

Sydney Water's response to IPART's Issues Paper

**IPART's review of the Hunter Water
Corporation Operating Licence**

29 July 2016

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1 Introduction

This submission provides Sydney Water's views on the various issues raised by the Independent Pricing and Regulatory Tribunal (IPART) in its *Review of the Hunter Water Corporation Operating Licence – Issues Paper, May 2016* (the Issues Paper).

Sydney Water welcomes the opportunity to respond to this Issues Paper in light of IPART's objective of introducing greater consistency in the licensing approach adopted between the major public water utilities. As there are a number of matters that overlap with the requirements in the *Sydney Water Corporation Operating Licence 2015-2020* (2015-2020 Operating Licence), and new matters that may impact us in the future, we appreciate having the ability to provide our insights into these issues.

Sydney Water is generally supportive of IPART's preliminary views in its Issues Paper; however, we are cautious of the need to make any changes to Hunter Water's operating licence in relation to wholesale customers.

Our submission includes Sydney Water's assessment of the Issues Paper, and responds to the key areas discussed by IPART:

- Chapter 2 discusses matters around water quality.
- Chapter 3 discusses water quantity matters, including the proposed inclusion of an economic level of water conservation.
- Chapter 4 provides comments on the proposals for asset standards and reporting requirements.
- Chapter 5 looks at the requirements for customers and consumers and provides our preliminary views on a potential new class of wholesale customers.
- Chapter 6 discusses environmental, quality, performance monitoring and memoranda of understanding.
- Chapter 7 assesses the other potential licence issues relating to competition, the timing of the review and firefighting.

A summary of Sydney Water's responses to each of the 28 questions posed by IPART for stakeholder comments is included in the table below.

Water quality

1. **Should the operating licence obligations for drinking water be retained, given the presence of similar requirements under the Public Health Act 2010?**

The operating licence does not impose any substantial obligation over and above the requirements of the Australian Drinking Water Guidelines Framework. For this reason, Sydney Water has no preference for whether utilities such as it and Hunter Water be regulated under the Quality Assurance Program provision of the *Public Health Act 2010* or under a Drinking Water Quality Management System provision in an operating licence. See Section 2.1.

- 2. How should NSW Health's role in the review and endorsement of water quality management systems be articulated? Are there other viable options for approving water quality management systems in accordance with the Australian Drinking Water Guidelines and Australian Guidelines for Water Recycling?**

Sydney Water supports the articulation of requirements as they appear in our 2015-2020 Operating Licence. See Section 2.2.

- 3. How should the risk of potential inappropriate use of recycled water with industrial customers be managed? What action could/should Hunter Water take in the event that the end-use is considered inappropriate?**

Sydney Water supports the empowerment of the Recycled Water Quality Management System to address any potential inappropriate use of recycled water for both industrial and residential customers. We do not believe that a specific action relating to a water utility overseeing end-use should be included within the operating licence. See Section 2.3.

Water quantity

- 4. What are your views on adopting the Economic Level of Water Conservation (ELWC) approach in the new licence, and removing the water conservation target and Economic Level of Leakage requirements?**

Sydney Water supports the inclusion of an ELWC in Hunter Water's new operating licence as we believe it encourages a more holistic approach to water conservation measures. However, we suggest some minor wording changes to ensure the regulated utility and other stakeholders have a clear understanding of the role of the ELWC. We would also encourage IPART to allow sufficient time for Hunter Water to develop its ELWC. We would be pleased to assist Hunter Water in this regard. See Section 3.1.

- 5. If the ELWC approach is adopted, what are your views on the appropriate reporting requirements? Should Hunter Water continue to report on its water conservation performance?**

Sydney Water considers that this is a matter for Hunter Water to comment on.

- 6. What are the factors that we should consider, in the context of Hunter Water's operating environment, if/when adopting the ELWC approach?**

Sydney Water considers this is a matter for Hunter Water but would be happy to assist IPART and Hunter Water in any learnings we have made during the development of our ELWC in relation to factors to be considered. We note that Hunter Water has been involved in our ELWC interagency reference group.

