



Don Harwin MLC

Minister for Resources, Minister for Energy and Utilities,
Minister for the Arts, Vice-President of the Executive Council

RF19/358

Dr Paul Paterson
Chair
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Dear Dr Paterson

I am pleased to provide the NSW Government's further submission to the Independent Pricing and Regulatory Tribunal's (IPART) review of Sydney Water Corporation's operating licence.

In September 2018, the NSW Government made a submission on the Issues Paper proposing a number of changes to Sydney Water's operating licence. I note that IPART has incorporated the majority of those changes in the draft operating licence released in December 2018.

However, there remain a number of amendments the NSW Government would like to see made to Sydney Water's draft operating licence. The State's urban water policy and planning framework is currently in transition as the government works through a program of micro-economic reform, and these licence changes are part of that reform process. Proposed changes are discussed below, and for greater clarity, are set out in detail in the attachment.

Key changes the NSW Government would like to see made to the draft licence are:

1. Changes to clarify Sydney Water's role in the development of a long-term capital plan and drought response plan for Greater Sydney. Minister Blair and I have recently provided guidance to both Sydney Water and WaterNSW in relation to the government's expectations for these plans and asked them to work collaboratively to deliver the government's policy reforms.
2. Changes to improve the water conservation framework. Water conservation can play an important role in managing water security risk and responding to changes in demand and supply. Water conservation programs that can contribute to meeting Sydney's long-term water needs should be implemented where they provide an optimal outcome for the Sydney water supply system as a whole. The government supports IPART's recommendation for a review of the Economic Level of Water Conservation (ELWC) method to deliver on this objective. The review should consider how to assess conservation options that may be cost effective now, or in the future, taking into account externalities such as social and environmental benefits and deferred or avoided infrastructure.

To ensure the full potential of the role water conservation can play, the government needs visibility of the opportunities for water conservation that are

beyond what may be immediately cost effective for Sydney Water to implement. It also needs to have confidence in the certainty of savings to be delivered through water conservation measures.

The government recognises that Sydney Water is best placed to identify, design, implement and evaluate potential water conservation measures. Therefore, during the term of the licence, the government intends that Sydney Water investigates a wide range of potential conservation programs and provides that information to the Department of Planning and Environment (DPE) to assess, and to consider in long-term water planning. The government may ask Sydney Water to implement programs that are cost-effective for the water supply system as a whole, in addition to any programs it implements under ELWC. Sydney Water would be able to recover, through its prices, the cost of any water conservation programs that it is required to implement by the government.

As part of the government's reform process, I have asked DPE to be responsible for setting the terms of the review of the ELWC methodology and for approving any revisions to that methodology. DPE will also approve any programs that Sydney Water would be required to implement by the government.

3. Changes to support the NSW Government's role in setting the urban water policy framework:
 - Good decisions are underpinned by good data. To enable this, the operating licence should provide that DPE can request data and information from Sydney Water, subject to privacy laws being complied with. The precedent for this type of obligation on utilities is in the NSW Social Programs Energy Code where electricity retailers must provide regular information to the government to assist with the government's social programs. To facilitate this process, the Government supports IPART's proposal for a memorandum of understanding between Sydney Water and DPE that identifies relevant data and information to be provided, timeframes for providing the data, and how confidentiality and privacy issues will be addressed.
 - Sydney Water calculates the water demand forecast for its area of operations. The licence should require Sydney Water to provide this to the government for policy and planning purposes. During the term of the licence Sydney Water should also initiate an independent expert review of its methodology, modelling and procedures for calculating the demand forecast, and to provide the expert's review to DPE. This obligation formalises demand forecasting work that Sydney Water currently undertakes and is consistent with WaterNSW's licence condition for calculating System Yield.
4. In the government's original submission, Fire & Rescue NSW had identified a public safety issue in relation to maintaining water flow as well as water pressure across Sydney for fire-fighting purposes. To address this issue, the licence should require Sydney Water to report on flowrates across its network. Sydney Water has indicated that it supports this reporting obligation.

