affairs' proposal for the licence to impose specific cyber and critical infrastructure obligations on Sydney Water. GCISO considers the obligations proposed by Home Affairs would assist Sydney Water to develop an appropriate cyber security risk management-based approach. Further, the GCISO states that Home Affairs' proposal is broadly consistent with the NSW Government Cyber Security Policy.¹⁷⁹ DPE also supported Home Affairs' proposal.¹⁸⁰

Sydney Water's view is that the obligations proposed by Home Affairs are unrelated to Sydney Water's core business and overly prescriptive.¹⁸¹ Sydney Water states that it is prepared to share the independent audits of its Information Sharing Management System with Home Affairs, and therefore the obligations proposed by Home Affairs should not be included in the licence.¹⁸²

On balance, based on the views of Home Affairs and GCISO we support including obligations related to cyber security in the licence. However, we agree with Sydney Water that the obligations proposed by Home Affairs are prescriptive, and we consider it would be difficult to require Sydney Water to audit a cyber security management system without a requirement to have such a system in place. Therefore, we consider an outcomes based obligation that Sydney Water should be required to maintain and implement a management system for cyber security is appropriate.

In addition to the proposed licence obligations to maintain and implement a management system for cyber security, we propose to include reporting manual requirements for Sydney Water to provide an independent audit of its cyber security management system, annually.

The benefits of cyber security obligations are difficult to quantify. However, we understand the expected outcomes of the requirement for Sydney Water to undertake a cyber security

¹⁷⁸ Home Affairs confidential submission to IPART draft licence package, February 2019; Email to IPART from Director, Risk Assessments (Energy and Water), Critical Infrastructure Security Division, Department of Home Affairs, 18 March 2019.

¹⁷⁹ Email to IPART from Acting Manager Policy and Regulatory Reform, Water and Utilities Branch, Department of Planning and Environment, 1 March 2019.

¹⁸⁰ Ibid.

¹⁸¹ Sydney Water response to IPART's Request for Information, 4 March 2019, Question 152(d).

¹⁸² Ibid.

audit would be a continual improvement of Sydney Water's cyber security management system and a reduced security risk. Sydney Water considered the direct costs of these obligations would be largely met by its existing ISMS and audits.¹⁸³ We expect that the proposed reporting manual requirements may require additional auditing by Sydney Water, resulting in a direct cost to Sydney Water. Based on our knowledge of the costs of independent audits of critical infrastructure obligations for NSW energy distribution network licences, we estimate this would be an annual cost of up to \$50,000 to Sydney Water. We note that Sydney Water estimated an annual cost of \$120,000 to \$150,000, or up to \$500,000 as Sydney Water considers the audits are "potentially unbounded".¹⁸⁴ We consider our lower estimate is more realistic. Sydney Water noted there would also be an indirect cost to Sydney Water to manage the audit process and lost productivity.

We expect that the independent audit of the cyber security management system would be used by IPART to determine Sydney Water's compliance with the proposed requirement to maintain and implement a cyber security management system.

Home Affairs only proposed that Sydney Water receive and consider the audit recommendations. Home Affairs did not propose to require Sydney Water to implement the recommendations of the annual security audit. In Home Affairs' view consideration of the audit recommendations is likely to lead to improvement of Sydney Water's cyber security awareness and outcomes.¹⁸⁵ We support this approach. We note that as part of our operational audit IPART could make recommendations to Sydney Water to address any shortcomings or deficiencies in Sydney Water's implementation and maintenance of the cyber security management system.

Recommendation

- 77 Require Sydney Water to maintain a cyber security management system, and that the system is fully implemented.
- 78 Require Sydney Water to provide a written cyber security audit report to IPART and the Commonwealth Representative from an independent auditor approved by IPART annually, and to report on Sydney Water's proposed response to each audit recommendation within three months of the cyber security audit.

¹⁸³ Sydney Water response to IPART's Request for Information, 4 March 2019, Question 152(d).

¹⁸⁴ Ibid.

¹⁸⁵ Email to IPART, Acting Assistant Secretary, Assurance, Risk and Engagement Branch, Department of Home Affairs, 3 April 2019.

The recommended licence clause is shown in Box 13.1.

Box 13.1 Recommended cyber security clause

9.1 Cyber Security Management System

9.1.1 From 1 July 2019 (or another date approved by IPART in writing), Sydney Water must maintain a Management System for cyber security of Sydney Water's Assets (the **Cyber Security Management System**) that covers:

- a) information technology environments, hardware and systems; and
- b) operational technology environments, hardware and systems.

9.1.2 From 1 July 2019 (or another date approved by IPART in writing), Sydney Water must ensure that the Cyber Security Management System is fully implemented and that all relevant activities are carried out in accordance with the Cyber Security Management System.

