



Independent Pricing and Regulatory Tribunal

# **Review of the Operating Licence for Hunter Water Corporation**

**Water — Issues Paper**  
March 2011





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## Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

**The submission from Hunter Water Corporation is due by 10 May 2011. All other submissions are due by 31 May 2011.**

We would prefer to receive them by email <[ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)>.

You can also send comments by fax to (02) 9290 2061, or by mail to:

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Our normal practice is to make submissions publicly available on our website <[www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au)>. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed on the previous page.

We may choose not to publish a submission—for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. IPART will then make every effort to protect that information, but it could be subject to appeal under freedom of information legislation.

If you would like further information on making a submission, IPART's submission policy is available on our website.



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# 1 Introduction

The Independent Pricing and Regulatory Tribunal (IPART) is conducting an end of term review (review) into the current Hunter Water Corporation (Hunter Water) operating licence (operating licence, licence).<sup>1</sup>

We last undertook a review of Hunter Water's operating licence in 2006.<sup>2</sup> The current Hunter Water operating licence expires on 30 June 2012. Licences granted to major water utilities must be reviewed and subsequently renewed after a maximum period of 5 years.<sup>3</sup> We usually recommend that a licence be granted for the full 5-year period. On this basis, Hunter's Water's next operating licence will operate during the period 1 July 2012 to 30 June 2017.

The current operating licence combines obligations imposed on Hunter Water by specific provisions of the *Hunter Water Act 1991* (Act) and requirements prescribed by other legislation relevant to the administration of operating licences generally.<sup>4</sup> It was designed to be a comprehensive statement of Hunter Water's responsibilities.

## 1.1 Our approach to the review of Hunter Water's Licence

In this review we will consider whether to maintain or amend the terms of the licence to improve Hunter Water's operational efficiency and regulation. Our proposed approach to the review is consistent with the evolution of good regulatory practice for public utilities and is similar to the approach we adopted in 2009 -2010 when Sydney Water's operating licence was last reviewed.<sup>5</sup>

To accomplish good regulatory practice, the terms of a regulatory licence should achieve the desired outcomes without imposing unnecessary compliance and administration costs, and should provide a net benefit to society.

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<sup>1</sup> The Hunter Water operating licence is granted under Part 5 of the *Hunter Water Act 1991* (Act).

<sup>2</sup> Hunter Water Corporation Operating licence 2007-2012 (Operating licence).

<sup>3</sup> As allowed by section 15 of the Act.

<sup>4</sup> For example, some provisions of the *Independent Pricing and Regulatory Tribunal Act 1992* and *State Owned Corporations Act 1989*.

<sup>5</sup> IPART, *Issues Paper - Review of the Operating licence for Sydney Water Corporation*, September 2009.

In our last review of the Hunter Water operating licence, we established a set of principles for best practice regulation<sup>6</sup> based on principles advocated in our 2006 report on regulation.<sup>7</sup> Since then, the NSW Government has adopted the recommendations in our 2006 report and articulated 7 “Better Regulation Principles”.<sup>8</sup> We have adapted and rephrased these principles to apply more specifically to a licence review process. The principles to be applied to the review are as follows:

1. **The need for action should be established.** The need to regulate an issue through the licence should be justified. The licence conditions should be directed at regulating issues that cannot be more efficiently or effectively addressed by the market, by individuals acting without government involvement, or by other available alternatives.
2. **The objectives of the licence should be clear.** The objectives of the licence obligations must be clearly articulated. The licence obligations need to directly target these objectives and, where possible, be measurable. The obligations must also be consistent with existing government objectives and policies.
3. **The impact of the licence should be properly understood** by considering the costs and benefits of a range of options, including non-regulatory options. Licence requirements should provide a net benefit to society. They should not impose unnecessary administrative or compliance costs on the regulated utility or IPART, and should avoid perverse outcomes.
4. **The licence should be effective and proportional.** The licence should achieve its objectives without imposing unnecessary costs. The licence obligations or scope of regulation should be proportionate to the seriousness of the issue being dealt with and represent good regulatory practice. Licence obligations can prescribe specific actions, identify particular standards or frameworks to be followed or require specified outcomes. While prescribing action can provide certainty in compliance, the licence should, where possible, stipulate performance goals or outcomes that encourage cost-effective compliance.
5. **Consultation with the regulated utility and the community should inform the licence review.** Consultation should be applied at all relevant stages in the licence review.
6. **Simplification, minimisation of regulatory overlap and avoidance of regulatory inconsistency should be considered.** As far as possible, the licence should avoid inconsistency with or duplication of other regulatory requirements, particularly in relation to the collection and reporting of environmental and other performance indicators. Inconsistencies or overlap can waste resources, create confusion and reduce the regulated utility’s level of accountability.

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<sup>6</sup> IPART, *Issues Paper - Review of the Operating licence for Hunter Water Corporation*, September 2006.

<sup>7</sup> IPART, *Final Report - Investigation into the burden of regulation in NSW and improving regulatory efficiency*, November 2006.

<sup>8</sup> NSW Better Regulation Office, *Guide to Better Regulation*, November 2009:  
<http://www.betterregulation.nsw.gov.au/>.

7. **The licence should be enforceable and periodically reviewed to ensure continued efficiency and effectiveness.** Audits are the primary means of assessing compliance with the licence. Performance measures or requirements in the licence should be able to be readily verified – they should be measurable and auditable. The licence, and particular aspects of the licence, should include a periodic review clause(s) to ensure continued efficiency and effectiveness.

## 1.2 Scope of Review

One of IPART's regulatory functions is to review and amend Hunter Water's operating licence and make recommendations to the relevant Minister, currently the Minister for Water (Minister).<sup>9</sup> The current operating licence requires that we engage in public consultation and report to the Minister on the findings of the review and any recommendations for amendment to the operating licence. The Minister may accept or reject our recommendations before endorsing a new operating licence for approval by the Governor and subsequent gazettal.

Hunter Water's current Licence requires that a review be undertaken:

- ▼ to determine whether the Licence is fulfilling its objectives (refer to sections 2.1 and 2.2 of this Paper)
- ▼ in relation to any matter required by the Licence to be reviewed (see Box 1.1)
- ▼ to determine the relevance of Licence terms in light of the *Water Industry Competition Act 2006* (WIC Act) and any other relevant legislation
- ▼ to determine the terms of any renewal of the Licence.<sup>10</sup>

<sup>9</sup> See Act section 18A and operating licence clauses 1.3 and 1.4.

<sup>10</sup> Operating licence clause 1.3.1.

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**Box 1.1 Matter requiring review during and at the end of the licence term**

As part of the end of term review:

- ▼ IPART must evaluate and report on the effectiveness of the Consultative Forum and compliance with the Consultative Forum Charter (operating licence clause 5.4.8).
- ▼ IPART must evaluate and report on the outcomes achieved by the Integrated Water Resources Plan (operating licence clause 9.2.7).
- ▼ Hunter Water must outline targets, standards, indicators or other proposals for consideration as part of its Integrated Water Resources Plan (operating licence clause 9.2.17).

