



Review of Operating Licence for SW Corporation  
IPART  
PO Box Q290  
QVB Post Office 1230

19 November 2004

Dear Sir/Madam,

**Re: Draft Operating Licence review response**

The Nature Conservation Council of NSW and the Inland Rivers Network (hereafter the conservation groups) thank you for the opportunity to comment on the Review of the Operating Licence for State Water Corporation (State Water). The conservation groups have long had an interest in the activities of State Water due to its important role in the day-to-day management of the State's rivers.

The 1994 water reform framework and the National Water Initiative (NWI) both direct the separation of operator and regulator in bulk water supply to avoid inefficiencies and the pursuit of conflicting and/or "unspecified objectives". The conservation groups consider the separation of State Water from DIPNR to be consistent with this directive in general terms.

However, the corporatisation of State Water presents both risks and opportunities for environmental management – opportunities, because corporatisation can lead to a better articulation of roles and responsibilities between operator and regulator and greater efficiency in carrying out important obligations, including environmental obligations; but also risks, because if the Operating Licence and regulatory framework are poorly designed State Water may be left only with incentives to sell and deliver increasing amounts of water for consumptive use without due regard for the environment.

The end result will largely be determined by the Operating Licence, and by the ability of DIPNR to be equally rigorous in its performance/regulation of Integrated Catchment Management and the extent that this will inform performance requirements for State Water. Accordingly, within the Operating Licence the conservation groups seek a situation where the

environmental and other objectives are appropriately set, specified, monitored, enforced and reviewed as part of the corporate model.

### **COMMENTS SPECIFIC TO THE ISSUES PAPER**

Below are the conservation groups' concerns and recommendations for the Operating Licence and they also address our concerns with the State Water. They have been discussed in the same numeric order as the issues paper.

#### ***SECTION 2 OVERVIEW OF STATE WATER – ITS OBJECTIVES, FUNCTIONS AND AREAS OF OPERATION***

IPART requested comments on:

- *whether the delegated functions outlined above (in section 2.2.1 of the issues paper) include all the appropriate functions that need to be delegated to State Water for it to effectively perform its role*
- *whether any of these functions should be exclusively conferred on State Water or confined in any way*
- *whether the Operating Licence should address how the exercise of these functions is to be co-ordinated between State Water and DIPNR.*

Within the Interim Operating Licence, State Water is given delegated shared responsibility with DIPNR for various functions relating to (1) administering the release of water and pursuing unpaid bills, (2) protecting water sources (via temporary water restrictions and other directives), and (3) protecting against fraudulent extraction of water. In addition, in its submission State Water proposes to carry out flow measurement, water usage measurement and reporting functions.

These delegations raise important accountability issues. In some instances, State Water's responsibility for day-to-day operations means it is well placed to carry out functions that have a regulatory aspect, such as temporary water restrictions, where time is of the essence. On the other hand, DIPNR, as the regulator responsible for administering water sharing plans, is the ultimate authority on water access. Having shared responsibility between DIPNR and State Water creates potential for both regulatory overlap and unintentional regulatory gaps where each actor believes the other is responsible.

With these considerations in mind, the conservation groups recommend that:

- Delegations should be specified with greater clarity than in the Interim Operating Licence (IOperating Licence). The IOperating Licence lists over 20 functions that may be shared between DIPNR and State Water, but fails to specify who is responsible in the first instance, whether delegations are non-exclusive, and whether/when initial responsibility may be transferred. Without clear delegations, the public and State Water's customers will not be able to hold either State Water or DIPNR accountable.