13.3 Include new obligations to appoint a compliance manager and maintain security clearances

We recommend including obligations to appoint a Critical Infrastructure Compliance Manager and to obtain and maintain security clearances for certain executive staff and two Board Directors.

These obligations would ensure Sydney Water can participate in classified discussions with government agencies and work collaboratively towards common goals.

To address potential national security risks to Sydney Water's network and assets, primarily in the area of cyber security, Home Affairs' recommended the inclusion of obligations in the licence that require:

- ▼ Sydney Water to identify a compliance manager who will be responsible for complying with the critical infrastructure conditions.
- ▼ Senior officers responsible for operational technology, network operations, security operations and compliance with the critical infrastructure conditions to hold a National Security Clearance of not less than Negative Vetting Level 1.

Sydney Water has confirmed that it does not currently meet the requirements of the proposed security clearance obligations. Sydney Water estimated that it would take up to six months to meet this requirement, noting that timing is dependent on the Australian Government Security Vetting Agency (AGSVA) and the outcome of the assessment of AGSVA. Sydney Water also stated that it is prepared to commit to obtaining and maintaining security clearances, and therefore the obligations proposed by Home Affairs should not be included in the licence.¹⁸⁶

Sydney Water estimated that approximately 15 roles within Sydney Water would require a Negative Vetting 1 security clearance to meet the intent of the proposed requirements. Given

¹⁸⁶ Sydney Water response to IPART's Request for Information, 4 March 2019, Question 152(d).

that number, Sydney Water estimated an initial assessment would cost approximately \$23,000 with revalidation needed every 10 years.¹⁸⁷

Allowing for a turnover of 20% per year, Sydney Water estimated an additional cost of around \$4,000 per year applies.¹⁸⁸ Sydney Water noted additional clearances may be required at shorter intervals, if the accountabilities listed in the proposed requirements are moved to different roles, for example, after an organisational restructure.

Finally, Sydney Water notes that the indirect costs associated with managing security clearances cannot be quantified at this time. For example, Sydney Water may need to allocate part of a resource to manage clearances, including monitoring any changes in personal circumstances.

Quantifying the benefits (ie, ability of staff to be briefed on security matters) is difficult, however we consider that since the costs of the security clearances are relatively low, the licence should require Sydney Water to appoint a Compliance Manager and obtain and maintain security clearances for key staff.

Recommendation

- 79 Require Sydney Water to appoint a Compliance Manager who is responsible for compliance with critical infrastructure obligations and Sydney Water's obligations under the *Security of Critical Infrastructure Act 2018* (Cth), and must act as the contact person with the Commonwealth Representative.
- 80 Require Sydney Water, by 1 January 2020, to ensure that National Security Clearances are held by its Compliance Manager, two Board Directors and the executive level employee(s) responsible for operational technical security, network operations security and personnel security operations.

¹⁸⁷ Sydney Water response to IPART's Request for Information, 4 March 2019, Question 152(d).

¹⁸⁸ Ibid.

The recommended licence clause is shown in Box 13.2.

Box 13.2 Recommended security clearance clauses

9.2 Critical Infrastructure Compliance Manager

- 9.2.1 Sydney Water must nominate, by notice in writing to IPART and the Commonwealth Representative, an executive level employee as Critical Infrastructure Compliance Manager.

[**Note:** The reference to an executive level employee is a reference to a Level 3 employee or above under Sydney Water's structure at the Commencement Date.]

- 9.2.2 Sydney Water's Critical Infrastructure Compliance Manager must be responsible for compliance with clause 9 of the Licence and Sydney Water's obligations under the Security of Critical Infrastructure Act 2018 (Cth), and must act as the contact person for the Commonwealth Representative.

9.3 National Security Clearances

- 9.3.1 From 1 January 2020 (or another date approved by IPART in writing), Sydney Water must ensure that National Security Clearances are held by its Critical Infrastructure Compliance Manager, two board members and the executive level employees responsible for each of the following matters:

- a) operational technology security (including cyber security strategy, managing remote access to Assets and delivery of SCADA capability);
- b) network operations security (including operation, maintenance and physical security of Assets); and
- c) Personnel security operations (including security of Personnel and security risks posed by Personnel).

[**Note:** The responsibilities at (a) to (c) above may be held by a single employee or shared between multiple employees. To ensure compliance with this clause when employees resign or are on leave, Sydney Water should ensure that National Security Clearances are held by alternates with relevant experience.]

14 Performance monitoring and reporting

The tenth part of the recommended licence is performance monitoring and reporting. This part of the licence sets out Sydney Water's obligations in relation to performance monitoring and reporting. It includes clauses related to:

- ▼ Providing information for the operational audits
- ▼ Sydney Water's reporting
- ▼ Performance indicators related to the environment and the response times to water main breaks and leaks.