In addition, the operating licence requires the following specific matters to be reviewed **during** the term of the Licence:

- ▼ System Performance Standards (SPS), being the water pressure standard, the water continuity standard and the sewage overflow standard (Operating licence clause 4.6).
  - ▼ the Customer Contract (Operating licence clause 5.1.5 and Schedule 2).
- 

### 1.2.1 Proposed limitation of the scope of the Review

The following table summarises those parts of the operating licence where we propose to limit the scope of the Review, and the reasons for the proposed limitation.

**Table 1.1 Sections subject to limited review**

Sections/clause(s) of Licence	Limitation
Managing Supply and Demand (Section 9)	<p>Late last year, the NSW Government refused the planning application for the proposed Tillegra Dam.<sup>a</sup> At the same time, the Government announced that it would develop a new Lower Hunter Water Plan (LHWP) to secure a water supply for this region. As announced by the Premier in November 2010, this plan is being developed by the NSW Office of Water (NOW) in consultation with the local community.</p> <p>Clause 9 of the operating licence requires Hunter Water to develop/review an Integrated Water Resources Plan, and report annually on its performance in implementing the plan. Following the Government's decision in 2010 (referred to above), responsibility for developing the LHWP now rests with NOW, which will work collaboratively with Hunter Water to develop the LHWP.</p> <p>The LHWP is likely to have a significant influence on the supply and demand obligations within the licence. At this time, we intend to only conduct a limited review of this clause of the licence. A more comprehensive review will be conducted once the LHWP has been finalised. This may result in Hunter Water's new licence being varied after 1 July 2012 to take account of the final LWHP.</p>
Customer Contract (Schedule 2)	<p>Hunter Water's Customer Contract has recently been subject to a public review by IPART. Recommended changes to the contract were sent to the Minister in February 2011. We do not intend to revisit the Customer</p>

Sections/clause(s) of Licence	Limitation
Performance indicators (clauses 4.7, 5.5, 7.1, 9.3 and 9.4)	Contract as part of the review, apart from the rebate for low water pressure (as further costing information is required from Hunter Water in support of the proposed rebate in this area). We are currently conducting a separate review to examine performance indicators for major public water utilities (including Hunter Water). The performance indicator review will include targeted stakeholder consultation. We expect to conclude this review of performance indicators by mid 2011. The outcomes from this review will assist in the development of suitable performance indicators for Hunter Water. Once developed, we propose to include the performance indicators in a Reporting Manual (see section 4.3 of this paper for further details).
System performance standards	Last year, the system performance standards were reviewed through a public process which included extensive public consultation. The Minister amended the new system performance standards on 6 July 2010. Since this review was completed recently, we do not see merit in revisiting these issues.

<sup>a</sup> Decision on Tillegra Dam 28 November 2010: <http://www.premier.nsw.gov.au/sites/default/files/101128-Tillegra-Dam.pdf>.

### 1.3 Cost benefit analysis

We are mindful of concerns about the burden of regulation, the costs that such regulation adds to Hunter Water's business activities, and the fact that these costs must ultimately be passed on to customers. To address these concerns, and in accordance with good regulatory practice, as part of this review we will undertake an analysis of the costs and benefits of the proposed licence amendments. We intend to consider this analysis in making our final recommendations to the Minister on amendments to the licence.

For each of the proposed amendments to the licence we are seeking stakeholders' views as to whether there are any other more cost-effective or appropriate alternatives. For example, a stakeholder might consider that an existing provision is effective and doesn't need amendment, that an alternative measure, involving a different approach, standard or regulatory mechanism would be more efficient, or that the issue is already adequately regulated through other regulatory or non-regulatory means.

For each of the proposed amendments to the licence, we are also seeking information related to the possible costs and/or benefits of the amendment. If a stakeholder proposes an alternative course of action to a proposed amendment, we will also seek information from them about the possible costs and/or benefits of their proposed alternative.

The types of costs and benefits likely to arise for Hunter Water as a result of a proposed amendment or proposed alternative may be:

- ▼ administrative costs or savings, including any increase or reduction in time associated with complying with and reporting on regulatory requirements
- ▼ compliance costs or savings, such as costs of training staff, developing new systems, changes to procedures or processes resulting in higher or lower operational costs or capital expenditure
- ▼ economic impacts, such as increased efficiency or productivity, better or worse conditions for innovation, or improved or decreased competitiveness
- ▼ social and environmental impacts, such as better or worse public health and safety, water conservation or environment protection outcomes.

The types of costs and benefits likely to arise for customers and other stakeholders as a result of a proposed amendment or proposed alternative may be:

- ▼ higher or lower prices
- ▼ improved or diminished water quality, service standards or customer protections
- ▼ increased or reduced availability of information
- ▼ better or worse environmental health outcomes
- ▼ better or worse public health and safety outcomes.

Where costs or benefits can be quantified, we are seeking information which quantifies or could enable the quantification of the incremental<sup>11</sup> costs or benefits of each proposed amendment or alternative.<sup>12</sup> Where costs or benefits are not quantifiable, we are seeking:

- ▼ qualitative descriptions of costs or benefits of the proposed changes (eg, improved competition), or
- ▼ quantitative indicators of costs or benefits of the proposed changes (eg, response time to customer inquiries is improved by 2 days, or reduced number of dirty water incidents).

It is anticipated that Hunter Water will be in a better position to quantify costs and benefits or provide quantitative indicators (where possible) than other stakeholders. Other stakeholders may find that they can only provide qualitative descriptions of costs or benefits, such as a belief that a proposed amendment or alternative will improve/diminish the quality of consumer information provided, or provide greater/lesser consumer protection or better/worse environmental health outcomes.

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<sup>11</sup> The costs incurred and savings made as a direct result of an amendment to the licence and only to the extent that the costs or benefits differ from would have eventuated under the *status quo*.

<sup>12</sup> Guidance on how to assess and quantify (where possible) costs and benefits is provided in *Guide to Better Regulation and Measuring the Costs of Regulation*, NSW Better Regulation Office: <http://www.betterregulation.nsw.gov.au/>.

## 1.4 Next steps

This issues paper (paper) has been prepared to assist in identifying and understanding the key issues for review and to encourage stakeholder comment. It raises a range of issues and questions on which we seek comment. Appendix A summarises our preliminary views of the proposed amendments to the licence in response to the issues raised in this paper.

IPART invites all interested parties, including members of the public and environmental, community and water user advocacy organisations, to make submissions to us. You are welcome to make submission on any or all of the issues highlighted in this paper and any other matters relating to the operating licence.

We request that Hunter Water make its submissions by **10 May 2011**. Other interested parties are invited to provide us with their submissions by **31 May 2011**. This timing will allow other interested parties to take account of Hunter Water's views in formulating their submissions. Submissions will be made available on IPART's website ([www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au)).

We also plan to hold a public workshop on 21 June 2011 to provide further opportunity for interested parties to present their views. We will publicise arrangements for this workshop closer to the date.

An indicative timetable for the review is provided below.

**Table 1.2 Indicative timetable for review**

<b>Action</b>	<b>Timeframe</b>
Release issues paper and invite submissions	30 March 2011
Hunter Water's submission due	10 May 2011
Stakeholder submissions due	31 May 2011
Public workshop	21 June 2011
Finalise draft operating licence	September/October 2011
Finalise cost benefit analysis	September/October 2011
Stakeholder briefings on draft licence	October and November 2011
Release final recommendations to Government	January/February 2012

## 1.5 Structure of the paper

To assist interested parties in making submissions, this paper provides background information on the current licensing arrangements, outlines the issues about which IPART is particularly interested in receiving comments, and provides a brief discussion on the proposed amendments to the operating licence.