- 7. Should the new operating licence require Hunter Water to continue to have a roles and responsibilities protocol with DPI Water, given that the development of the Lower Hunter Water Plan is complete? If so, what should be the scope of such a protocol?**

To ensure consistency with our 2015-2020 Operating Licence, and given that the Lower Hunter Water Plan will be subject to future reviews, it is prudent that Hunter Water's new operating licence continue to require a roles and responsibilities protocol with DPI Water. See Section 3.2.

Assets and infrastructure

8. Is ISO 55001 the most appropriate asset management standard or is there another standard that we should consider?

ISO 55001 is the international standard for asset management, specifying all elements necessary to manage assets to achieve service and product outcomes. In our view, this is the most appropriate standard for asset management.

9. Should the biennial 'State of the Assets reporting' continue in its current form or would it suffice for Hunter Water to provide IPART with asset information by providing copies of reports produced as part of the ISO 55001, or similar Asset Management System?

Sydney Water considers that the State of the Assets report could only be produced every four years for the pricing review if required and that IPART rely on assurance (ISO55001) and performance (service and expenditure) reports between pricing reviews. See Section 4.2.

10. What are your views on maintaining or changing the Water Pressure Standard, the Water Continuity Standard and the Wastewater Overflow Standard, given that Hunter Water has consistently and significantly performed better than the target thresholds?

We consider that the current system performance standards do not necessarily represent customer advocated service levels or reflect efficient life cycle costs of assets. However, simply tightening the current standards without exploring customer preference or efficient costs is unlikely to bring service benefits, but could limit cost efficiencies being implemented. We are of the view that the current standards in Hunter Water's operating licence should not be changed for the new licence, however recognise this is something that could be done in future reviews. See Section 4.3.

Customers and consumers

11. What are your concerns regarding the supply of non-potable water to residential customers, the conditions of supply, and the approved end-uses? How should these concerns be addressed - in the operating licence, the customer contract, or is there some other method?

Sydney Water considers that this is a matter for Hunter Water to comment on.

12. What changes, if necessary, are needed to the operating licence and/or customer contract to facilitate negotiation of non-standard contracts between Hunter Water and its customers?

Sydney Water considers that this is a matter for Hunter Water to comment on.

13. What changes, if necessary, are needed in the operating licence and/or customer contract to account for 'wholesale' customers and services?

Sydney Water's preliminary view on this complex matter is that we believe there are sufficient requirements in general competition law to ensure Sydney Water's and Hunter Water's dealings with wholesale customers comply with competition principles. We believe there is no need to duplicate these provisions nor include any potentially conflicting provisions in an operating licence. See Section 5.1.

- 14. Are the definitions of ‘customer’ and ‘consumer’ in the customer contract suitable for the current operating environment? If not, how can the definitions be amended to provide greater clarity?**

Sydney Water does not have any comment on this matter at this point in time.

- 15. Should Hunter Water be obliged to service anyone other than property owners? If so, who are these ‘customers’ and what are the appropriate obligations on Hunter Water to service them?**

In response to IPART’s questions regarding the obligation to service wholesale customers, we believe there are sufficient requirements in general competition law to ensure Sydney Water’s and Hunter Water’s dealings with wholesale customers comply with competition principles. Duplicating that in an operating licence is not optimal nor regulatory best practice. See Section 5.1.

- 16. What are the factors that we should consider, in the context of Hunter Water’s operating environment, when considering changes to the customer contract. The changes being considered (for consistency) reflect recent changes that were made to Sydney Water’s customer contract?**

Sydney Water considers that this is a matter for Hunter Water to comment on and does not have any comment on this at this point in time.

- 17. Would it be beneficial to amend the Hunter Water Act 1991 to eliminate the difficulties associated with varying the customer contract? If so, how could it be achieved cost-effectively?**

Sydney Water considers that this is a matter for Hunter Water. However, we would support flexibility regarding variations to the Customer Contract, noting that this would require changes to the legislation as well as the operating licence.

- 18. Is there merit in having more than one type of customer contract, to reflect the different customer groups, or is it more appropriate to allow for individual negotiations to establish specific contracts with specific customers, as is currently the case?**

Sydney Water considers that there is no need for more than one type of customer contract and that the individually negotiated contracts currently in place more appropriately address the needs of the individual specific customers such as WIC Act schemes. See Section 5.1.