The sections below outline our positions on these obligations, then discuss them in more detail.

14.1 Summary of positions on performance monitoring and reporting

After considering stakeholder comments, we maintain our view that licence obligations related to performance monitoring and reporting are necessary and appropriate, and that the existing requirements should be broadly retained with revisions to improve efficiency.

We recommend to:

- ▼ Retain the existing operational audit obligations
- ▼ Consolidate the existing reporting obligations
- ▼ Retain the existing environment performance indicators
- ▼ Remove the existing obligations for reporting on response times for water main breaks and leaks.

14.2 Retain the operational audit obligations

We maintain our draft recommendation to retain the existing obligations for Sydney Water to provide timely information for the operational audits and cooperate with IPART and the auditors to facilitate the operational audits. The Act requires licence obligations on operational audits. Sydney Water¹⁸⁹ and NSW Health¹⁹⁰ supported our draft recommendation.

Recommendation

81 Retain the existing clauses on operational audits in the licence.

¹⁸⁹ Sydney Water submission to IPART draft licence package, February 2019, p 46.

¹⁹⁰ NSW Government (NSW Health) submission to IPART Issues Paper, September 2018, p 17.

The recommended licence clauses are shown in Box 14.1.

Box 14.1 Recommended Operational audit clauses

10.1 Operational Audits

- 10.1.1 Sydney Water must cooperate with an audit undertaken by IPART or an Auditor of Sydney Water's compliance with any of the following:
- a) this Licence (including the Customer Contract);
 - b) the Reporting Manual; and
 - c) any matters specified by the Minister,
- (the **Operational Audit**).
- 10.1.2 For the purpose of any Operational Audit or verifying a report on an Operational Audit, Sydney Water must, within a reasonable period of receiving a request from IPART or an Auditor, provide IPART or the Auditor with all the information in Sydney Water's possession, custody or control that is necessary to conduct the Operational Audit, including any information that is reasonably requested by IPART or an Auditor.
- 10.1.3 For the purpose of any Operational Audit or verifying a report on an Operational Audit, Sydney Water must permit IPART or the Auditor to:
- a) access any works, premises or offices occupied by Sydney Water;
 - 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 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 Sydney Water that are maintained in relation to the performance of Sydney Water'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 Sydney Water, including Sydney Water's officers and employees.

14.3 Consolidate the reporting obligations

We maintain draft recommendation to retain and consolidate the existing obligations on reporting in the licence. For example we identified multiple obligations for reporting:

- ▼ In accordance with the reporting manual
- ▼ On system performance standards
- ▼ On performance indicators
- ▼ On response times for water mains breaks (an existing sub-set of performance indicators).

While the Act does not require licence obligations on reporting, these obligations are necessary to ensure Sydney Water provides inputs to operational audits and to inform relevant stakeholders.

Sydney Water supported our draft recommendation.¹⁹¹

Recommendation

82 Retain and consolidate the existing obligations on reporting in the licence.

The recommended licence clauses are shown in Box 14.2.

¹⁹¹ Sydney Water submissions to IPART draft licence package, February 2019, p 46.

Box 14.2 Recommended Reporting clauses

10.2 Reporting

- 10.2.1 IPART has the function of determining Sydney Water's reporting and auditing obligations and publishing these obligations in a reporting manual (the **Reporting Manual**).
- 10.2.2 Sydney Water must comply with all of its reporting and auditing obligations set out in the Reporting Manual, including in relation to:
- a) water conservation and planning;
 - b) performance standards for water quality;
 - c) performance standards for service interruptions;
 - d) Customers and Consumers;
 - e) information and services for competitors;
 - f) critical infrastructure security; and
 - g) performance monitoring and reporting.
- 10.2.4 Sydney Water must maintain sufficient record systems to enable Sydney Water to report accurately in accordance with this clause 10.2.
- 10.2.5 In the case of any disagreement between IPART and Sydney Water regarding the interpretation or application of any requirements of the Reporting Manual, IPART's interpretation or assessment of the application of the requirements will prevail

10.3 Provision of information for performance monitoring

- 10.3.1 Sydney Water must provide IPART information relating to the performance of any of Sydney Water's obligations under clause 10.2 (including providing IPART physical and electronic access to the records required to be kept under clause 10.2) within a reasonable time of Sydney Water's receiving a request from IPART for that information.
- 10.3.2 Sydney Water must provide IPART such information as is reasonably required to enable IPART to conduct any review or investigation of Sydney Water's obligations under this Licence within a reasonable time of Sydney Water receiving a request from IPART for that information.
- 10.3.3 If Sydney Water engages any person (including a subsidiary) to undertake any activities on its behalf, it must take all reasonable steps to ensure that, if required by IPART or an Auditor, any such persons provide information and do the things specified in clause 10.1 as if that person were Sydney Water.
- 10.3.4 If IPART or an Auditor requests information that is confidential, the information must be provided to IPART or the Auditor, subject to IPART or the Auditor entering into reasonable arrangements to ensure that the information remains confidential.
- 10.3.5 Sydney Water must provide NSW Health with information relating to water quality in the manner and form specified by NSW Health within a reasonable time of receiving NSW Health's request.