- Any functions related to environmental performance or environmental compliance should not be exclusively delegated to State Water. It is not appropriate for DIPNR, as one of the states natural resource management regulators, to surrender its compliance role entirely. For example, State Water may well be best placed to guard against fraudulent extractions in the first instance, but DIPNR must maintain the authority to take any necessary action to prevent water theft. Where functions, such as compliance functions, are shared, the Operating Licence should specify the circumstances in which State Water may exercise the function and the protocols for DIPNR supervising or taking over the function. State Water must also report the instances where compliance matters are forwarded to DIPNR and the action that DIPNR takes in resolving the issue.
- The Operating Licence should include a condition requiring State Water to have independent audits of meters and meter readings undertaken at regular periods. For example, every year two valleys should be subject to a random audit of 10% of meters and associated meter readings and any associated actions from the time of the last audit. In addition, the Operating Licence should require that all meters on regulated rivers be upgraded to downloadable electronic meters where a time and event based record can be kept of all actions. This condition will enable State Water to maximise delivery and water accounting efficiency, whilst ensuring that meters remain correctly calibrated and read.

The river gauges are a fundamental tool for determining both State Water's and DIPNR's performance in meeting the environmental flow and other flow rules contained within the water sharing plans. DIPNR currently owns and maintains these structures. From time to time these gauges can breakdown (if automatic) or be damaged in high flow events, and at these times data collection is impossible, thus making compliance with some of the rules impossible. State Water customers also rely on accurate gauge readings to determine their access to certain flow events. The conservation groups are aware that malfunctions occur and are unavoidable, but are concerned that repair of these structures can often take considerable periods of time during which compliance with rules cannot be determined in impacted river reaches. It is therefore recommended that the maintenance and calibration of the gauges be contracted to State Water and that standards for gauge repair be included within the Operating Licence eg. that all malfunctioning gauges be repaired within two days once access to the gauge is considered safe (if flooding is occurring). This standard could also be supported by a requirement for DIPNR or an independent body to audit the work completed by State Water to ensure that gauges are not being tampered with and that calibration is correct.

- The potential for broad delegations of functions related to public resources and environmental management underlines the need for meaningful performance indicators. For example, section 3.1.3 of the Operating Licence authorises State Water to exercise functions relating to the “rights to the control, use and flow of *all* water in rivers and lakes under section 392(1)(a)” (emphasis added). Although State Water’s actions are constrained by the water sharing plans, nevertheless it has broad responsibility for regulating river flows. With such a responsibility comes the need to monitor and report on performance in this area. More will be said about indicators and standards in section 5.

#### ***SECTION 4 THE ROLE OF THE OPERATING LICENCE***

The conservation groups view the Operating Licence as a key instrument for regulating the performance and guaranteeing the public accountability of State Water to its customers and the general public. The McClellan Inquiry into Sydney Water recommended that Operating Licences should clearly set out the obligations for public health, operating standards, customer service and environmental standards. The conservation groups believe that the same criteria apply to State Water and should be applied in this initial licence.

The Operating Licence can influence the behaviour of State Water in several ways relevant to environmental performance:

- It can impose environmental obligations directly.
- It can require reporting on State Water’s environmental performance and impact.
- It can provide incentives for State Water to lift its environmental performance above minimum regulatory standards.

The conservation groups see the Operating Licence as potentially including all three mechanisms; in other words, we agree with McClellan Inquiry’s robust vision of the Operating Licence. In its submission, however, State Water appears to have taken a narrow, minimalist approach to the Operating Licence, suggesting at one point that a “light-handed” regulatory framework is required and that IPART’s role should be restricted to high-level compliance and performance measures. Much of State Water’s view appears to be driven by a concern that it not be held accountable for outcomes beyond its control, and thus State Water recommends performance measures and indicators that are narrowly drawn to include only items that State Water can solely control.