Environment, Quality, Performance Monitoring and Memoranda of Understanding

- 19. What are your views on maintaining the Environmental Management and Quality Management System requirements in the operating licence?**

There is significant value in retaining these management system requirements in the operating licence. Management systems enable the embedding of good business practices that improve the services and products provided to customers. See Section 6.1.

- 20. Are there any performance indicators that are unnecessary or unduly costly to compile?**

Sydney Water does not consider that there are any performance indicators that are unnecessary or unduly costly for us to compile. We note it would be for Hunter Water to respond on the necessity/cost for its own business.

21. What are your views on including a requirement for Hunter Water to report against NWI performance indicators in the operating licence?

Sydney Water believes that there is a benefit in including a requirement for Hunter Water to report against NWI performance indicators in the operating licence. See Section 6.1.

22. What reporting obligations, if any, should be removed or revised to better align with the outputs of drinking water and recycled water quality management plans?

Sydney Water is of the view that an alternate approach of leveraging existing reporting under the Drinking Water Quality Management System may suffice. See Section 6.2.3.

23. How could the reporting of information (content and frequency) be improved to reduce the regulatory burden on Hunter Water but still sufficient to inform the customers and the public?

Sydney Water considers that this is a matter for Hunter Water to comment on.

24. What are your views on maintaining the current licence obligation to require a Memorandum of Understanding with NSW Health?

Sydney Water supports the role of the MoU and believes maintaining a licence obligation to require a MoU highlights the importance of preserving the relationship between the parties. See Section 6.3.

25. What alternative methods are there to include NSW Health in the auditing process for water quality, to ensure it is kept informed of issues that may affect public health in the Hunter region?

Sydney Water considers that this is a matter for Hunter Water to comment on.

Other potential licence issues

26. Are there any licence obligations that may hinder or enhance competition in the supply of water and sewerage services in Hunter Water's area of operations?

Sydney Water's preliminary view is that there are no potential issues in relation to competition in either ours or Hunter Water's operating licences. See Section 7.1.

27. Is there merit, in changing the timing of the operating licence review and the pricing review undertaken by IPART? If so, what should be the order of these reviews?

Sydney Water believes that while there may be merit in aligning the two reviews, any change to the timing of the operating licence and pricing review would need to ensure that there are no adverse financial or system performance impacts. The challenge of aligning the two reviews is that it is difficult for a business to assess the necessary funding requirements for the price review without being able to assess the impacts of any changes to performance standards that may arise from a review of the operating licence. See Section 7.2.

28. Is water availability from Hunter Water's network for fire-fighting an issue that needs to be addressed in the new operating licence? If so, is an MOU with the Rural Fire Service or FRNSW the best way to address this issue?

We would support a licence requirement for two separate MoUs with RFS and FRNSW on the basis that it would help formalise good working relationships with both parties. See Section 7.3.

2 Water quality

Sydney Water is generally supportive of the current conditions contained in the *Hunter Water Corporation Operating Licence 2012-2017* (the Hunter Water Operating Licence), and IPART's preliminary views for the new licence, in relation to water quality. The following comments on matters relating to water quality relate to our experiences on this matter.

2.1 Operating licence obligations

2.1.1 Managing drinking water quality under the Operating Licence

In the Issues Paper, IPART states that a gap exists in implementation of the Framework for Management of Drinking Water Quality, *Australian Drinking Water Guidelines* (ADWG Framework) under the operating licence as opposed to the *Public Health Act 2010*, and that such a gap is filled through the requirement for a drinking water quality management system (DWQMS). However, we believe that, in effect, a water utility would establish a DWQMS when it implements the ADWG Framework, regardless of the regulatory environment.

The operating licence does not impose any substantial obligation over and above the requirements of the ADWG Framework except explicitly requiring that the DWQMS's activities be carried out to the satisfaction of NSW Health. Again, this is an activity that is implicitly covered within the ADWG Framework. For this reason, Sydney Water has no preference for whether utilities such as it and Hunter Water be regulated under the Quality Assurance Program provision of the *Public Health Act 2010* or under a DWQMS provision in an operating licence.