[**Note:** Under section 19 of the *Public Health Act 2010* (NSW), the Secretary of the NSW Health may require Sydney Water to produce certain information.]

14.4 Retain the environmental performance indicators

We maintain our draft recommendations for Sydney Water to compile and report on the existing environment performance indicators in the Sydney Water reporting manual.

The Act requires the licence include terms or conditions requiring Sydney Water to compile indicators of the direct impact on the environment of Sydney Water's activities.¹⁹² The existing licence includes one clause that requires Sydney Water to:

- ▼ Prepare indicators of the direct impact on the environment of Sydney Water's activities (the Environmental Performance Indicators).
- ▼ Monitor and compile data on the Environmental Performance Indicators.
- ▼ Report on the Environmental Performance Indicators in accordance with the reporting manual.

To ensure the licence meets the requirements of the Act, we recommend retaining the clause on environmental indicators and the requirement to report on the Environmental Performance Indicators in accordance with the reporting manual.

Sydney Water supported the use of the environmental indicators listed in the existing reporting manual, as these broadly cover its business activities that impact the environment.¹⁹³ These performance indicators were updated recently, as a result of our 2017- 18 water utility performance review.

Recommendations

- 83 Retain the requirement for Sydney Water to compile and report on environment performance indicators.
- 84 Retain the existing environment performance indicators in the Sydney Water reporting manual.

The recommended licence clauses are shown in Box 14.3.

Box 14.3 Recommended Environment Performance Indicators clauses

10.2.3 Sydney Water must:

- a) compile indicators of the direct impact on the environment of Sydney Water's activities (the **Environment Performance Indicators**). The Environment Performance Indicators must be consistent with the performance indicators specified in the Reporting Manual with an indicator number starting with 'E';
- b) monitor and compile data on the Environment Performance Indicators, including data that allows a year to year comparison of the Environment Performance Indicators; and
- c) report on the Environment Performance Indicators in accordance with the Reporting Manual.

¹⁹² *Sydney Water Act 1994*, s 14(1)(d).

¹⁹³ Sydney Water submission to IPART draft licence package, February 2019, p 47.

14.5 Comprehensively address water conservation rather than require reporting on response times for water main breaks and leaks

We maintain our draft recommendation to remove the existing obligations in the licence and reporting manual to report on water main breaks and leaks indicators.

Under the existing reporting manual, the definition of response time is measured from when Sydney Water receives notification of a break or leak to the time Sydney Water stops the loss of water.

In response to our draft recommendation Sydney Water noted that the low number of views indicated that reporting on response times seems to have limited value to the public.¹⁹⁴ Sydney Water also indicated that responding to water main breaks should be driven by business decisions that minimise customer inconvenience and reduce water loss rather than being driven by meeting prescribed timeframes.

We agree with Sydney Water's views that responding to water main breaks should be its business decision, driven by factors including minimising customer inconvenience, rather than by response times.

Recommendation

- 85 Remove the obligation to report on response times for water main breaks and leaks as we are comprehensively addressing water conservation through other obligations.

¹⁹⁴ Sydney Water submission to IPART draft licence package, February 2019, p 47.



Appendices



A Summary of recommended changes to the Customer Contract

Table A1 provides a summary of our recommended changes to the Sydney Water Customer Contract. Our recommended changes to the Customer Contract reflect our analysis of:

- ▼ The existing Customer Contract
- ▼ Sydney Water's legal obligations
- ▼ Sydney Water's proposed Customer Contract included in its response to our Issues Paper
- ▼ Submissions made by stakeholders on Sydney Water's proposed Customer Contract and to our draft Customer Contract
- ▼ Submissions to the Issues Paper and the draft report made by Sydney Water and other stakeholders
- ▼ Information provided by Sydney Water at our request
- ▼ Other relevant information.

In general, where we are proposing no substantive change to a clause in the Customer Contract we have not referred to the clause in Table A1. The following minor changes to the Customer Contract are not listed in Table A1:

- ▼ Editorial changes made to clarify clauses and/or improve readability (unless specifically stated)
- ▼ Bold and italicised defined terms in the clauses, except when the defined terms are part of a heading
- ▼ References to 'Customer Contract' have been simplified to 'contract'
- ▼ Use of defined terms where appropriate
- ▼ Consistent use the term 'backflow prevention containment device'.

