

**REVIEW OF THE SYDNEY WATER CORPORATION
OPERATING LICENCE**

**SUBMISSION BY TOTAL ENVIRONMENT CENTRE TO
THE INDEPENDENT PRICING AND
REGULATORY IPART**

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INTRODUCTION

Total Environment Centre (TEC) welcomes the opportunity to comment on the review of the Sydney Water Corporation operating licence. With limited time and resources available to participate in the review, TEC will concentrate on those matters raised in the IPART's Issues Paper which we believe are of greatest relevance to regulating the environmental impact of Sydney Water's operations.

LICENCE STRUCTURE AND ROLE OF THE OPERATING LICENCE

The nature and scope of Sydney Water's operations are such that they have important environmental, social and economic implications beyond the simple delivery of monopoly utility services.

In view of this, the operating licence should provide a simple and transparent mechanism for ensuring the corporation's operations **are publicly accountable in an effective manner**. It is essential that the operating licence be an overarching instrument that clearly sets out obligations and performance requirements. Allowing these obligations to rest solely within other instruments could lead to regulatory confusion and create barriers to review of performance by the Licence Regulator. The operating licence provides an integrating instrument that allows coherent management of Sydney Water as a whole. No other regulatory agencies or instruments provide such a function.

TEC strongly believes that the simple, transparent and overarching nature of the operating licence should not be compromised or the licence reduced to a 'shell' instrument. This could reduce the accessibility and ease of interpretation of the licence for the public. To this end, key requirements of any licence plans or systems (i.e. required outcomes) should be retained in the licence and performance against plans or systems considered operational audits. Removing them from the licence will make it difficult for non-specialist readers (i.e. other than IPART) to identify key obligations or comment upon performance against them. Subsidiary licence plans should be developed by an open, transparent process with opportunity for public participation. Where Sydney Water's obligations are regulated by other instruments and agencies these should be referenced in the operating licence. Concerns about 'paper or process efficiency' are far less important than real public confidence.

TEC is therefore concerned by a number of proposals in the Issues Paper, which we believe would reduce regulatory transparency and environmental accountability. These concerns are detailed below.

LICENCE CONTEXT AND AUTHORISATION

Licence objectives

TEC does not support the IPART's proposal to modify the Licence objectives to allow Sydney Water to "*set efficient and effective terms and conditions, including, quality and performance standards, balancing the requirements to protect public health, provide services to customers and meet the needs of the community as a whole*".

TEC believes that such provisions would amount to excessive self-regulation. It would completely erode the role of the Operating Licence in providing a single instrument to ensure open accountability of Sydney Water's performance and environmental impact.

In their submission to the review, Sydney Water notes that, under the *Sydney Water Act 1994*, they have three equal objectives of protecting public health, protecting the environment and being a successful business. We endorse Sydney Water's view that the IPART's proposed wording "*could be seen to imply a trade-off or hierarchy of objectives which, if reflected in new or revised terms and conditions could lead to conflicting drivers and outcomes*". It is our view that any such conflict would likely lead to a diminution of Sydney Water's environmental performance.

We support Sydney Water's preference to retain the existing licence objective and note their view that this has not led to any confusion.

Stormwater drainage clauses

TEC supports the IPART's proposed approach of retaining current clauses relating to stormwater drainage; however, we believe that significant scope exists for additional measures to enhance stormwater management.

TEC strongly believes that the Operating Licence should ensure that Sydney Water is able to adopt innovative approaches to stormwater management that enhance environmental outcomes. These approaches include stormwater harvesting for re-use and restoration of streams and stormwater canals to more natural condition.

We note Sydney Water's proposal that the wording of licence clauses regarding stormwater management include the word *enhance* to permit a broader concept of stormwater services including improved waterway health and liveability outcomes. TEC welcomes this proposal and believes the licence should clearly specify that enhancing stormwater management is included these outcomes.

We also support Sydney Water's proposal that the licence should be clarified to ensure that Sydney Water can provide stormwater services to achieve objectives including water quality and waterway health. Such clarification should specifically authorise Sydney Water to undertake stream restoration

where this will lead to improved water quality and waterway health outcomes. As noted by Sydney Water, this would be compatible with the strategies and actions of the Greater Sydney Regional Plan and District Plans.

Term of the licence

TEC believes that a five year licence term has been effective and appropriate. We see no reason to vary this in the next licence. We note, however, the potential for both licence and pricing reviews to occur in the same year. TEC believes that this should be avoided wherever possible. Conducting licence and pricing reviews in the same year may place considerable resource burdens on community organisations and limit their ability to participate in the review processes.

WATER CONSERVATION

TEC strongly opposed removal of the 329 litres/capita/day (lcd) water conservation target in the previous licence review. We believe that this target had been important in driving water conservation efforts and ensuring accountability of Sydney Water's demand management performance. We are disappointed to note proposals in the discussion paper, which would result in a further diminution of accountability regarding water conservation.

TEC believes that the Economic Level of Water Conservation (ELWC) method is less transparent than the volumetric target it replaced. We strongly reject the IPART's proposal to remove fixed water usage and leakage targets and to remove the obligation for Sydney Water to notify and obtain IPART's approval for any proposed significant change to the ELWC method. We believe that this would amount to excessive self-regulation and would erode the Operating Licence's role as a single, overarching instrument.

In their submission to this review Sydney Water argues that the ELWC method *"is designed to promote economically efficient investment in water conservation, including water efficiency, leakage and recycling. It evaluates whether the cost to society of a water conservation project is less than the value of the water it saves"*. It is unclear how the environmental costs and benefits are adequately factored into this approach. In the absence of a clear, transparent and rigorous framework for ensuring that environmental considerations are given sufficient weighting, TEC is unable to express confidence in the ELWC approach.