2.1.2 Recycled water

The Issues Paper proposes that the *Protection of the Environment Operations Act 1997* requires an Environmental Protection Licence (EPL) for large treatment plants. This does not address recycled water quality and Sydney Water notes that discharges from wastewater systems, including recycled water and its quality, are subject to EPL requirements. However, the Recycled Water Quality Management System (RWQMS) obligation under the operating licence provides rigour in terms of the overarching management and fitness-for-purpose of recycled water, which is over and above what is usually required in EPLs. Therefore, we are of the view that there is reason to retain the RWQMS requirement in operating licences.

2.2 Role of NSW Health

2.2.1 Articulation of requirement

Section 4.3 of the Issues Paper notes that IPART is considering making changes to the Hunter Water operating licence to reflect the phrasing of the Sydney Water operating licence in clauses relating to water quality management obligations. Sydney Water supports the articulation of requirements as they appear in our 2015-2020 Operating Licence.

The Hunter Water and Sydney Water operating licences require the organisations to maintain a DWQMS which is consistent with the ADWG. Under the respective operating licences, the Hunter

Water DWQMS is maintained "as amended or added to in respect of Hunter Water by NSW Health", whereas the Sydney Water DWQMS is maintained "except to the extent that NSW Health specifies otherwise". We believe that the phrasing used in our 2015-2020 Operating Licence more accurately describes the situation in practice.

Both the Hunter Water and Sydney Water operating licences require the organisations to ensure the DWQMS activities are carried out. The Hunter Water operating licence requires this to be "including to the satisfaction of NSW Health", whereas our 2015-2020 Operating Licence requires this **in addition to**, i.e. "and the satisfaction of NSW Health". The phrasing used in our 2015-2020 Operating Licence more clearly conveys the intent of the requirement.

In addition to the above, Sydney Water would prefer that the requirement is articulated such that it allows for the application of other quality management frameworks, such as the ISO 22000 standard.

2.2.2 Management system approval mechanism

Sydney Water supports the option to maintain the role of NSW Health in the process of assessing changes to a Water Quality Management System. Sydney Water supports the role of NSW Health as being defined as 'endorsement' rather than 'approval', 'advisory', or 'support', as this term balances the need for regulatory oversight whilst maintaining NSW Health's preference to not be defined as an approval authority.

Both the operating licences and the Public Health Regulation 2012 require a utility to address the ADWG Framework. As noted in the Issues Paper, there is no relevant Australian Standard to which a DWQMS **should** comply (noting that the ADWG Framework is not a standard and no method exists to certify compliance to it, and noting that the 'Quality' method is a benchmarking method).

However, as highlighted above, if a water utility were to implement a standard such as ISO 22000, the system would inherently be subject to a widely accepted audit regime. If such a situation were allowed, Sydney Water would prefer that the role of NSW Health, as an endorser of the system, be maintained.

2.3 Recycled water use by industrial customers

Sydney Water supports the empowerment of the RWQMS to address any potential inappropriate use of recycled water for both industrial and residential customers. Under the AGWR Framework, according to:

- Element 8 - Community involvement and awareness
 - requirements for the effective involvement of recycled water end-users must be included in a supplier's RWQMS
 - a two-way communication program between the customer and supplier must be developed
 - information on the impacts of unauthorised use is provided to the customer by the water utility.
- Element 7 - Operator, contractor and end-user awareness and training

- end-users must be aware of the importance of end-user barriers and must be trained to appropriately manage them.

For consistency in IPART's approach to empower the DWQMS, rather than setting specific obligations already required under such a system, Sydney Water suggests that a specific action relating to a water utility overseeing end-use **should not** be included within the operating licence.

3 Water quantity

Sydney Water supports the current provision in the Hunter Water Operating Licence in relation to the roles and responsibilities protocol with the Metropolitan Water Directorate. We also support IPART's preliminary view regarding the introduction of an economic level of water conservation (ELWC). Our thoughts on these matters are outlined below.

3.1 An economic level of water conservation

IPART introduced the concept of Sydney Water developing an ELWC in our 2015-2020 Operating Licence. As far as Sydney Water is aware, there is no similar measure used in the water industry that compares different water conservation activities in an integrated way, accounting for whole of society costs and benefits.