Table A1 Summary of recommended changes to the Customer Contract

Summary of substantial recommended changes

Foreword

Clause amended to clarify that the Customer Contract is part of the licence.

2 What is this contract and who is covered by it?

2.1 What is this contract?

Clause added to note that customers do not need to sign the Customer Contract for it to be valid and binding.

2.2 Who is covered by this contract?

Clause separated into sub-clauses to clarify the customer types included in the Customer Contract. New sub-clause 2.2.2 (Private residential tenants) included to allow for private residential tenants to be classified as a customer for the purposes of receiving payment difficulties assistance, ability to pay charges to avoid restriction and disconnection, complaint resolution, access to information and protection of privacy. New sub-clause 2.2.3 (Commercial tenants) included to allow for commercial tenants to be classified as a customer for the purposes of receiving certain customer protection provisions in the Customer Contract.

2.3 Other agreements with us

Removed reference to the defined term *pressure sewerage equipment* as this is now dealt with in Appendix A of the amended Customer Contract. .

2.4 When does this contract commence?

Date amended to change the date of commencement of the Customer Contract to 1 July 2019.

3 What services does Sydney Water provide?

3.1.1 Supply of water

Clause amended to specify that events outside of Sydney Water's reasonable control include a disaster event. We have added a new definition of disaster event.

3.1.5 Health or special needs

Clause amended to place the obligation on the customer instead of the health provider for notifying Sydney Water that the water supply is to operate a life support machine. In practice, it is the health provider who arranges this with Sydney Water.

3.2.1 Supply of wastewater services

Clause amended to specify that events outside of Sydney Water's reasonable control include a disaster event. We have added a new definition of disaster event.

3.2.3 Trade wastewater

Clause added to allow Sydney Water to refuse trade waste into its system under certain circumstances.

3.4.4 Water restrictions

Clause amended to be consistent with the Regulation, which provides that Sydney Water can restrict supply to a person who fails to comply with a notice issued by the Minister.

Clause amended to update the means of communications. The Public Interest Advocacy Centre (PIAC) recommended that Sydney Water be required to continue including information regarding water restrictions in a major newspaper. We consider the Customer Contract should be relevant and up-date where possible and do not consider publishing in a newspaper as a sufficient means of capturing a broad base of Sydney Water's customers. We have included that Sydney Water should publish this information "in a manner that is likely to bring the water supply conditions to the attention of the public in the *area of operations*".

Summary of substantial recommended changes

4 What you pay

4.4.2 What information is on your bill

PIAC recommended that information on payment assistance and rebates be included on the bill itself and more than once per year. This information is already required to be published on the bill under clause 4.4.2. Further, clause 5.2 of the licence requires Sydney Water to provide a pamphlet on account relief and provide this to customers at least annually.

Dot point added to include obligation to provide customers with information regarding their rights to rebates, in response to PIAC's recommendation.

4.4.3 How bills are sent and 4.4.4 How to make a payment

Sydney Water's proposed clause removed as under the current price determination, there is no scope for Sydney Water to offer a discount to customer who receive their bill electronically or pay using a specific payment option. Clause amended to allow customers to request other communications regarding payment electronically.

4.8 Wastewater usage charges

Removed the explanation of wastewater usage and service charges as recommended by Sydney Water because it refers to service charges when this clause is for usage charges.

4.9 How prices are determined

Clause amended to provide clarity.

4.11.3 Costs for installing and connecting services

Clause amended to clarify that the customer is responsible for costs associated with installing and connecting services.

4.11.4 Charges for other services

Clause amended to provide consistency with the amended clause 2.3.

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

5.1 Payment difficulties and assistance options for all customers

The term **financial hardship** has been replaced with **payment difficulty** in this clause and throughout the Customer Contract (see explanation in 15.1 below).

Clause amended to clarify the payment difficulty provisions that apply to different customer types including, residential customers, non-residential customers and private residential tenants. New provision included to allow private residential tenants to seek deferral of payment for at least four weeks. New clause 5.2 (Payment arrangements) included to clarify Sydney Water's obligations for customers who have a payment arrangement with Sydney Water.

5.2 Payment arrangements

New clause included to clarify the types of payment arrangements that all customers can access,

6 Restriction or disconnection of water supply and wastewater services

6.1 Restriction or disconnection

No change to the clause. We reject Sydney Water's proposal to remove the sentence from the clause that 'Information on these policies will be sent to you annually with your quarterly or other bills.' PIAC stated that Sydney Water's proposed changes to this clause requires vulnerable customers to proactively seek out the information themselves. PIAC stated that people often do not know where to get help and it is preferable that people are aware of what the consequences of not paying are and what support there is to avoid this.