- ▼ Chapter 2 outlines Hunter Water’s regulatory framework and the role of the current operating licence
- ▼ Chapters 3 to 5 consider specific issues and proposed amendments to address those issues.

## 1.6 List of issues for stakeholder comment

To assist in identifying and understanding the key issues for this review, this paper seeks comment on the following issues, which are explained and discussed throughout the paper (see page numbers listed below). However, stakeholders are encouraged to raise and discuss any other issues that they believe are relevant to the review.

We seek comments on:

- |   |  |    |
|---|--|----|
| 1 | Do you support the proposed adoption of a systems or framework standard approach to operational areas in the licence? If not, do you support the existing provisions or an alternative approach or amendment?  | 20 |
| 2 | What are the quantifiable and qualitative costs and/or benefits of the existing licence provisions?  | 20 |
| 3 | What are the quantifiable and qualitative costs and/or benefits of the proposed adoption of systems or framework standard approach to operational areas in the licence?  | 20 |
| 4 | If you propose an alternative approach or amendment(s) to the operating licence, please outline your alternative and any quantifiable and qualitative costs and/or benefits of your alternative  | 20 |
| 5 | If you support the proposed adoption of a systems or framework standard approach to operational areas in the Licence, which infrastructure management approach (PAS 55 or Aquamark) do you support? Are there other approaches we should be considering? <sup>13</sup> | 20 |
| 6 | Are there any other considerations we have failed to take into account in proposing to adopt a systems or framework standard approach to operational areas in the licence?   | 21 |

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<sup>13</sup> See Box 3.1 for an explanation of PAS 55 and Aquamark



- |    |   |    |
|----|---|----|
| 7  | What other issues should we consider in identifying improvements to the structure of Hunter Water’s operating licence to better meet the licensing objectives and principles?   | 25 |
| 8  | What other changes should we consider to improve the structure of Hunter Water’s operating licence to better meet the licensing objectives and principles?  | 25 |
| 9  | Are the proposed Reporting Manual arrangements adequate to consolidate and coordinate reporting requirements under the operating licence?   | 26 |
| 10 | What are the quantifiable and qualitative costs and/or benefits of the proposed amendments addressing the structure of the licence?   | 26 |
| 11 | What alternative approach(es) or amendment(s) should be considered to address issues related to the structure of the licence? Please include a summary of the quantifiable and qualitative cost and/or benefits of any alternative approach or amendment.   | 26 |
| 12 | We seek comment on the effectiveness of the consultative forum and compliance with the consultative forum charter, including information as to any quantifiable or qualitative costs and/or benefits of the forum or charter.   | 30 |
| 13 | We seek comment on the outcomes achieved by the Integrated Water Resources Plan (see licence clause 9.2.7).   | 30 |
| 14 | We seek comment from Hunter Water on the targets, standards, indicators or other proposals for consideration from Hunter Water’s Integrated Water Resources Plan and matters in clause 9 of the licence. In respect to the Integrated Water Resources Plan, Hunter Water is required to outline this information as part of the review. <sup>14</sup> | 30 |
| 15 | What other issues should we consider during our review of Hunter Water’s operating licence?   | 30 |

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<sup>14</sup> This is an operating licence requirement of Hunter Water as part of the end of term review. The targets, standards and indicators will be addressed by the NSW Office of Water in the course of developing the LHWP.

## 2 The role of the operating licence and Hunter water's regulatory framework

Hunter Water is a State Owned Corporation (SOC) wholly owned by the NSW Government. Its primary role is to manage potable water supply and wastewater systems to protect public health and the environment for the benefit of the Hunter and surrounding urban areas. These roles and responsibilities, as well as Hunter Water's objectives, are prescribed by the *State Owned Corporations Act 1989*, the Act and the operating licence issued to Hunter Water under Part 5 of the Act.

### 2.1 Hunter Water's objectives and functions

The grant of the operating licence is to enable Hunter Water to provide, construct, operate, manage and maintain systems and services for:

- ▼ supplying water
- ▼ providing sewerage and drainage services
- ▼ disposing of wastewater

subject to the terms of the operating licence.<sup>15</sup>

As a SOC, Hunter Water also has the following principal objectives as defined in Part 2 of the *State Owned Corporations Act 1989*:

- 1 The principal objectives of every company SOC are:
  - a) to be a successful business and, to this end:
    - i) to operate at least as efficiently as any comparable businesses, and
    - ii) to maximise the net worth of the State's investment in the SOC, and
  - b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, and
  - c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991*, and
  - d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.<sup>16</sup>

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<sup>15</sup> See section 12 of the Act for the full terms.

<sup>16</sup> *State Owned Corporations Act 1989* section 8.1.

## 2.2 Current operating licence

The current operating licence is the fourth licence held by Hunter Water since it was established as a Corporation in 1991.<sup>17</sup> The operating licence is an important element in Hunter Water's regulatory framework. It sets Hunter Water's direction and its performance criteria, and outlines the audit process for monitoring its performance against the licence conditions.

Clause 1.1 of the operating licence sets out the objectives of the licence. The overriding objective is "to enable and require Hunter Water to lawfully provide the Services within its Area of Operations. Consistent with this objective, the operating licence requires Hunter Water to:

- ▼ meet the other requirements imposed on it in the Act
- ▼ comply with the quality and performance standards in the licence
- ▼ recognise the rights given to Customers and Consumers and
- ▼ be subject to operational audits of compliance with the licence."

The Act specifies that the operating licence must include terms and conditions under which Hunter Water is required:

- ▼ to provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for supplying water, providing sewerage services and disposing of wastewater
- ▼ to provide, operate, manage and maintain a drainage service
- ▼ to ensure that the systems and services meet the quality and performance standards specified in the operating licence in relation to water quality, service interruptions, price levels and other matters determined by the Governor and set out in the operating licence.<sup>18</sup>

The operating licence must also include terms or conditions that require Hunter Water to maintain procedures under which it is to consult with its customers at regular intervals in relation to the provision of the systems and services referred to in section 13 of the Act.

The licence applies in an "area of operations" as defined in Schedule 1 of the licence and according to section 16 of the Act.

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<sup>17</sup> Previous operating licences were issued for the years commencing 1992 and 1995 and then for the periods 2002-2007 and 2007-2012.

<sup>18</sup> Act section 13(1).

We consider the operating licence to be Hunter Water's overarching regulatory instrument. While we support the need to avoid unnecessary duplication of regulation, we also recognise the profound and far-reaching impact that businesses like Hunter Water can have on their customers, public health generally and the environment. The operating licence needs to ensure that the level of regulation is proportionate to the seriousness of the issue being dealt with.

### 2.3 Regulatory framework

IPART's role as the economic and licensing regulator<sup>19</sup> is 1 component of the broad regulatory environment in which Hunter Water operates. We are responsible for monitoring and reporting on Hunter Water's compliance with its operating licence. Our duties include receiving and analysing reports from Hunter Water (as required by the licence), undertaking annual compliance audits, and managing and reporting on reviews as required by the licence.