Our 2015-2020 Operating Licence places a requirement on us to obtain IPART's approval for a methodology for determining our ELWC by 31 December 2016. Sydney Water is currently in the process of preparing this methodology with a view to meet this requirement. Following the approval of the methodology, we will then develop a water conservation program consistent with our ELWC by 1 September 2017.

As Sydney Water has yet to develop and test the ELWC methodology, or prepare a comprehensive water conservation program using the methodology, it is difficult for us to determine if it is an effective tool to be used by Hunter Water. However, in our operating licence review, we supported the intent and objective of replacing existing water conservation obligations with a new requirement for an ELWC. In that review, we were of the view that the proposed new measure would encourage us to take a more holistic and business-wide approach to assessing ongoing and new investment in water conservation measures (including water recycling, leak reduction and demand management). We believe an ELWC will provide better outcomes for customers compared with our previous obligations that focused on single elements of water conservation, and had a prescriptive focus.

Sydney Water is therefore supportive of the inclusion of an ELWC in Hunter Water's new operating licence as we believe it encourages a more holistic approach to water conservation measures.

However, as we are yet to finalise or test our methodology, we believe it may be appropriate for Hunter Water to commence developing its methodology following our preparation of a water conservation program that is consistent with the new methodology. This would allow us time to test the methodology and provide any learnings to Hunter Water to assist them in developing a robust methodology that suits their business and operating environment.

We would also recommend some changes to the wording from that included in our 2015-2020 Operating Licence. Following our consultation on the ELWC, we have noted the potential for confusion regarding the requirements in the Licence. For example, the current wording of the Licence requirement in clause 3.2.1 could be interpreted as meaning that Sydney Water must, at a minimum, **carry out** water leakage, water recycling and water efficiency programs as part of the ELWC. However, it is Sydney Water's understanding that the requirement is for the approved

methodology to, at a minimum, be able **to consider** these types of water conservation activities. Sydney Water would suggest the following wording changes to reflect this:

*By... approach to, and principles for, developing a methodology for determining its economic level of water conservation, **that must be able to consider including** (at a minimum) each of the following elements of water conservation:*

- *a) water leakage;*
- *b) water recycling; and*
- *c) water efficiency (including demand management).*

More generally, some stakeholders have provided feedback that recommends the ELWC should be considered from a whole of society perspective, not just for Sydney Water. This would mean that water conserved by third parties where Sydney Water has no involvement (financial or otherwise), would be included in a 'societal ELWC'. We agree with the intention in our Operating Licence that the ELWC only relates to water conservation projects carried out directly, or in part, by Sydney Water.

3.2 Roles and responsibilities protocol

Sydney Water is required to maintain and comply with an agreed roles and responsibilities protocol regarding the development and implementation of the Metropolitan Water Plan under its operating licence. The purpose of the Protocol is to facilitate a co-operative working relationship between Metropolitan Water Directorate (within the Department of Primary Industries – Water) and Sydney Water for the purpose of developing and implementing the Metropolitan Water Plan. The protocol will help to clarify the respective roles and responsibilities of DPI Water and Sydney Water.

Having a protocol in place allows for confidentiality of information, data and information sharing and dispute resolution. The protocol also ensures that we are engaged with DPI Water and other stakeholders in the metropolitan water planning space.

To ensure consistency with our 2015-2020 Operating Licence, and given that the Lower Hunter Water Plan will be subject to future reviews, we are of the view that it is prudent that Hunter Water's new operating licence continue to require a roles and responsibilities protocol with DPI Water.

4 Assets and infrastructure

Sydney Water generally supports IPART's preliminary views relating to assets, and infrastructure management and standards.

4.1 Appropriate asset management standards

ISO 55001 is the international standard for asset management, specifying all elements necessary to manage assets to achieve service and product outcomes. Certification to ISO 55001 and regular maturity assessments by a water utility can provide its regulator assurance that the utility has practices to effectively manage its assets. This can allow lighter regulatory surveillance to be applied. Without ISO certification regulatory assurance practices cannot be made more efficient for all regulated water utilities.