Thank you for the opportunity to raise these matters. I ask that IPART continue to liaise with my Department in developing the proposed licence amendments. Should you have any questions regarding this submission, please contact Ms Prue Gusmerini, A/ Executive Director Housing Co-ordination, DPE on [REDACTED]

Yours sincerely

[REDACTED]

Don Harwin MLC

Leader of the Government in the Legislative Council

Minister for Resources

Minister for Energy and Utilities

Minister for the Arts

Vice-President of the Executive Council

Date: 14 February 2019

Encl. Table of requested changes to licence

IPART review of the Sydney Water operating licence – NSW Government submission

Licence clause	Request in original submission	Draft licence condition	Licence changes proposed
Department Planning & Environment			
Clause 3.1 Water Conservation	<p>DPE proposes for the Greater Sydney Water Strategy (GSWS) using the Metronet model to determine which water conservation measures Sydney Water must implement. Up until GSWS is approved SW can use ELWC subject to:</p> <ul style="list-style-type: none"> - SW is required to prepare a list of water conservation measures and provide these to DPE (in 2019) for determining whether to implement these measures prior to 2020. 	<p>SW may use either Economic Level of Water Conservation (ELWC) method or other economic method (such as Metronet) with IPART's approval.</p> <p>SW must review ELWC method by 30 Sept 2020.</p>	<ol style="list-style-type: none"> 1. Sydney Water is to provide DPE with terms of reference for a review of ELWC and the review analysis and outcomes. DPE will approve the terms of reference for the ELWC review, and any revisions to ELWC. <i>Note: IPART is not required to approve the terms of the review or any changes to ELWC.</i> 2. Sydney Water is to provide a comprehensive list of water conservation measures to DPE by 30 September 2019 (and by 30 September each year thereafter). 3. Sydney Water must implement any additional water conservation measures approved by DPE that are in addition to any measure that Sydney Water implements under the ELWC method. 4. The information provided to DPE must include a description of the conservation measures, how and when they will be implemented, the targeted water users, the expected water savings, cost of the program per kilolitre of water saved and the

Licence clause	Request in original submission	Draft licence condition	Licence changes proposed
			<p>method to assess the effectiveness of the measures.</p> <p>5. Sydney Water must also provide information (including the funds spent) on any conservation measures researched, piloted or developed during the previous financial year.</p> <p><i>Note: Existing obligations for reporting on water conservation must be retained in the licence and reporting requirements for water conservation retained in the Reporting Manual.</i></p>
Demand forecasting (proposed new clause)			<ol style="list-style-type: none"> 1. Sydney Water must calculate the water demand forecast for its area of operations, and provide that demand forecast to DPE. 2. Sydney Water must advise DPE in writing of any material changes in its demand forecast as soon as possible. 3. By 30 April 2022, Sydney Water must engage a suitably qualified independent expert to review its methodology, modelling and procedures for calculating the demand forecast, and provide the expert's review to DPE.
Clause 3.2.1 Long-term capital plan	Sydney Water is to collaborate with WaterNSW to develop a long-term capital plan and emergency drought response plan	Sydney Water must use its best endeavours to develop the plans referred to in clause 3.2.1 in cooperation with Water NSW	<ol style="list-style-type: none"> 1. Sydney Water must develop the plans referred to in clause 3.2.1 consistent with the guidelines provided to Sydney Water, in a letter signed by the Minister for Water and Utilities on 2 January 2019.

Licence clause	Request in original submission	Draft licence condition	Licence changes proposed
			<ol style="list-style-type: none"> Sydney Water must use its best endeavours to develop the plans in 3.2.1 in cooperation with Water NSW. Sydney Water must review the plans referred to in 3.2.1 every five years.
Clause 3.2.3 Metropolitan Water Plan		Sydney Water must use its best endeavours to participate cooperatively in the implementation and review of the Metropolitan Water Plan.	Sydney Water must participate cooperatively in the implementation and review of the Metropolitan Water Plan.
Clause 3.2.4 Providing Data to DPE	SW must provide DPE with information such as water use or forecasting data if requested by the Deputy Secretary of DPE. The request must specify the time period to provide the information, which must not be less than 14 days.	SW must enter into a data-sharing agreement with DPE by June 2020.	<ol style="list-style-type: none"> Sydney Water must provide information requested by DPE, such as water use and forecasting data, to allow the government to carry out its water policy and planning function (subject to complying with NSW and Commonwealth privacy legislation). The Deputy Secretary of DPE may request in writing from Sydney Water data and information DPE requires and the date by when it must be provided. The time period for providing the information must not be less than 14 days, unless the information requested is urgent. In addition, Sydney Water must enter into a memorandum of understanding (data-sharing agreement) with DPE by 31 July 2019. The MoU should outline how the information or data is expected to be used and any constraints to address confidentiality and privacy requirements.

