

Welcome to issue six of the Water Licensing and Compliance Newsletter! Since you last heard from us we have been busy with licence applications and reviews and public water utility audits. We have also met some of you at a WIC Act information session, or at the Legends of Water dinner.

As we approach the end of the year we wish you a safe and happy holiday season.



WIC Act

The Amending WIC Act

In October 2017 we held an information session on the *Water Industry Competition Amendment (Review) Act 2014* (Amending WIC Act). The Department is anticipating commencement of the Amending WIC Act in late 2019.

At the information session, we gave an overview of the licensing framework under the Amending WIC Act.

The presentation from the session is available on our [website](#).



Activity time at the information session



Zoe Moffat outlining changes to WICA

WIC Act annual compliance report

In October we submitted our *Water Industry Competition Act 2006* (WIC Act) Annual Compliance Report to the Minister. The Report details that while the number of non-compliances increased in the 2016-17 financial year, licensees' compliance overall continues to be good. You can view a copy of the report [here](#).

New licences and licence variations

We are currently assessing eight licence applications – two licence variations and six new licences. Our recommendations on two other licence variations are currently with the Minister for Energy and Utilities.

As required by the WIC Act, we review each licence every five years, with updates on two 5-yearly reviews since July:

- ▼ We sent our recommendations to the Minister following the 5-year review of Orica Australia's licences in November and await the Minister's final approval.
- ▼ The Minister approved our recommendations for Sydney Desalination Plant, as part of its 5-year review, on 3 November 2017. The revised licence is available on our [website](#).

The Minister granted Narara Eco Village a Retail Supplier's Licence (RSL) and Network Operator's Licence (NOL) on 4 July 2017 and granted the Shepherds Bay scheme NOL on 13 October 2017.

The Minister varied Veolia Water Solutions and Technologies' (Bingara Gorge scheme) NOL and RSL on 11 July 2017. The Minister also cancelled one licence at the request of the operator.

The Minister approved commencement of commercial operation for Barangaroo South on 31 July 2017, Catherine Hill Bay on 27 October 2017, Bingara Gorge on 1 November 2017 and Box Hill on 27 November 2017.

WIC Act compliance

We currently regulate 33 licences through operational audits, annual compliance reports and incident reports.

Since July 2017 we undertook three operational audits for network operators. We also undertook three new infrastructure and licence plan audits.

Changes to the audit approach

Reduced frequency of operational audits for licensees with a 'good compliance history'

As most of you would be aware, we use a risk-based approach to determine how often an operational audit is conducted, based on the potential risk of the scheme and the licensee's record of compliance. We also use a risk-based approach to determine how often a particular licence clause is audited.

When a network operator's scheme begins operating, we normally require an annual operational audit of the licence. However, consistent with our risk-based approach, the Delegated Tribunal recently decided that, where a licensee establishes a "good compliance history" in relation to its last three consecutive audits and annual compliance reports, we will consider reducing the audit frequency of that licence from annually to every 2 years. Reducing the audit frequency recognises the reduced risk where a good record of compliance is established.

We consider there is a "good compliance history" if the licensee has had no significant, and minimal insignificant, non-compliances identified in its audits and annual compliance reports. We consider insignificant non-compliances to be "minimal" if there are:

- ▼ no repeat non-compliances
- ▼ no more than two insignificant non-compliances identified in any one audit or annual compliance report, and
- ▼ no more than four insignificant non-compliances in total across the last three consecutive years of audits and annual compliance reports, on a rolling year-to-year basis.

If we consider a good compliance history has been established, we will notify the licensee in writing that it will now be audited every 2 years.

Combined auditing of multiple related schemes

Where a licensee holds more than one network operator's licence or has multiple related licences that relate to similar schemes, they can approach IPART for a combined or streamlined audit program (or we may initiate this with the licensee). The intent of a combined audit program is to achieve greater efficiency for both IPART and the licensee.