Sydney Water is of the view that ISO5501 is the most appropriate standard for asset management and supports Hunter Water seeking certification to this standard.

4.2 State of the Assets

The State of the Assets (SoA) report summarises the asset strategy, condition, performance, expenditures, and efficiencies for each asset class. This same information, but in much greater detail, is provided to IPART every four years as part of the pricing review. Assurance that the asset base is being maintained can be provided without needing to provide another report like the SoA. Sydney Water considers that the SoA report could only be produced every four years for the pricing review if required and that IPART rely on assurance (ISO55001) and performance (service and expenditure) reports between pricing reviews. However, we understand that it is more appropriate for Hunter Water and IPART to determine if its current SoA report meets necessary reporting requirements.

4.3 Maintenance of standards

Current system performance standards (SPSs) are nominal customer service standards, but are not necessarily based on either customers' actual service expectations or cost efficient practices. Current performance is the result of cost efficient practice, which is fortunately lower than the upper target threshold limit of the current SPSs.

In practice, SPSs become tighter each year as more assets are built, existing assets age and traffic congestion increases. Changing the SPSs without establishing customers' desired level of service, and realistically costing that service, provides no service or cost benefit. However, tightening target thresholds could perversely result in not being able to reduce costs further, only to stay within the arbitrary target thresholds.

From this, Sydney Water is of the view that it is not appropriate to change the current standards in the Hunter Water operating licence without further consideration of customer preferences and to ensure no perverse outcomes.

5 Customers and consumers

Sydney Water generally supports the position that there are few changes required with regards to the current Hunter Water customer contract. We believe it is for Hunter Water to determine if the current contract meets the needs of its customers. However, we note IPART's questions relating to a potential new class of 'wholesale customers'. As this is an area that has potential to affect both Hunter Water and Sydney Water we provide the below comments on this matter.

5.1 Wholesale services

5.1.1 General comments

Sydney Water considers that this a complex matter and as a result we have not formed a final position on the provision of wholesale services. We would also note that as the definition of 'wholesale customers' is still under review by IPART (as part of its first review of wholesale pricing), it is difficult to respond with certainty to the questions raised by IPART in its Issues Paper.

To assist IPART in its review of the Hunter Water operating licence we have outlined our preliminary views below. We would be pleased to continue to assist IPART and Hunter Water on this matter during the wholesale pricing review and review of Hunter Water's operating licence.

5.1.2 Obligation to serve wholesale customers

Both Sydney Water's and Hunter Water's operating licences include an obligation to ensure drinking water and wastewater services are available to any *Property* within the respective organisation's area of operation. This obligation is subject to certain terms determined by the utility to ensure the safe, reliable and financially viable supply of services. Therefore, this obligation relates to providing services on request for the owner of land.

As noted by IPART in its Issues Paper, third party providers such as WIC Act licensees, may not necessarily own the land in the area of operations they are servicing, although they will own water and/or wastewater infrastructure. Sydney Water's Customer Contract applies to customers who are the owners of the property that is connected to our infrastructure, and who are the end users of the services we provide. From this, Sydney Water has not previously considered WIC Act licensees to be our 'customers' under our operating licence and customer contract, as they are either not the owner of property or are not the end user of the service we provide.

Notwithstanding the fact that WIC Act licensees do not meet the traditional definition of customers, our past practice and future intention is that we will negotiate the provision of services to them. We believe that the *Competition and Consumer Act 2010* (Cth) sufficiently restrains Sydney Water and Hunter Water to ensure their dealings with wholesale customers comply with competition principles. We consider there is no need to duplicate these provisions nor include any potentially conflicting provisions in an operating licence.

5.1.3 Inclusion of 'wholesale customers' in the customer contract

Sydney Water takes a constructive approach when dealing with access-related issues on both a commercial and regulatory basis. Sydney Water and, we understand, Hunter Water engage with

competitors to provide access to their infrastructure. Commercially negotiated Utility Services Agreements (USAs) are in place between Sydney Water and a number of WIC Act licensees who on supply Sydney Water's services to their end use customers.