Additionally, the following Government agencies have regulatory roles in relation to Hunter Water:

- ▼ NSW Office of Water (NOW) has primary responsibility for the management of water resources throughout NSW. NOW issues Water Access Licences to water authorities. These Water Access Licences regulate water extractions, environmental flow requirements in natural waterways and other natural resource management issues.
- ▼ Department of Environment and Climate Change and Water (DECCW) licenses sewage treatment systems and regulates their environmental impact on receiving waters.
- ▼ NSW Health is responsible for regulating the quality and safety of drinking and recycled water.
- ▼ The Dams Safety Committee is responsible for regulating the security of prescribed dams to ensure that the likelihood of dam failures, or other dam incidents arising from security breaches, is appropriately managed.
- ▼ National Water Commission is responsible for overseeing the establishment and maintenance of a nationally consistent framework for benchmarking water utilities.<sup>20</sup> IPART co-ordinates the NSW component of the benchmarking project for major urban water utilities, including Hunter Water. The benchmarking project involves the collection and audit of various performance, customer service and financial data, with the combined results forwarded to the National Water Commission.

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<sup>19</sup> IPART is responsible for setting maximum prices that can be charged by Hunter Water for monopoly services, for monitoring compliance with its operating licence and other matters.

<sup>20</sup> *National Water Initiative (NWI) Agreement 2004.*

### 3 Adoption of systems standards

Few would challenge the need for regulation of water utilities. What is less clear is the form that regulation should take and, in particular, the types of standards that will most appropriately manage the risks to customers, public health and the environment in supplying water and providing sewerage services.

A regulatory approach may incorporate 1 or more conceptually distinct standards, each of which uses a different technique to influence behaviour. These standards have been described as:

- ▼ Prescriptive standards, which tell licence holders precisely what measures to take and require little interpretation on their part. These standards identify “inputs”, which are the specific actions required of the licence holder in a particular situation.
- ▼ Goal-setting standards, which set out goals that the licence holder must aim to accomplish, such as ensuring the protection of public health. These standards leave it to the discretion of the licence holder as to how they achieve those goals.
- ▼ Performance standards, which specify the desired level of performance but leave the concrete measures to achieve this end open for the licence holder to adapt to varying local circumstances.<sup>21</sup>
- ▼ Systems standards, which identify a particular framework, or series of steps, to be followed in the pursuit of a goal, ranging from the requirement to identify hazards and assess and control risks (found in many national standards) to the more ambitious requirement to engage in a particular systemic approach at an organisational level.<sup>22</sup>

The current Hunter Water operating licence adopts each of these standards to manage different aspects of its operational areas.

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<sup>21</sup> May, Peter J, *Performance-Based Regulation and Regulatory Regimes*, Center for American Politics and Public Policy, University of Washington, November 2003, p 1.

<sup>22</sup> Gunningham, Neil, *Working Paper 42: Evaluating Mine Safety Legislation in Queensland*, Australian National University, National Research Centre for OHS Regulation, p 4.

In operational areas where we require the development of plans to manage risks, we have used a combination of prescriptive and systems standards. To improve consistency and flexibility in the licence, we propose the adoption of a systems standard to plan development.

### 3.1 Existing operating licence

The current operating licence covers a range of operational areas, including:

- ▼ water quality
- ▼ infrastructure performance
- ▼ management of supply and demand
- ▼ environment indicators and management.

Each of these operational areas includes licence conditions requiring the development of plans to address operational risks such as water quality or security of supply. In preparing the plans, the current licence requires the application of frameworks (using a system standard) to some operational areas (eg, water quality), while it prescribes specific requirements (using a prescriptive standard) in others (eg, infrastructure performance and environmental management).

A summary of the plans and the regulatory approach currently used is included in Table 3.1.

**Table 3.1 Summary of plans required to be developed**

Obligation to develop a plan	Clause reference	Regulatory approach
Five-year Water Quality Management Plan	3.1.1	Systems standard
Annual Water Quality Plan	3.3.1	Prescriptive standard
(Water Quality) Incident Management Plan	3.5.2	Prescriptive standard
Wastewater and Recycling Operations Plan	3.6.2	Systems standard
Asset Management Plan	See note	N/A <sup>a</sup>
Five-year Environment Management Plan	7.2.1	Prescriptive standard
Integrated Water Resources Plan	9.2.1	Prescriptive standard

<sup>a</sup> Preparation of this plan is implied in the licence but is not strictly a licence condition.

The following discusses in more detail the different approaches to regulation in the operational areas regulated by the licence.

### Water quality

The existing operating licence was revised following the release of the Australian Drinking Water Guideline 2004 (ADWG). It requires Hunter Water to develop a water quality management plan based on the framework outlined in ADWG. The operating licence also requires the development of a wastewater and recycling operations plan, making reference to the Australian Guidelines for Recycled Water (AGWR) for the supply of other grades of water. Both ADWG and AGWR outline comprehensive, risk-based frameworks (applying a systems standard) for the management of water quality.

Within the existing licence there are also some prescriptive conditions relating to water quality standards, monitoring and reporting that duplicate the requirements set out in ADWG and AGWR. Our view on reducing the duplication in these clauses is discussed further in section 4.3.

### Environmental management

The environment management section of the licence contains conditions that outline the precise requirements for the content of the environmental management plan (applying a prescriptive standard).

Specifically, the licence requires that Hunter Water develop an environmental management plan that must:

- ▼ contain details of environmental improvement strategies and objectives for its catchments, water storages, water supply systems and drainage systems, as well as environmental aspects of its other activities such as energy management, waste minimisation and heritage
- ▼ endorse Ecologically Sustainable Development (ESD) principles
- ▼ be integrated in Hunter Water's business plan
- ▼ incorporate the objectives of the energy management plan
- ▼ set targets and timetables for environmental activities (for a 5-year planning period).

Hunter Water has previously advised that the environmental management plan is a component of their Environment Management System (EMS).<sup>23</sup>

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<sup>23</sup> Hunter Water, operating licence review submission to IPART, October 2006, p 35.

## Asset management

Currently, the licence's infrastructure performance conditions include a detailed list of reporting requirements relating to the asset management plan, but no requirements for the content of the plan. To some extent, the content of the plan can be inferred from the reporting requirements in the licence. However, this approach makes compliance auditing and regulation difficult should aspects of the asset management be deemed to be insufficient.

### 3.2 Preferred approach to the preparation of plans

Chapter 1 of this paper sets out a number of principles for best regulatory practice. In keeping with these principles, we consider the form of the operating licence should be flexible, efficient and effective while meeting those legislative provisions that require the licence set out certain specific obligations.

In recent years, regulatory instruments have increasingly evolved from prescriptive specifications to more adaptive and preventive systems standards (also known as management systems). The benefits of this approach to regulation are that it:

- ▼ is driven by outcomes
- ▼ maintains the focus on outcomes that are materially significant
- ▼ allows easier identification and prioritisation of key issues
- ▼ is adaptive to changing circumstances, including social and technological change
- ▼ captures corporate knowledge held by individuals or independent groups within the organisation
- ▼ requires continual improvement processes to be in place
- ▼ is enforceable, since it incorporates an audit process
- ▼ ensures accountability, since decisions on necessary actions to meet compliance requirements are typically left to the regulated entity.

