

31 August 2018

Ms Erin Cini  
Director, Regulation and Compliance  
Independent Pricing and Regulatory Tribunal  
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UTS CRICOS PROVIDER CODE 00099F

Dear Erin

**RE: Submission to the Review of the Sydney Water Corporation  
Operating Licence**

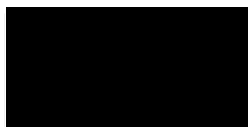
On behalf of the Institute for Sustainable Futures (ISF) at the University of Technology Sydney (UTS), I am pleased to submit to you these comments concerning IPART's Review of the Sydney Water Corporation (SWC) Operating Licence.

I would like to acknowledge and note our appreciation for the Tribunal's decision to grant ISF an extension in making this submission.

We have focused our attention on the questions and areas of the review in which we are best qualified to comment.

We would be happy to discuss our submission in further detail, or to provide corroborating evidence, should the Tribunal wish.

Yours sincerely,



Distinguished Professor Cynthia Mitchell  
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# REVIEW OF SYDNEY WATER CORPORATION OPERATING LICENCE SUBMISSION BY INSTITUTE FOR SUSTAINABLE FUTURES, UTS

We have confined our comments to areas of the review in which we are best qualified to comment. Overall, the intent and efforts to apply best-practice performance-oriented regulation, to simplify and to remove duplication are commendable.

## 4.1 OBJECTIVES OF LICENCE

We agree that it would be useful to include in the operating licence a statement pertaining to the outcomes the licence is intended to achieve.

However, the proposed statement is partial.

Specifically, it is unclear why reference to the environment has been removed.

Furthermore, there should be transparency in the mechanisms by which both obligations from the Act are included or excluded from the licence, and the means of representing obligations in the licence. Presently, no information is provided on this process. For example, while water conservation targets have been adapted into an economic level of water conservation, the requirements under s27 of the Sydney Water Act to adopt as an ultimate aim the reduction of all discharge to waters has been dropped. Similarly, the requirement to publicly report every five years on action to address this objective has been dropped (Clause 8.3.1 of 2000-2005 licence stated "Sydney Water must take action to re-use, intercept or otherwise prevent from discharge into the ocean, waterways and other water, sewage or effluent of customers and consumers by way of non-potable re-use; Clause 9.3.2 of the 2005-2010 licence was similar.).

Ensuring the licence represents the Act accurately is important. Compliance against the licence is reported every year and tabled in parliament. This provides for transparency and a public check on performance. In the past ISF suggests that having to report audited non-compliances against the operating licence water conservation target could provide a trigger for increasing investment to meet the target.

A new clause that would provide positive outcomes for competition, efficient investment, ELWC and energy efficiency would be a requirement to provide a more refined breakdown of system costs and cost projections (beyond simply water/ wastewater/ stormwater) and make these auditable and publicly available. The benefit of this kind of information provision has been demonstrated in the energy sectors.

## 4.6 NON-EXCLUSIVE LICENCE

The licence should make clear that the utility has an obligation, rather than a right, to serve all customers, including WICA licensees. That is, the intent is that particular customers are not arbitrarily or unfairly refused service.

## 4.7 PROVISION OF SERVICES TO WICA LICENSEES

ISF suggests a benefit of the requirement to serve WICA licensees could be a dispute mechanism procedure, such as that for other customers who have recourse to the water ombudsman.

ISF notes the non-price barriers in section 4.7.3, and applauds IPART's recognition of these as potentially material.

ISF's position and role in the sector does not qualify us to put forward a position on which of the potential licensing options is most appropriate, nor to provide data on the costs and

benefits of each. Given the nature of discussion during the recent INSW recycled water review, ISF suggests that rather than cost information, it may be more important to ensure the publication of transparent and robust 'avoided cost' information.

Finally, we offer the observation that the formal response process that this operating licence review takes may not be either an appropriate or effective mechanism to seek feedback on WICA licencing options. There may be other feedback mechanisms that are less onerous, as well as more equitable and therefore more robust. This is particularly pertinent when consideration is given to the size of and resources available to the businesses affected (WICA licensees) in comparison to the size of and resources available to Sydney Water. Consideration should also be given to the sheer volume of consecutive and concurrent reviews<sup>1</sup> that have been conducted in a short period of time, all affecting these licensees and other potential entrants to the market. In other sectors, provisions are made whereby there is an obligation on the incumbent/proponent to fund representatives for industry and/or community to adequately engage in the process. **ISF recommends that IPART consider how to initiate and implement a similar resourcing mechanism in the water sector.**

### 5.1 LICENCE OBLIGATIONS TO ENSURE WATER CONSERVATION ARE NECESSARY

ISF agrees with IPART's proposal to include water conservation obligations in the operating licence. We argue that such obligations put Sydney in a better position to respond to drought last time. However, we would suggest that current ELWC application could be strengthened with respect to the following points:

- The l/c/d target was set in the mid 90s. Given the gains in water efficiency made since then (particularly in appliances), and the fact that Sydney has been at or below the target since 2011, the l/c/d target is no longer an appropriate backstop because it does not incentivize Sydney Water to invest in efficiency
- There are material limitations with the approved methodology and its application:
  - The methodology appears to concentrate on comparing aggregate water conservation options to new supply options (e.g. a new desalination plant) through assessment of the long run marginal cost (LRMC). However, water conservation can provide significant economic (and narrower SWC utility financial) benefits when considered at a more localised scale, since the marginal cost of water (and associated network and wastewater treatment) does vary significantly across Sydney.
  - Given the uncertainty of future assumptions, the methodology needs to emphasise the use of scenarios and sensitivity analysis to measure the flexibility of the deployment of the measures over the longer term to respond to changes in future trends, and the robustness and flexibility of the deployment of measures over the short term when responding to sudden shocks and variability.
  - Institutionally, the methodology appears limited in its capacity to drive innovation; provide a foundation for potential future infrastructure (e.g. purple pipes in new buildings or additional metering); or value the expertise of the SWC DM team, corporate knowledge and ability to ramp up DM programs quickly (as seen during the Millennium drought) due to ongoing engagement with customers (both residential and non residential).

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<sup>1</sup> The list in the last few years includes the following, many with multiple rounds of submissions e.g., Developer Charges and Backlog sewer; Central Coast water/ wastewater prices; Sydney Desalination prices; Wholesale pricing; Sydney Water water/ wastewater prices; Hoxton Park developer charge; Methodology for ELWC Sydney Water; Hunter Water water/ wastewater prices; Discharge factors for non-residential customers; WICA Act review and regulation drafting; INSW Recycled Water review; Cost allocation manual; Draft WIC Act Audit guideline; Performance indicator review

## 6.2 SYSTEM PERFORMANCE STANDARDS

ISF welcomes IPART's focus on performance standards, agrees that there is room to improve the design of the standards, and that SWC customers should have a much stronger degree of influence over what standards are considered, and what performance is preferred. What is clear from other jurisdictions is that representative, deliberative engagement processes, such as Yarra Valley Water's citizen jury, can deliver robust outcomes.

ISF would recommend a separate process be undertaken to explore what the criteria should be – for example, beyond the options canvassed in the ICON water report, to what degree should level of service obligations be included in such a process, given the significant implications the LOS have for the scale of investment, especially in supply side options.

## 6.4 PRIORITY SEWERAGE PROGRAM

ISF welcomes IPART's reconsideration of the PSP, and recommends SWC be invited to emulate the Yarra Valley Water approach, wherein a range of options are considered for unsewered communities, including but not limited to conventional sewerage, contingent on local constraints and opportunities.

## 8.1 CUSTOMER PROTECTION

ISF welcomes IPART's attention to updating and improving the SWC Customer Contract. Again, ISF recommends that IPART and SWC consider how to emulate the leadership position taken by Yarra Valley Water and other service providers through what has become the Thriving Communities Partnership. Yarra Valley Water and others undertook research to identify the surprisingly high proportion of their customer base who experienced financial hardship relating to one or more utility bills, and the attendant risks associated with family violence and other deeply challenging scenarios. In other words, SWC could be encouraged to take a far more proactive stance in its engagement with and support for financial hardship.

## 8.2 CUSTOMER ENGAGEMENT

ISF welcomes IPART's attention to and calls for improvement and enrichment of SWC's engagement of customers (see also comments wrt 8.1 and 5.1). Earlier this year, ISF completed a project assisting Hunter Water Corporation to move in a similar direction.

However, ISF is concerned about the formulation proposed by IPART in 8.2.2, where the focus is on 'scientific and statistically-based customer research and engagement. Customer research can take many forms, including narrative and story-based inquiry, which has proven to be effective elsewhere. What would be appropriate is for IPART to require demonstrable rigour and validity in the customer research and engagement, rather than to specify the methodology (statistics) for this work. Indeed, recent research undertaken by Western Sydney University for Sydney Water points to further opportunities for much richer engagement by SWC with its customer base.

ISF would encourage IPART to require SWC to implement a recognised framework such as that developed by the International Association for Public Participation, in order to determine what level and quality of engagement is appropriate for different decisions. Such a framework might be of more practical use than the proposed list of characteristics (relevant, representative, proportionate, objective, clearly communicated and accurate). To ensure transparency, SWC should be required to report on how the framework was chosen, validated, and implemented, as well as reporting on how outputs of community engagement were taken into account and reflected in decisions by SWC.