The USAs are commercially negotiated on a case-by-case basis with each WIC Act licensee and they therefore reflect the conditions and types of services required for each new WIC Act scheme. We understand that Hunter Water has in place similar USAs that are negotiated on a bespoke basis for each new scheme.

The terms of both Sydney Water and Hunter Water's customer contract are principally aimed at protecting residential consumers. We do not believe that the terms and conditions for a WIC Act licensee should be included in any customer contract because:

1. to date, WIC Act licensees are themselves (or within their parent organisation) large businesses which have the capacity and ability to negotiate commercially appropriate terms for the provision of services;
2. a standard form contract would not appropriately address the fact that each WIC Act scheme has its own individual requirements and terms for the provision of services which are tailored to that WIC Act scheme; and
3. residential customers may become confused by two sets of terms and conditions within the one customer contract and they may misunderstand their rights.

We therefore do not believe there is merit in including 'wholesale customers' in the operating licence or customer contract.

In addition to the above, Sydney Water considers that there is no need for more than one type of customer contract and that the individually negotiated contracts currently in place more appropriately address the needs of the individual WIC Act schemes.

6 Environment, Quality, Performance Monitoring and Memoranda of Understanding

Sydney Water generally supports IPART's preliminary views in relation to the Environment, Quality, Performance Monitoring and Memoranda of Understanding (MoU) sections of the operating licence. Our comments are set out below.

6.1 Maintaining the EMS and QMS

As Sydney Water transforms itself into a customer centric organisation, standardised management systems give us the tools to harmonise what we do so that we can provide a consistent customer experience. A Quality Management System (QMS) provides a framework that all other management systems can align to which will place the business in a strong position for future integration of its management systems.

Sydney Water supported the inclusion of a new QMS requirement and a continuation of an Environmental Management System (EMS) requirement in our 2015-2020 Operating Licence. This is currently in our licence and we have a project in place to deliver an enterprise wide QMS.

We are of the view that there is significant value in retaining these management system requirements in both ours and Hunter Water's operating licence. Management systems enable the embedding of good business practices that improve the services and products provided to customers.

6.1.1 Consistency with current standards

There is a risk of inconsistency in the required standards and reporting requirements between the IPART regulated public water utilities. It is recommended that IPART update all references to management system standards to allow flexibility for organisations to certify their systems to the most up-to-date version of the AS/NZS ISO standards. It is also recommended that IPART sets consistent reporting requirements for the public water utilities. Sydney Water suggests that clause 6.1.1 of the current Hunter Water Operating Licence be amended to refer to the most recent version of the AS/NZS ISO14001 standard which was released in 2015.

Also, Sydney Water suggests that the new Operating Licence Reporting Manual (current clause 6.2.2 of the Reporting Manual) require that Hunter Water report on 'non-conformances' rather than 'failures' of the EMS. The terminology of 'non-conformance' is used in the ISO14001 standard and is therefore easily defined. This would enable standardised reporting.

6.1.2 NWI performance indicators

Sydney Water believes that there is a benefit in including a requirement for Hunter Water to report against NWI performance indicators in the operating licence as it will provide consistency with Sydney Water's licence. However, the requirement could also be adequately addressed by placing it in the Operating Licence Reporting Manual.

6.1.3 Management system auditors

We understand that IPART prefers utilities to use systems auditors that have water industry experience, but note that this has not been formalised by IPART. It is recommended that IPART's position on this issue be clarified to ensure that appropriate auditors are engaged that satisfy IPART's requirements to avoid additional auditing requirements from the regulator.

6.2 Performance monitoring and reporting

6.2.1 Differences in Reporting Manual Indicators

It would be beneficial if there was consistency in the indicators reported by both Sydney Water and Hunter Water. Sydney Water currently has additional IPART indicators in our 2015-2020 Operating Licence Reporting Manual that are not contained in Hunter Water's Reporting Manual. Also, there are minor wording differences with some IPART indicators contained in both Reporting Manuals, for example the native vegetation indicators.