Summary of substantial recommended changes

6.3 Conditions for restriction or disconnection of supply of water for non-payment by customers

Timeframe amended to allow customers 10 business days instead of seven days to pay a bill before Sydney Water may restrict or disconnect the supply of water to the customer's property. This change has been made to ensure that customers are allowed sufficient time to pay their bill after receiving a restriction or disconnection notice.

Clause amended to refer to the current relevant policies.

6.4 Restriction or disconnection for other reasons

Dot point added to include that Sydney Water may restrict or disconnect customers if the customer fails to remediate or remove un-approved works consistent with clause 8.10 (building work).

6.8 Disconnection by a customer

Dot point added to include that the customer must pay any applicable charges prior to disconnecting from Sydney Water's services.

7 Redress

7.2 Rebates

Sydney Water proposed new rebate values based on their findings from Phases 1 and 2 of their customer engagement forums. Changes to these rebate values include:

- Reduce the rebate for planned interruptions of water supply service from \$35 to \$20, which is half the rebate for an unplanned water interruptions. Increase rebate for an unplanned interruption of water supply service from \$35 to \$40 in line with CPI.

Note, we provided in the draft Customer Contract that rebates for planned and unplanned interruptions of water supply service apply to drinking water, which by definition excludes recycled water. This amendment was incorrect as rebates for these interruptions also apply to recycled water. The defined term drinking water is removed from clauses 7.2.1 and 7.2.2 of the amended Customer Contract to allow rebates to continue to be paid for planned and unplanned interruptions.

- Increase the rebate for wastewater overflows from \$60 to \$75.
- Rebates for a single water pressure failure are replaced with a rebate for three or more water pressure failure events with the rebate being paid on the third event.

Other amendments to rebates include:

- Rebates for low water pressure changed from a continuous period of 15 minutes to a continuous period of one hour. This change reflects our recommended change in the water pressure standard of which uses a measure of below 15 metres head of pressure for 1 hour. We recommend accepting Sydney Water's proposal for \$40 per event per quarter. This ensures that those customers affected by chronic low pressure continue to be compensated at the same level as under the existing Customer Contract for the inconvenience. Note the 2018-19 water service charge for residential customers is \$20.19 a quarter. Clarified that customers are not entitled to a rebate for low water pressure if they live in a specified property cluster and are informed of the risks of recurring low water pressure before they connect to Sydney Water's system.
- Amendments including, the use of defined terms and clarifying that where rebates are paid on a 12 month period, this will be a rolling 12 month period.
- 'Wastewater service' removed from planned interruption and unplanned interruption clauses as this is dealt with under the dot point 'Wastewater overflow'.
- Confirm that rebates for recurring events operate in addition to rebates already received under clause 7.2.
- Clarified the term dirty water in clause 7.2.5. Replaced "suitable for normal domestic purposes" with the defined term 'drinking water'. The term 'drinking water' has been amended to include "normal domestic purposes" – see 15.1 below.

7.3 Rebates for recurring unplanned water interruptions

Clause amended to use defined terms where appropriate and include a rolling 12 month period.

Summary of substantial recommended changes

7.4 Rebates for recurring wastewater overflows

Clause title simplified.

Rebate structure amended from two or more events to three or more events.

Increase of rebates on a sliding scale:

- ▼ For two events a rebate of \$150 is paid (existing clause provide the whole annual wastewater service charge, less any concessions)
- ▼ For three or more events a rebate of the annual wastewater service charge less any concessions available after the third event (existing clause does not provide for a third event).

7.5 Exception for disaster events

New clause added to confirm that rebates do not apply to disaster events as defined.

7.7 Claim for damages

Clause amended to remove inconsistency with s41 of the Act. Sentence replaced to clarify that a customer can consider, if they have insurance, making a claim to their insurance company and does not have to seek to make an initial claim with their insurance company before seeking compensation from Sydney Water.

7.8 Guarantees and assurances

Clause title changed to improve clarity.

8 Responsibilities for maintenance

8.1 Water pipes

New definition to include the defined term for 'property boundary' to distinguish the reference to 'property' and 'property boundary'.

Dot point amended to include that 'fire services (including combined services)' is excluded from the free service offered under this clause.

Clause amended to clarify the customers' and Sydney Water's responsibilities for annual testing of backflow prevention containment devices.

Clause added to address where a customer fails to carry out their duties for testing of their backflow prevention containment device, Sydney Water may arrange for the testing and charge the customer accordingly.