Licence clause	Request in original submission	Draft licence condition	Licence changes proposed
			<i>Note: Any data provided by Sydney Water to DPE under the licence or MoU must comply with NSW and Commonwealth privacy legislation.</i>
CI 8.1.1 Proposed obligations in SW dealings with WIC licensees	In principle support for obligation to negotiate in good faith but noting that WIC licensees may prefer to leave some matters for negotiation with Sydney Water, so their feedback will be key.	Includes an obligation on SW to negotiate in good faith but not to prescribe negotiation processes etc.	Support, noting that the draft licence (CI2.2.2) also includes an obligation to provide services to any WIC licensee <u>on request</u> .
CI 8.2 Provision of planning and servicing information to the market.	There is also merit in considering requirements for Sydney Water to make more information available to new market entrants. DPE notes that consideration of these matters must be focused on providing for a level playing field to promote, not mandate, contestability.	Includes an obligation to publish up-to-date servicing information so that it is available to WIC licensees and potential competitors.	The obligation in the draft licence is supported but should be implemented without imposing additional costs on Sydney Water materially above the identified benefits from the provision of information.
CI 8.3		Includes a requirement in the SW reporting manual to report on negotiations with WIC licensees.	Supported but need to ensure the reporting requirements are not unnecessarily onerous or disclose commercially confidential information.
Fire & Rescue NSW			
CI 1.1 Licence objectives	Support modifying exiting licence objective to reflect the outcomes of the licence	New licence objective clause added	Propose more detailed licence objective. See Box 1 below.
CI 5.2 Water Pressure Standard	Sydney Water to report on areas of network where water flow available is less than 10 litres/second and water pressure at less than 100kPa	Not included.	Sydney Water must report on water flow rates across its network.

Licence clause	Request in original submission	Draft licence condition	Licence changes proposed
CI 7.2 MoU	Sydney Water must report on the investigation of the provision of fire-fighting flows in selected areas.	Not included	Add sub-clause clause 7.2.4(c) that: "the working group provide a report to IPART on the provision of fire fighting water in selected local areas."
Rural Fire Service (RFS)			
Clause 9.4	Include RFS in the memorandum of understanding with Fire & Rescue NSW and Sydney Water	No change	Include RFS in the memorandum of understanding with Fire & Rescue NSW and Sydney Water

Box 1 - Sydney Water Operating Licence 2019-2023.*

1.1 Objective of this Licence

1.1.1 The objectives of this Licence are to:

- (a) authorise and require Sydney Water, within its Area of Operations, to:
 - i. store or supply water;
 - ii. provide sewerage services;
 - iii. provide Stormwater Drainage Systems; and
 - iv. dispose of Wastewater; and
- (b) set efficient and effective terms and conditions, including quality and performance standards that enables Sydney Water to provide services in a way that does not prevent or hinder competition; and
- (c) enable Sydney Water to be a successful business by operating at least as efficiently as any comparable business and by maximising the net worth of the State's investment in the Corporation; and
- (d) enable Sydney Water to exhibit social responsibility by having regard to the interests of the community in which it operates; including:
 - i. having socially responsible valuation and pricing mechanisms and protocols;
 - ii. have assistance programs in place for people experiencing financial hardship;
 - iii. having water planning, water infrastructure upgrades and maintenance protocols that ensure costs to the community are minimised;
 - iv. have water infrastructure upgrade programs in place that can readily respond to changes in local planning and rezoning and actively support the orderly and economic use and development of land;
 - v. have water infrastructure and upgrade programs that support development constructed in accordance with the National Construction Code;
 - vi. having water infrastructure and upgrade programs that provide a ready supply of water for the control and extinguishment of fires; and
- (e) enable Sydney Water to meet its obligation in protecting the environment by:
 - i. having programs in place that promote water conservation;
 - ii. having clear environmental goals that mitigate environmental damage, promote ecologically sustainable development and biodiversity;
 - iii. having programs in place that ensure the health, diversity and productivity of the environment for future generations;
 - iv. having programs and work practices in place that ensure the conservation of biodiversity and ecological integrity; and
- (f) enable Sydney Water to meet its requirements in protecting public health by:
 - i. having asset management and quality assurance programs that ensure the provision of drinking water that is fit for human consumption;
 - ii. having mechanisms in place to identify water that is not fit for human consumption or is a risk to public safety;
 - iii. having testing facilities capable of monitoring and testing the water supply; and
 - iv. having communication systems in place to notify all stakeholders of any water supply updates or concerns.

**Please note: where possible, the inclusions detailed have been taken from obligations detailed in the current draft operating licence, the Protection of the Environment Administration Act 1991 No 60, the Public Health Act 2010 No 127, the Environmental Planning and Assessment Act 1979 No 203.*