Effective management systems take into consideration all activities that have an impact on the relevant subject area, and are implemented at all levels within an organisation, regardless of its size or function. A management system, be it quality, infrastructure or environmental, should operate seamlessly across all components of an organisation as part of its day-to-day business functioning.

The added attraction of management systems is that they apply a consistent framework to each operational area, which allows the integration of these frameworks and enables more effective business management. The current mixed approach in the Hunter Water licence, requiring the application of frameworks to some operational areas (ie, water quality) but specific requirements to others (ie, environmental management), means that there is no integration between the operational areas regulated by the licence.



While the Act requires some prescriptive elements to be included in the operating licence, we have found that prescribing the specific content of plans has not always achieved the desired outcomes. It is only possible to prescribe requirements in relation to circumstances we are aware of or able to predict. As such, the licence does not cover issues that have arisen and/or new industry standards that have been developed during the term of the licence.

In its current prescriptive form, the licence cannot be flexibly applied to appropriately manage risks, especially in a changing operating environment. The importance of maintaining flexibility to address emerging risks was highlighted in our 2009/10 audit of Hunter Water. The audit found cases where procedures were not fully documented and reliable, and robust data for important operational parameters could not be produced, due to knowledge gaps resulting from growth and changes in the organisation.<sup>24</sup>

In summary, we consider that there is potential to strengthen the systems employed by Hunter Water, particularly in the area of quality assurance, environmental management and asset management, to the benefit of its customers and other stakeholders.

### 3.3 Possible amendment

As part of the review we will consider moving the focus of the operating licence away from prescribing the content of various plans to a more outcome-oriented, system-driven approach.

Adoption of a certified system or framework approach is well-established in water utilities and represents good regulatory practice. For example, many Australian water authorities are now well advanced in the development of EMSs, and a significant proportion of the larger utilities (100,000+ customers) have received certification of their EMS against AS/NZS14001.<sup>25</sup> The benefits of a certified system include increased public reassurance in the system and some economies of auditing costs (between regulatory and certification audits).

We recommended a systems standard approach for Sydney Water's new licence, which was reviewed and amended in 2009/10.

<sup>24</sup> IPART, *Hunter Water Corporation Operational Audit 2009/10, Report to the Minister*, November 2010, p 3.

<sup>25</sup> The following water utilities that serve 100,000+ customers have certified EMSs and/or Integrated Management Systems (environment, quality and occupational health and safety) (IMSs): Barwon Water, City West Water, South East Water, Sydney Water and Yarra Valley Water. Note some of the former south east Queensland water utilities also held EMS or IMS certification prior to their amalgamation.

We are therefore considering amending Hunter Water's licence in the following areas:

- ▼ a new licence condition requiring the development and independent certification of a Quality Management System in accordance with AS/NZS ISO 9001:2008 (Quality Management Systems - Requirements) within a specified timeframe
- ▼ an amended licence condition to replace the environmental management plan clauses to require the development and independent certification of an EMS in accordance with AS/NZS ISO 14001:2004 (Environmental Management Systems - Requirements with guidance for use) within a specified timeframe
- ▼ an amended licence condition to replace the drinking water quality planning and standards clauses to require the development of a framework to manage water quality in accordance with ADWG
- ▼ an amended licence condition to replace the wastewater and recycling and other grades of water clauses to require the development of a framework to manage recycled water quality in accordance with ARWG
- ▼ a new licence condition requiring the development of an asset management framework in accordance with recognised industry practice (see Box 3.1 below) within a specified timeframe.

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### **Box 3.1 Asset management frameworks**

The Institute of Asset Management and the British Standards Institute have developed a Publicly Available Specification BSI PAS55:2008 (PAS 55) Asset Management standard, which sets out best practice in asset management systems.

PAS 55 comprises a definition of terms in asset management, requirements specification for good practice and guidance for the implementation of such good practice.

PAS 55 provides objectivity across 28 aspects of good asset management, from lifecycle strategy to everyday maintenance (cost/risk/performance). It enables the integration of all aspects of the asset lifecycle: from the first recognition of a need to design, acquisition, construction, commissioning, utilisation or operation, maintenance, renewal, modification and/or ultimate disposal.

Through risk analysis, PAS 55 provides a framework to prove reliability and demonstrate that asset management risks are being tackled properly and in a way that can be assessed and independently verified. PAS 55 can be used for benchmarking, improvements planning, independent audit and demonstration of competence.

Similarly the Water Services Association of Australia (WSAA) has developed an asset management and benchmarking tool named Aquamark.

The Aquamark tool aims to provide a consistent framework for identifying gaps and opportunities for asset management process, data and information system improvement, as well as benchmarking the status of asset management processes, data and information systems between utilities.

The Asset Management Framework within Aquamark is structured into 7 key functional areas:

1. Corporate Policy and Business Planning
2. Asset Capability Planning
3. Asset Acquisition
4. Asset Operation
5. Asset Maintenance
6. Asset Replacement and Rehabilitation
7. Business Support Systems.

Hunter Water currently employs the Aquamark tool and completed a full Aquamark audit in 2008.

Both of the above approaches warrant further investigation as appropriate frameworks for the management of Hunter Water's assets.

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At the same time as adopting a systems standard approach, we recognise that the Act requires the operating licence to prescribe certain quality and performance standards for water quality, service interruptions and price levels. We have analysed the current operating licence, in light of these requirements, to identify those conditions that must be retained as prescriptive conditions, and those that could be regulated by

a systems standard. A summary, showing where the current prescriptive conditions are proposed to be retained, is provided in Appendix A.

We will consider further reducing the requirements to produce plans to the extent that the content of those plans is incorporated into the management systems or frameworks (see Appendix B for a comparison between the current environmental management requirements outlined in the operating licence and the requirements of an ISO 14001 certified environmental management system).

While adopting a systems standard approach is less prescriptive than the approach taken in the current operating licence, a systems standard approach does not result in a reduction of standards or safeguards. The conditions relating to these management systems would provide that:

- ▼ the licensee must develop the systems in accordance with either an industry standard or framework
- ▼ the adequacy of the systems must be audited or, where possible, the system must be independently certified
- ▼ the systems must be fully implemented
- ▼ compliance with the systems must be audited to ensure that they are implemented.

We seek comments on the following

- 1 Do you support the proposed adoption of a systems or framework standard approach to operational areas in the licence? If not, do you support the existing provisions or an alternative approach or amendment?
- 2 What are the quantifiable and qualitative costs and/or benefits of the existing licence provisions?
- 3 What are the quantifiable and qualitative costs and/or benefits of the proposed adoption of systems or framework standard approach to operational areas in the licence?
- 4 If you propose an alternative approach or amendment(s) to the operating licence, please outline your alternative and any quantifiable and qualitative costs and/or benefits of your alternative
- 5 If you support the proposed adoption of a systems or framework standard approach to operational areas in the licence, which infrastructure management approach (PAS 55 or Aquamark) do you support?<sup>26</sup> Are there other approaches we should be considering?