6.2.2 Removing or revising reporting obligations

In its Issues Paper, IPART states that the intent of water quality reporting is the underpinning factor in determining what is reported and the appropriate frequency. The Issues Paper suggests that the alternatives that could be used to clarify the intent of water quality reporting are either:

1. to inform the public and prevent risk to public health noting that, if this is the purpose, the frequency would be closer to real-time reporting
2. to report on performance noting that, for this purpose, the frequency would be closer to quarterly.

Sydney Water supports the interpretation that its new drinking water quality reporting is for the purpose of reporting on performance. The report's intent is to cover the processes which achieve drinking water quality in practice, rather than supporting a paradigm whereby the public's understanding of drinking water quality is solely based on laboratory analyses ('verification' monitoring). The frequency of reporting is largely unrelated to achieving this intent.

Sydney Water disagrees with the assertion that the intent of its new drinking water quality reporting is to prevent risk to public health. Section 22 of the *Public Health Act 2010* (which provides for the issuance of drinking water advisory notices) is the existing regulatory mechanism established to prevent risk to public health. This mechanism benefits from the application of penalty units or imprisonment for non-compliance. In cases where public health is at risk, we would note that the new Sydney Water report will instead refer its customers to the public advice under Section 22 of the *Public Health Act 2010*. IPART may wish to consider this for the Hunter Water operating licence review.

6.2.3 Improving reporting requirements

IPART requires the Hunter Water annual compliance and performance report to include an assessment of the performance of critical control points over the long-term in accordance with Chapter 10 of the Australian Drinking Water Guidelines or Element 11 of the *Australian Guidelines for Water Recycling*. Addressing this would involve once-off analyses which include substantial

quantities of SCADA data. However, an alternate approach of leveraging existing reporting under the DWQMS may suffice. For example, critical control point exception information is typically collated and maintained by a water utility. Reporting these exceptions fulfils the same purpose without the need for further analyses. This example has been implemented in Sydney Water regulatory reporting.

6.3 MoU with NSW Health

Sydney Water supports the role of the MoU. In the case of Sydney Water, its MoU with NSW Health has facilitated the development of an ongoing, constructive relationship. Maintaining a licence obligation to require an MoU highlights the importance of maintaining this relationship.

7 Other potential licence issues

7.1 Competition in the market

Sydney Water's preliminary view is that there are no potential issues in relation to competition in either our or Hunter Water's operating licences. We also consider that as this is a legal matter it is more appropriate for IPART and Hunter Water to consider this issue.

7.2 Synergies between the operating licence and IPART's price regulation

In our response to IPART's Issues Paper for the review of our prices, we noted that there is potential for the operating licence and Sydney Water's pricing framework to be more closely linked to provide added financial incentives to Sydney Water to pursue efficiencies that align with customer value. These types of regulatory incentives are commonly applied to cost efficiency and service performance in other industries in Australia and overseas.

However, any change to the timing of the operating licence and pricing review would need to ensure that there are no adverse financial or system performance impacts. The challenge of aligning the two reviews is that it is difficult for a business to assess the necessary funding requirements for the price review without being able to assess the impacts of any changes to performance standards that may arise from a review of the operating licence.

7.3 Water availability for firefighting

As part of the review of our operating licence, some parties suggested the need for new operating licence requirements specifying minimum pressure and flow for water supply to improve fire safety. As a minimum supply standard would be very expensive and did not guarantee improved fire safety, instead, the chosen approach was to establish a MoU between Sydney Water and Fire and Rescue NSW (FRNSW). Under the MoU, Sydney Water and FRNSW must collaborate to identify issues and work together on practical solutions to bring real improvements for fire safety. This approach also allows other stakeholders to be involved and contribute to fire safety measures, bringing greater safety improvement.

Sydney Water considers that a minimum supply standard is not an efficient means to improve fire safety. There are many factors, including development, building codes and response capability that determine fire safety and therefore protection needs. Different urban development and topographies also have different protection needs, so again a single standard will be inefficient.

We believe that the current licence requirement of the MoU and working group is sufficient. If a requirement is placed in the Hunter Water licence that is out of step with our licence, this will result in inefficient regulation.

We note that while we have an MoU requirement in our licence, it relates only to FRNSW and not the Rural Fire Service. We would support a licence requirement for two separate MoUs with RFS and FRNSW on the basis it would help formalise good working relationships with both parties.