We reject Sydney Water's proposal to refer customers to its 'Responsibilities of connected customers' policy available on its website or by request. This is because the key maintenance responsibilities in this policy are already included in the Customer Contract.

8.2 Wastewater pipes

Clause amended to clarify that customers are also responsible for maintaining their privately owned pressure sewerage equipment.

We reject Sydney Water's proposal to refer customers to its 'Responsibilities of connected customers' policy available on its website or by request. This is because the key maintenance responsibilities in this policy are already included in the Customer Contract. Included an obligation that customers must not allow rainwater to enter their wastewater system.

Clauses amended to clarify that Sydney Water *may*, rather than *will*, repair collapsed wastewater pipes that form part of the customer's wastewater system as a free service. The intent of this clause is to assist customers with an inability to pay for the repair of their pipes under public roads or footpaths.

Summary of substantial recommended changes

8.3 System Diagrams

New clause added to clarify when the customer is the owner of pressure sewerage equipment and when Sydney Water is the owner of the pressure sewage equipment. The clause also introduces the diagrams in Appendix B, which show the maintenance responsibilities for connections to Sydney Water's water system and wastewater system.

8.4 Pressure sewerage equipment

Existing Customer Contract clause 3.2.4 Pressure wastewater system connection has been moved to clause 8.4.

Clarified that customers are required to enter into a separate agreement for their pressure sewerage equipment under this clause.

Clause amended to reference the new diagrams in clause 15.3 to clarify customer's maintenance responsibilities.

Clause amended to remove reference to 1 July 2015, and replace with ownership of pressure sewerage equipment.

We reject Sydney Water's proposal to:

- ▼ Require customers to enter into a separate agreement regardless of whether they own or Sydney Water owns the pressure sewerage equipment. This is because the customer would be in breach of the Customer Contract if they did not enter into a separate agreement (even if Sydney Water required unreasonable terms and conditions).
- ▼ Refer customers to its 'Responsibilities of connected customers' policy available on its website or by request. This is because the key maintenance responsibilities in this policy are already included in the Customer Contract. Further we consider it problematic to require customers to enter into conditions with Sydney Water outside of the Customer Contract. Schedule 1 added to include operation and maintenance obligations for pressure sewerage equipment.

8.8 Defective work

Clause amended to correct the use of defined terms.

Clause added to improve clarity regarding what is considered a defect with a customer's wastewater system and when Sydney Water may restrict or disconnect a water supply or wastewater connection.

8.10 Building work

Clause amended to include 'remediate' as not all unapproved works can be removed such as, excavation. Included that the customer may need approval from a council or a certifier before carrying out building works.

8.13 Removal of trees

Clause amended to include that Sydney Water will notify a customer in writing to remove a tree within a reasonable period.

Clause amended to clarify the particular circumstances where Sydney Water may recover the costs of removing a tree under section 46(6) of the Act.

9 Entry onto a customer's property

9.1 Access to Sydney Water's systems

Dot point added to include that the customer must ensure Sydney Water has safe access to the customer's property to identify if the customer's water system, wastewater system or stormwater pipes comprise defective private works.

Summary of substantial recommended changes

10 Water meter reading, installation, testing and maintenance

10.1 Installing and maintaining a meter

Clause added to include that a backflow prevention containment device must comply with the Plumbing Code of Australia or any other regulations or standards that may apply.

Clause added to include that if a customer's meter is intentionally damaged by the customer or a person acting on behalf of the customer, Sydney Water will charge the customer for the cost of replacing the damaged meter.

Clause amended to clarify the use of defined terms.

Included that if the meter is damaged, in certain circumstances Sydney Water will charge the customer for the cost of repairing or replacing the meter, whichever has the lowest cost.

10.2 Measuring water supplied

Clause amended to include that Sydney Water may charge the customer an unmetered service until the meter can be repaired or replaced where it makes three attempts to contact the customer, with each attempt being one week apart within a 6 week period.

10.4 Access to the water meter

Part sentence removed 'and may also recover from you the cost of the attempted meter reading' because this is duplicated in the dots points within the clause.

Clause amended to increase the number of occasions of a customer not providing Sydney Water with safe access for reading or maintenance of the meter from two to three occasions before Sydney Water would take action. This is consistent with the 'inaccessible meter' charge in Sydney Water's price determination.

11 Who can I speak to if I have any questions or want to make enquiries?

11.4 Leaks and faults assistance

No change to the clause. We reject Sydney Water's proposal to remove that its leaks and faults number is listed on the bill, in the telephone directory and on its website. This is in response to the PIAC's recommendation. PIAC stated that these places seem like reasonable places to have the leaks and faults number listed.

12 If I am unhappy with the service provided by Sydney Water what can I do?

12.4.1 The Energy and Water Ombudsman, New South Wales

Clause amended to clarify that customers can contact EWON directly at any time and included EWON's contact details.