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<sup>26</sup> See Box 3.1 for an explanation of PAS 55 and Aquamark.

- 6 Are there any other considerations we have failed to take into account in proposing to adopt a systems or framework standard approach to operational areas in the licence?

## 4 Change to the structure of the Hunter Water operating licence

Applying the principles of better regulation, the structure of the Hunter Water licence should be simple, minimise regulatory overlap and avoid regulatory inconsistency. Inconsistencies or overlap can waste resources, create confusion and reduce the regulated utility's level of accountability.

### 4.1 Current Operating licence

The current Hunter Water operating licence was designed to build on the previous licence, complementing it with a comprehensive and detailed statement of Hunter Water's responsibilities. It combines specific requirements for the operating licence prescribed by the Act with requirements set out in other legislation relevant to the administration of the operating licence. The licence also outlines the Minister's auditing, reporting and monitoring requirements of Hunter Water.

IPART is required by legislation to monitor Hunter Water's compliance with its operating licence. We do this by receiving reports from Hunter Water and undertaking and publishing annual compliance audits. We also report our findings to the Minister.

Under the current operating licence, Hunter Water's performance reporting obligations consist of a monitoring and reporting protocol obligation and numerous individual reporting obligations spread across the licence relating to each of the operational areas. The protocol obligation compels Hunter Water to:

...develop and provide to IPART a monitoring and reporting protocol...that includes how Hunter Water will record, compile, monitor, measure and report against the service quality and system performance indicators (4.7.2), the customer service indicators (5.5.2), and the environmental performance indicators (7.1.2).

Other reporting obligations set out under the operating licence are outlined in Table 4.1.

**Table 4.1 Hunter Water operating licence reporting obligations**

<b>Obligation to report</b>	<b>Clause</b>
Monthly report on drinking water quality monitoring	3.4.1
Annual report on the implementation of the 5-year plan	3.4.2
Immediate report on notifiable water quality incidents	3.5.1
Immediate report on wastewater or recycling incidents	3.6.4
Environmental water quality	3.8
Annual report system performance standards	4.5.1 & 4.5.2
Annual report service quality and system performance indicators	4.7.4
Report on asset management plan	4.9.1
Annual report on the activities of the Consultative Forum	5.4.7
Annual report on customer service indicators	5.5.4
Annual report on complaints handling	6.1.5
Report on determinations made by dispute resolution body	6.2.5
Annual report on dispute resolutions	6.2.6
Annual report on complaints made to other bodies	6.3.1
Annual report on any civil actions	6.3.2
Annual report environmental performance indicators	7.1.2 & 7.1.4
Report on material amendments to environmental management plan	7.2.6
Annual Catchment Report	7.3.1
Report on compliance with water conservation target	9.1.2
Annual report on integrated water resources plan	9.2.18
Annual report water restrictions and criteria	9.3.2 & 9.3.3
Annual report on quantity of water supplied from each storage	9.3.4
Report on losses from storage	9.3.5 & 9.3.6
Report on the quantity of recycled water supplied	9.3.7
Report on demand management	9.3.8 & 9.3.9
Annual report on water demand and supply indicators	9.4.1

**Note:** Additional reporting obligations to those listed above are imposed on IPART in the Hunter Water operating licence.

In some areas, licence also summarises the obligations of Hunter Water by repeating their legislative requirements.<sup>27</sup> Other clauses within the Licence potentially duplicate other regulatory requirements. For example, the clauses outlining the water quality monitoring (clause 3.3), reporting (clause 3.4) and incident management (clause 3.5) requirements duplicate the framework elements in the ADWG.

<sup>27</sup> For example, operating licence clauses 1.2.2, 1.5.1, 1.5.2 and 1.6.1.

## 4.2 Duplication and inflexible reporting

To be effective, compliance reporting and auditing process must be rigorous. However, the process must also be efficient, in order to avoid becoming an unreasonable administrative burden on either Hunter Water or IPART and an unwarranted cost to the community.

We have identified several issues with the current structure of the operating licence:

- ▼ Reporting requirements are not easily adapted in response to changes in the operating environment.
- ▼ Some licence conditions duplicate legislative or other requirements. This duplication creates the potential for conflict if the licence obligations are not amended in line with legislative changes. In the case of other requirements, such as the application of frameworks, duplication causes confusion about the extent to which the guidelines are to apply by emphasising some elements of the framework while neglecting to mention other elements.
- ▼ Some conditions impose obligations on IPART. Where the obligations are not a requirement of the relevant legislation, it is not considered appropriate for an operating licence to place obligations on a party other than the regulated utility.

## 4.3 Possible amendment

The following is a summary of our preliminary view on proposed amendments to the general structure of the operating licence that we consider will be more effective and efficient than the current arrangements. The proposed amendments are consistent with the approach that is in place for private water utility licensees under the WIC Act and for Sydney Water in its recently revised operating licence.

For the licence to provide for a proper assessment of performance, it must consider health, environmental and customer issues. We consider that the licence should also complement, and be consistent with, other regulatory requirements imposed on Hunter Water. It therefore needs to reflect the broader regulatory framework applying to Hunter Water, without unduly duplicating requirements prescribed by other regulatory instruments.

We propose that the amended structure of the licence:

- ▼ place all reporting requirements and performance indicators in a subsidiary document, the Reporting Manual, which will allow for greater flexibility when changing reporting requirements and indicators (where appropriate), as there will no longer be the need for a licence amendment (see Box 4.1)
- ▼ address duplication by removing references to legislative requirements where they are not required to be prescribed in the Licence and do not provide any additional guidance or auditable benefit



- ▼ ensure sufficient regulation of the entire asset base to the extent it is not covered by other regulation (eg, the licence should only regulate dam safety to the extent it is not currently regulated by the Dam Safety Committee)
- ▼ remove prescriptive reporting requirements in the licence in favour of adopting a more comprehensive systems or framework standard approach as outlined in Chapter 3 of this paper.

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#### **Box 4.1 Reporting Manual**

We propose to develop a Reporting Manual (Manual) that consolidates all licence obligations, and include in the operating licence a requirement that Hunter Water report in accordance with the Manual. Reporting arrangements for all obligations and performance indicators would be outlined in the Manual.

Licence obligations prescribed by the Act would not be duplicated in the licence but would be included in a consolidated list of licence conditions in the Manual. However, quality and performance standards would be included in both the licence and the Manual, as section 13(1)(c) of the Act provides that an operating licence must include terms and conditions requiring Hunter Water:

... to ensure that the systems and services meet the quality and performance standards specified in the operating licence in relation to water quality, service interruptions, price levels and other matters determined by the Governor and set out in the operating licence.

The Manual would be publicly available on IPART's website. Similar manuals have been prepared for Sydney Water and private suppliers under the WIC Act, and can be viewed at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

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The Manual will provide IPART with greater flexibility to address reporting issues and adapt performance indicators during the term of any licence. It will also assist in developing consistent compliance reporting across public and private water utilities.

In addition to the structural changes listed above we also propose the following amendments for consideration and comment:

- ▼ remove background and explanatory information in the introduction to the licence
- ▼ review the licence wording so that it is written in simple, plain English for improved clarity.