TEC sees merit in the introduction of individual targets for leakage, water efficiency and recycled water. These should be subsidiary to an overall water conservation target and will assist in assessing the rigour of Sydney Water's efforts to curb demand.

TEC would thus support licence requirements for Sydney Water to:

- Promote water efficiency and recycling

- Determine and report the economic level of leakage (ELL) and manage its leakage program in accordance with the level.
- Develop a multi-criteria decision framework to identify opportunities and investment priorities for water conservation and demand management.
- Comply with its roles and responsibilities under the Metropolitan Water Plan.

We stress, however, that these requirements should be in addition to and supportive of, the overall water conservation target.

WATER QUALITY

Drinking water quality

TEC supports retention of the current operating licence requirements in relation to drinking water quality. Requirements to comply with the Australian Drinking Water Guidelines (ADWG) and any revisions made by the NHMRC and ARMCANZ to the health related aspects of these guidelines are essential to ensure that the Corporation meets the most up to date drinking water standards available.

Recycled water quality

TEC also believes that existing requirements with regard to recycled water should be retained. We support Sydney Water's view that the Australian Guideline for Water Recycling (AWWR) provide guidance to ensure that recycled water is fit for purpose. We note also that Sydney Water does not believe that there is any duplication of clauses in the current licence.

SYSTEM PERFORMANCE STANDARDS

TEC believes that current system performance standards are generally appropriate and should be maintained. The current standards provide a balance between maintaining adequate levels of service and preventing 'gold plating' of assets. We do not accept IPART's view that current good performance against these standards may indicate that the standards are too high or result in excessive expenditure. TEC is concerned that any relaxation of standards might permit a decline in performance.

We note Sydney Water's view that they have treated system performance standards as minimum standards designed to protect customers from reductions in service levels. TEC endorses this approach.

TEC notes that fulfilling remaining obligations under the Priority Sewerage Program (PSP) covering Scotland Island, Nattai and Yanderra are predicted to be prohibitively expensive. The PSP was developed in 1997 to address specific environmental and public health risks. It is possible that other options may be able to deliver the same benefits at reduced cost. It would therefore

be appropriate to replace the obligation to complete these works with a requirement to achieve the same public health and environmental outcomes.

ORGANISATIONAL SYSTEMS MANAGEMENT

Asset Management System

TEC strongly supports the IPART's proposal to retain requirements for Sydney Water to have an asset management system. The nature of Sydney Water's operations are such that improperly managed assets have the potential to cause severe environmental impact. Given that the International Standard and the Australian Standard are identical, we believe it is largely immaterial which of these is referred to in the licence.

We do not support IPART the proposal to replace the reporting requirement on biennial State of the Assets Reports with one-off Strategic Asset Management plan. Requiring Sydney Water to report regularly on the state of the assets provides transparency regarding trends in asset conditions and managements and provides an incentive to ensure that performance does not decline.

We also oppose the proposal to remove the requirements for certification of the Asset Management System and the requirement to notify IPART of any proposed significant changes. Certification of the system is important in ensuring quality control of and public confidence in the System.

Environmental management

TEC is deeply disturbed by the proposal to remove the requirement for Sydney Water to have an Environmental Management System (EMS). We believe that the EMS is an essential component of proper regulation of Sydney Water's operations and environmental impact. We note Sydney Water's comment that the "*EMS provides a high level of assurance to customers, regulators and stakeholders that our systems and processes are managed according to best practice while facilitating improvements and efficiencies in environmental management*". TEC endorses this view. We also note that the Water Services Association (Liveability Indicators, Occasional Paper 31,2016) recommends water utilities should have a certified environmental management system.

We are at a loss to understand what benefit deleting the requirement to have an EMS would bring. We believe that the EMS has been valuable for monitoring and communicating environmental performance.

We also oppose the proposal to remove the requirements for certification of the EMS to AS/NZS ISO 14001:2004 and the requirement to notify IPART of any proposed significant changes. Sydney Water is large corporation whose operations have a substantial environmental footprint. It is, therefore, important that Sydney Water be required to ensure that its EMS is

appropriately certified. As noted above in relation to the Asset Management System, certification is important in ensuring quality control of and public confidence in the EMS.

Quality management system

TEC reiterates our comments regarding the Asset management System and EMS. We see no benefit in deleting the requirement for Sydney Water to maintain a Quality Management System (QMS). We note that Sydney Water believes that the *“QMS helps Sydney Water to manage and mitigate risks, meet regulatory requirements, generate efficiencies and continually improve to meet our customer and stakeholder expectations”*. We also strongly oppose removing requirements for the QMS to be certified and to notify IPART of any proposed significant changes.

OTHER AREAS FOR CONSIDERATION

TEC strongly supports retention of the requirements that Sydney Water prepare Memorandum of understanding (MoU) with the NSW Office of Water (NOW), the NSW Health and the Environment Protection Authority. The MoUs provide an important function in defining the relationships between Sydney Water and these organisations. In the interests of transparency and maintaining an overarching operating licence these requirements should be retained.

TEC believes that the Customer Council is an important source of advice to Sydney Water on customer issues. We note from Sydney Water’s submission that it is not the sole source of this advice. Nevertheless, as noted in Sydney Water’s submission the Customer Council has provided valuable advice on a range of matters including projects and operational activities. We support the retention of this role and the broad definition of ‘customer’ to include the interests of the environment.

Dr Leigh Martin and Jeff Angel
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