13 Consultation, information and privacy

13.3 Privacy

Clause amended to include details on how Sydney Water will protect customers' privacy is provided on its website.

14 When does this contract with Sydney Water terminate?

14.2 Variation of this contract

Retained the requirement to publish in newspaper as the Act requires that variations in the Customer Contract be published in a daily newspaper circulating in the area of operations. We reject Sydney Water's proposed deletion of the use of a daily newspaper circulating in the area of operations to inform customers of variations to the Customer Contract.

Clause amended to include publishing the variations on Sydney Water's website.

Clause amended to include that variations of the Customer Contract will be in accordance with the Act.

Summary of substantial recommended changes

15 Definitions and interpretation

15.1 Definitions

Act

Amendments to refer only to the *Sydney Water Act 1994* (NSW).

Area of operations

Australian Guidelines for Water Recycling

Updated definition to be consistent with the amended licence.

Amended to improve clarity.

Combined service [new definition]

New definition included for a single water connection to Sydney Water's water supply system used for both firefighting and domestic purposes. Combined services is excluded from a free service and repair under clause 8.1.

Commercial tenant [new definition]

New definition included for commercial tenant, which is referred to in cl 2.2 as a customer covered by certain clauses.

Complaint

Amended to include that a complaint can also be made about Sydney Water relating to its actions, products, services or staff and where a response or resolution is legally required.

Customer Council

Retained existing definition and rejected Sydney Water's proposed definition. The existing definition is accurate and allows Sydney Water flexibility in determining what the Customer Council will look like after the review due to conclude 30 June 2020.

Dirty Water [new definition]

New definition included for dirty water, which is defined in relation to rebates.

Disaster event [new definition]

New definition included to exclude Sydney Water from having to pay rebates in extreme weather events that significantly affects its wastewater and drinking water systems.

Drinking Water

Amended to simplify the definition and include other personal, domestic or household uses such as bathing and showering.

EWON

Amended to clarify the role of EWON.

Extended Private Service [new definition]

New definition included, based on the description of this service used by Sydney Water and available on its website.

Financial hardship

Replaced the term 'Financial hardship' with the term 'Payment difficulty' to assist customers experiencing financial distress to self-identify in response to PIAC's recommendation.

Fire service

Included reference to the defined term 'Combined services' to clarify the definition.

Low water pressure [new definition]

New definition included for low water pressure, which is defined in the clauses on rebates. Non-residential customer

Amended to include private residential tenants or commercial tenant.

Payment difficulty

See 'Financial hardship' above.

Planned interruption

Amended to clarify when a planned interruption commences and concludes.

Pressure sewerage equipment

Replaced the term 'Pressure wastewater system' with 'Pressure sewerage equipment'. Amendments to clarify the definition.

Summary of substantial recommended changes

Point of connection

Amended to refer to the diagrams in Appendix B.

Pressure sewerage equipment

Amended to provide clarity on what pressure sewerage equipment includes.

Property boundary [new definition]

New definition included to define the circumstances where Sydney Water will perform a free repair of a customer's water system.

Property cluster [new definition]

New definition included to list groups of properties specified in the operating licence that are affected by recurring low water pressure.

Rainwater [new definition]

New definition included to clarify what is considered rainwater for the purposes of the Customer Contract.

Recycled water

Amended to align the definition with the definition provided in the licence.

Trade wastewater

Amended definition to improve clarity and accuracy.

Unplanned interruption

Amended to clarify the definition including, when an unplanned interruption commences and concludes.

Utility Services

New definition included to clarify services of water supply, wastewater and stormwater services.

Wastewater

Amended to improve clarity.

Wastewater overflow

Replaced the use of 'wastewater' with 'sewage' to improve clarity. Included that a wastewater overflow can include the discharge of sewage from any part of a customer's wastewater system where the cause of the overflow is a problem with Sydney Water's wastewater system.

Wastewater system

Included different types of wastewater systems to improve clarity.

15.2 Interpretations

Included that any name or role changes of any organisations referred to in the Customer Contract will continue to have the same meaning as is included in the Customer Contract.

Appendix A Operation and Maintenance Obligations for Pressure Sewerage Equipment

Appendix A added to specify the customer's and Sydney Water's operation and maintenance obligations for pressure sewerage equipment.

Appendix B System Diagrams

Included diagrams to show the delineation of maintenance responsibilities between Sydney Water and the customer.

Note: Changes described are in comparison to the existing Customer Contract at Schedule 4 in the *Sydney Water Corporation Operating Licence 2015-2020*. Clause and heading references are to the amended Customer Contract published by IPART on 1 July 2019.