We seek comments on the following

- 7 What other issues should we consider in identifying improvements to the structure of Hunter Water's operating licence to better meet the licensing objectives and principles?
- 8 What other changes should we consider to improve the structure of Hunter Water's operating licence to better meet the licensing objectives and principles?

4 Change to the structure of the Hunter Water operating licence

- 9 Are the proposed Reporting Manual arrangements adequate to consolidate and coordinate reporting requirements under the operating licence?
- 10 What are the quantifiable and qualitative costs and/or benefits of the proposed amendments addressing the structure of the licence?
- 11 What alternative approach(es) or amendment(s) should be considered to address issues related to the structure of the licence? Please include a summary of the quantifiable and qualitative cost and/or benefits of any alternative approach or amendment.

## 5 Other matters for consideration

### 5.1 Matters required to be evaluated

As part of the review we are required to evaluate and report on:

- ▼ the effectiveness of the consultative forum, and compliance with the consultative forum charter<sup>28</sup>
- ▼ the outcomes achieved by the Integrated Water Resources Plan.<sup>29</sup>

This chapter summarises the existing operating licence conditions relating to the consultative forum and the Integrated Water Resources Plan (which form part of the “Managing Supply and Demand” section of the licence), and outlines our proposed approach to evaluating and reporting on those conditions.

#### Consultative forum

The Act provides that the operating licence must require Hunter Water to maintain procedures under which it is to consult with its customers at regular intervals in relation to the provision of its systems and services.<sup>30</sup>

The current operating licence requires Hunter Water to have in place and regularly consult with a Consultative Forum to enable community involvement in issues relevant to the performance of Hunter Water’s obligations under the licence.<sup>31</sup> The Consultative Forum must include representatives from the following groups that represent the community:

- ▼ business and consumer groups
- ▼ organisations representing low income households
- ▼ people living in rural and urban fringe areas
- ▼ residential consumers
- ▼ environmental groups

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<sup>28</sup> Operating licence clauses 5.4.4, 5.4.8.

<sup>29</sup> Operating licence clause 9.2.7.

<sup>30</sup> Act section 13(2).

<sup>31</sup> Operating licence clause 5.4.1.

- ▼ local government
- ▼ people from non-English speaking backgrounds.<sup>32</sup>

Hunter Water must maintain a Consultative Forum Charter that addresses the operation of the Consultative Forum.<sup>33</sup> It must also publish minutes from proceedings of the Consultative Forum and an annual report on the activities of the Consultative Forum and the compliance of the Forum with its Charter.<sup>34</sup>

Hunter Water has successfully operated a Consultative Forum since its corporatisation in 1992. Judging by the length of time that it has operated, the composition of the Forum appears to be workable. Our audit investigations suggest that communication between Hunter Water and the Forum is robust.<sup>35</sup>

### **Integrated Water Resources Plan**

The current licence requires Hunter Water to have in place an Integrated Water Resources Plan that indicates:

- ▼ how Hunter Water will manage supply augmentation, real losses of water from its Water Supply Systems and demand for water within its area of operations over not less than the next 10 years
- ▼ the planning assumptions, including drought management assumptions employed
- ▼ the operational strategy in relation to water resource management and
- ▼ all other relevant matters employed.<sup>36</sup>

Among other requirements, the Integrated Water Resources Plan must also quantify the maximum supply from Hunter Water's water storages from 1-year to the next<sup>37</sup> and the total demand for water within the area of operations.<sup>38</sup>

The Integrated Water Resources Plan must identify and evaluate all reasonable options to address the supply and demand balance. In evaluating those options Hunter Water is required to undertake a full cost analysis (incorporating qualitative analysis) to identify and adopt the least cost approach.<sup>39</sup>

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<sup>32</sup> Operating licence clause 5.4.3(c).

<sup>33</sup> Operating licence clause 5.4.4.

<sup>34</sup> Operating licence clause 5.4.7.

<sup>35</sup> IPART, *Compliance Report - Hunter Water Corporation Operational Audit 2008/09, Report to the Minister*, November 2009, p 3-35.

<sup>36</sup> Operating licence clause 9.2.9.

<sup>37</sup> Operating licence clause 9.2.10.

<sup>38</sup> Operating licence clause 9.2.11.

<sup>39</sup> Operating licence clauses 9.2.12 to 9.2.16.

The Integrated Water Resources Plan must undergo public consultation<sup>40</sup> and be reviewed once during the term of the licence.<sup>41</sup>

As well as dealing with the Integrated Water Resources Plan, the “Managing Supply and Demand” section of the licence also includes obligations that will likely be integrated into the development of the LHWP. These additional obligations include:

- ▼ a water conservation target
- ▼ a demand management strategy
- ▼ water demand and supply indicators:
  - security of supply
  - losses from the water system
  - recycled water
  - demand management.

We envisage that the Integrated Water Resources Plan as well as the above items will be addressed by the Office of Water in the course of developing the LHWP, as outlined in section 1.2.1 of the Paper.

### Process for evaluation

We propose the following methodology for the evaluation of and reporting on the consultative forum and the Integrated Water Resources Plan:

- ▼ We will review the findings from our audits undertaken on the clauses relevant to the Consultative Forum and the “Managing Supply and Demand” section of the licence (including requirements associated with the Integrated Water Resources Plan) over the period 2007 to 2010. These audit reports are available on the IPART webpage at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).
- ▼ We will review all other relevant reports and performance indicators.
- ▼ We will request stakeholder comment (see below). In seeking stakeholder views on the “Managing Supply and Demand” section we are conscious that the LHWP is to be developed by NOW. We therefore intend to summarise any comments we receive on this section of the licence and forward this information to NOW to assist with the process of developing the LHWP. It is possible that some changes to the licence will need to be considered to reflect the role of NOW in the development of the LHWP. Following finalisation of the LWHP, IPART will then consider whether further changes are required following the end of term licence review.

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<sup>40</sup> Operating licence clause 9.2.4.

<sup>41</sup> Operating licence clause 9.2.3.

## 5.2 All other matters

The approach taken in this paper has been to discuss those sections of the licence where we have identified issues and propose to make amendments. We are aware that this approach means that there are sections of the licence that have not been canvassed, including those set out in section 1.2.1 of the paper.

Based on submissions to previous operating licence reviews we are mindful that Hunter Water and other stakeholders may have issues with aspects of the licence that have not be discussed. We therefore encourage stakeholders to raise and discuss any other issues that they believe are relevant.

We seek comments on

- 12 The effectiveness of the consultative forum and compliance with the consultative forum charter, including information as to any quantifiable or qualitative costs and/or benefits of the forum or charter.
- 13 The outcomes achieved by the Integrated Water Resources Plan (see licence clause 9.2.7).
- 14 The targets, standards, indicators or other proposals for consideration from Hunter Water's Integrated Water Resources Plan and matters in clause 9 of the licence. In respect to the Integrated Water Resources Plan, Hunter Water is required to outline this information as part of the review.<sup>42</sup>
- 15 What other issues should we consider during our review of Hunter Water's operating licence?

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<sup>42</sup> This is an operating licence requirement of Hunter Water as part of the end of term review (see operating licence clause 9.2.17). The targets, standards and indicators will be addressed by NOW in the course of developing the LHWP.