Licences will be considered related if they share common elements, such as the same licence management plans. Schemes will be considered similar if they are either:

- ▼ developments on new sites – typically consisting of single dwellings in the city's fringe, or
- ▼ developments on previously developed sites – typically consisting of high rise buildings in metropolitan areas.

If the related licences are suited to a combined audit approach, we will develop an audit program to enable similar schemes (ie, 2 or more licences) to be audited at the same time.

We successfully trialled this approach recently with Flow Systems' related licences for similar schemes. Any other licensee who believes it holds licences suited to this combined approach is encouraged to get in contact with us.



Public water utilities (PWUs)

2016-17 public water utility audits

We are finalising the annual audit of Sydney Water's and WaterNSW's operating licences. We will make operational audit reports publicly available once the responsible Minister tables them in Parliament – expected in the next year.

We expect to finalise our annual audit of the Hunter Water operating licence in March 2018.



All water licensees

Changes to the Infrastructure SEPP

On 15 December 2017 the Government made changes to the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). These changes may impact on public water utilities and WIC Act licensees. You can access the changes on the [NSW Legislation website](#). The Department of Planning and Environment's [website](#) provides further information on the Infrastructure SEPP.

Performance indicators review

IPART is [reviewing](#) the performance indicators we collect annually from PWUs and licensees under the WIC Act. The respective water utilities' reporting manuals include IPART performance indicators. The outcome of this review may change the information we collect and publish annually in either the Pwu performance indicators database, or the annual WIC Act compliance report to the Minister. We will consult with stakeholders when we release an

Issues Paper for comment. Following consultation we will release our amended reporting manuals to reflect the revised performance indicators sections. We expect to release our Issues Paper in February 2018. If you are interested in this review, please contact Erin Cini on the details below.

IPART Compliance and Enforcement Policy

On 19 December 2017 IPART released our [Compliance and Enforcement Policy](#).

The Policy sets out:

- ▼ Principles of compliance and enforcement.
- ▼ Risk-based regulatory model.
- ▼ Compliance approach.
- ▼ Enforcement action decision-making framework.

In our risk-based approach to holding regulated entities to account we aim to make the best use of our own resources, and at the same time avoid imposing excessive costs on regulated entities, which could increase prices for customers and consumers.

The Policy is applicable to all of IPART's regulatory compliance functions and regulated entities, including water licensing (public water utilities and WIC Act licensees), energy networks, rail access, and the Energy Savings Scheme, as well as water and transport pricing where we are responsible for compliance.

We consulted with stakeholders by releasing a draft Policy for comment before releasing our final IPART Compliance and Enforcement Policy. We received eight submissions. The submissions were generally supportive of our policy and the approach we are taking. We considered all stakeholder feedback before finalising the Policy, making changes including clarifying our role as a regulator, and our risk-based approach to compliance and enforcement.

Our Compliance and Enforcement Policy will take effect from 19 December 2017, and may be updated from time to time.

In 2018, we intend to review some of our existing processes, procedures and guidelines related to compliance and enforcement. We will continue to consult with stakeholders as we update and improve our sector specific documents.



Related reviews

Review of developer charges and backlog sewerage for metro water utilities

IPART is reviewing the methodology for determining water, sewerage and stormwater developer charges and backlog sewerage charges for Sydney Water, Hunter Water and the Central Coast Council. We will also review other related charges, such as Hunter Water's potential major service connection charge, Sydney Water's minor service extension charge and the 'Sydney Water Developer Direct' charge.

We released our [Issues Paper](#) on 24 October 2017, with utilities' submissions due on 11 December 2017, and all public submissions due on 22 January 2018. You can provide

your submission [here](#). We will hold a public hearing on 6 March 2018, and release our Draft Report in June 2018. Additional information on the review is available on our [website](#).

IPART's own Legend

IPART congratulates Kaye Power, Principal Analyst, who was named one of the Australian Water Association's Legends of Water for 2017. The award recognises the achievements of leaders of the NSW water industry. We celebrated Kaye and the two other award winners at the Legends of Water dinner in November.



Some of IPART's Water Licensing and Compliance team



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