## **Appendices**





## A Summary of proposed amendments

The following table summarises our preliminary views on possible amendments to the Hunter Water operating licence.

Licence Clause		Proposed amendment by IPART	Issues Paper reference (section)
1	INFORMATION ABOUT THE LICENCE		
1.1	Objectives of the Licence	General administrative changes and reworking to improve readability. Consider removing or rewording to the extent that the requirement duplicates other legislative requirements. No material changes currently proposed	4.3
1.2	Term of the Licence		
1.3	End of term review of the Licence		
1.4	Amendment of Licence		
1.5	Contravention of Licence		
1.6	Cancellation of Licence		
2	HUNTER WATER'S RESPONSIBILITIES		
2.1	Responsibility of Hunter Water under the Licence and other laws	Consider removing or rewording to the extent that the requirement duplicates other legislative requirements	4.3
2.2	Responsibilities of Hunter Water under the Hunter Water Act		
2.3	Memorandum Of Understanding	No substantive amendment proposed	
2.4	Monitoring and Reporting Protocol	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
3	WATER QUALITY		
3.1	Drinking Water Quality – Planning	Consider removing requirements where they are incorporated into the full and proper implementation of the frameworks in ADWG and AGWR (maintain requirement to develop a framework in accordance with ADWG and AGWR). Where appropriate, review wording and transfer material to proposed Hunter Water Reporting Manual	3.3 and 4.3
3.2	Drinking Water Quality – Standards		
3.3	Water Quality – Monitoring		
3.4	Water Quality – Reporting		
3.5	Water – Incident Management Plan		
3.6	Waste Water and Recycling Operations		
3.7	Other grades of water		
3.8	Environmental water quality	Review wording and transfer material to proposed Hunter Water Reporting Manual and/or possible duplication with other legislative requirements	4.3

Licence Clause		Proposed amendment by IPART	Issues Paper reference (section)
4	INFRASTRUCTURE PERFORMANCE		
4.1	Water Pressure Standard	No substantive amendment proposed	
4.2	Water Continuity Standard	No substantive amendment proposed	
4.3	Sewage Overflows on Private Property Standard	No substantive amendment proposed	
4.4	Compliance with system performance standards	No substantive amendment proposed	
4.5	Reporting on system performance standards	Review wording and transfer material to proposed Hunter Water Reporting Manual	
4.6	Review of system performance standards	No substantive amendment proposed	
4.7	Service quality and system performance indicators	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
4.8	Asset management obligation	Consider replacing with a requirement to develop an asset management framework.	3.3
4.9	Reporting on the asset management plan		
4.10	Auditing the asset management plan	Consider reworking section to general audit requirements and to remove obligations imposed on IPART	4.3
5	CUSTOMER AND CONSUMER RIGHTS		
5.1	Customer Contract	No substantive amendment proposed	
5.2	Consumers	No substantive amendment proposed	
5.3	Code of practice and procedure on debt and disconnection	No substantive amendment proposed	
5.4	Consultative Forum	Evaluate and report	5.1
5.5	Customer service indicators	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
6	COMPLAINT AND DISPUTE HANDLING		
6.1	Internal dispute resolution process	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
6.2	External dispute resolution scheme	Review wording and transfer material to proposed Hunter Water	4.3

Licence Clause		Proposed amendment by IPART	Issues Paper reference (section)
		Reporting Manual	
6.3	Complaints to other bodies	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
7	ENVIRONMENT – INDICATORS AND MANAGEMENT		
7.1	Environmental performance indicators	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
7.2	Environment management	Replace requirements with EMS standard	3.3
7.2.5	Public consultation	Consider maintaining this requirement as no equivalent in EMS	3.3
7.3	Catchment Report	Review wording	4.3
8	PRICING		
8.1	Pricing	No substantive amendment proposed	
9	MANAGING SUPPLY AND DEMAND		
9.1	Water Conservation Target	No amendments currently proposed. Consider changes to the extent able in relation to the development of the LHWP	1.2.1 and 5.1
9.2	Demand management strategy		
9.3	Water demand and supply indicators	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
9.4	Annual reporting on water demand and supply indicators		
10	LICENCE AUTHORISATIONS AND AREA OF OPERATIONS		
10.1	What the Licence authorises and regulates	Consider removing or rewording to the extent that the requirement duplicates other legislative requirements	4.3
10.2	Powers not limited		
10.3	Areas of Operations		
10.4	Connection of Services	No substantive amendment proposed	
10.5	Non-exclusive Licence	No substantive amendment proposed	
11	LIABILITY ISSUES		
11.1	Contracting out	Consider removing or rewording to the extent that the	4.3

<b>Licence Clause</b>		<b>Proposed amendment by IPART</b>	<b>Issues Paper reference (section)</b>
11.2	Damage and compensation to persons	requirement duplicates other legislative requirements	
11.3	Competitive neutrality		
12	OPERATIONAL AUDITS OF THE LICENCE		
12.1	Commission of audits	Review wording and transfer material to proposed Hunter Water Reporting Manual	4.3
12.2	What the audit is to report on		
12.3	Reporting of audit		
12.4	Additional audits		
12.5	Provision of information		
13	NOTICES	No substantive amendment proposed	
14	DEFINITIONS AND INTERPRETATION		
14.1	Definitions	Only to the extent required by other changes to the licence	4.3
14.2	Interpretation		
<b>SCHED1</b>	AREA OF OPERATIONS	No amendment proposed	
<b>SCHED2</b>	CUSTOMER CONTRACT	Consider review of low pressure rebate	

## B Environmental management system requirements

EMS requirements	Operating licence requirements (clause)	Comment
<b>GENERAL</b>		<b>No equivalent Licence requirement</b>
<b>ENVIRONMENTAL POLICY</b>	7.2.3(b)	<b>EMS requirements are broader</b>
<b>PLANNING</b>		
Environmental aspects	7.2.3(a) (as specified in licence)	<b>EMS requirements are to address all aspects of business</b>
Legal and other environmental requirements		<b>No equivalent Licence requirement</b>
Objectives, targets and programs	7.2.3(c), (d)	<b>EMS requirements are broader</b>
<b>IMPLEMENTATION AND OPERATION</b>		
Resources, roles, responsibility and authority	7.2.4	<b>Requirements are similar</b>
Competence, training and awareness		<b>No equivalent Licence requirement</b>
Communication		<b>No equivalent Licence requirement</b>
Documentation	7.2.3(c)	
Control of documents	7.2.3(c)	
Operational control		<b>No equivalent Licence requirement</b>
Emergency preparedness and response		<b>No equivalent Licence requirement</b>
<b>CHECKING</b>		
Monitoring and measurement	7.2.4	
Evaluation of compliance	7.2.4	<b>EMS requirements are broader</b>
Nonconformity, corrective action and preventive action		<b>No equivalent Licence requirement</b>
Control of Records		<b>No equivalent Licence requirement</b>
Internal audit		<b>No equivalent Licence</b>

		<b>requirement</b>
<b>MANAGEMENT REVIEW</b>		<b>No equivalent ILicence requirement</b>
	7.2.5 (Public Consultation)	No equivalent EMS requirement
	7.2.6 & 7.2.7 (Reporting requirements)	No equivalent EMS requirement