While the conservation groups recognise that regulatory overlap and cost burdens should be minimised, and certainly have no desire to see State Water held accountable for what it cannot control, we disagree that these factors dictate a narrow view of the Operating Licence. The Operating Licence is the one document that can function as a clearinghouse for State Water’s

responsibilities, environmental and otherwise, and the reports and audits that flow from the Operating Licence can, if properly developed, present the public with an integrated view of State Water's performance *and* impact. It is vital that the Operating Licence include comprehensive environmental performance indicators and standards (discussed further below), particularly in the first few years of corporatisation as State Water and DIPNR develop their separate roles. Consider the following concerns the conservation groups have with a minimalist view of environmental reporting and performance within the Operating Licence:

- State Water's environmental impacts, both through its operations and the simple impact of the existence of its dams, weirs and associated infrastructure, are vast. While some of these impacts are largely beyond State Water's control or are the result of decisions past rather than present operations, e.g. kilometres of river impounded, nevertheless they are of significant public interest and concern. It is entirely appropriate for the Operating Licence to require State Water to report on such impacts, and such a requirement can surely be sensitively designed to avoid saddling State Water with impossible responsibilities such as eliminating the impacts of impoundments.
- There currently exist numerous and significant gaps in the regulatory framework that is being relied upon by State Water and DIPNR. For example, the state wide standards and targets, Catchment Action Plans, Implementation programs for Water Sharing Plans, works approvals and MOUs between the different organisations do not exist in final (or some even in draft) form. While the regulatory framework is incomplete it is even more important for the Operating Licence to be a tool for improving and understanding State Water's environmental performance.
- Even those aspects of the regulatory framework that are reasonably complete, namely the water sharing requirements, are scattered among various plans. Members of the public interested in State Water's overall regulatory performance should be able to consult the Operating Licence and associated reports and audits to find the information they need.
- The major regulatory bodies such as DIPNR, DEC and DPI have recently undergone major restructuring and downsizing as a result of recent government initiatives and the resulting confusion over roles and budget may result in the regulatory ball being dropped either by lack of staff/resources to manage the issue or late development of key regulatory documents and plans. This places more pressure on the Operating Licence to serve as an adequate instrument for ensuring that State Water's environmental performance is in line with its obligations.

- Following from this DIPNR is recommending that the Works Approval (to be issued by DIPNR) contain the majority of requirements for reporting on environmental performance in relation to water releases and meeting the water sharing plans. The approvals are valid for 20 years (as a major utility) and are subject to the mandatory conditions within the water sharing plans (which are not entirely relevant for works of this scale and nature) and any discretionary conditions placed on the approval by the Minister. The conservation groups concerns with this regulatory approach lie in two areas. Firstly, there is little scope for public participation in the approval process as the only mandatory requirement is to allow people to object to the approval being given in the first place. There is also no scope for regular review or public participation. DIPNR can amend the approval at any time it sees fit however, there is no requirement for public engagement in this process. Secondly, the only mechanism available to ensure compliance with the approval is to suspend or cancel the approval, which is obviously not an option. It is silly to think that if State Water does not meet its obligations to supply end of system flows in the Macquarie Valley that DIPNR will cancel their works approval for Burrendong Dam.

In light of the above the conservation groups the following items be included into the Operating Licence:

- The Operating Licence should include a requirement that State Water prepare and implement an environmental management system (EMS) for a) overall State Water management and operations and b) major assets (to be defined: possible definitions include storage capacity of over 1000ML or structures above a certain flood height such as a 1:10 year event which would significant impacts on fish passage). The primary goal of the EMS would be to have a working system that is subject to regular independent audit that contains the required flexibility.
- The Operating Licence should including a provision making the New South Wales Natural Resource Commission responsible for auditing State Water compliance with the Water Sharing Plans. DIPNR has to report annually on the Water Sharing Plans and so the NRC can use that data plus other information supplied by State Water to audit the performance of both agencies in delivering the environmental outcomes specified in the plans. If other agencies such as DPI or DEC require other information to be reported on this can be included in the MOUs.
- The Operating Licence should include comprehensive environmental performance indicators and standards (see below for detail). Some of these may simply require State Water to report its compliance with independent regulatory requirements, e.g. water sharing plan requirements, but should be included for public ease in accessing information.

- The Operating Licence should include a requirement that State Water commission an independent study into how incentives for State Water to improve its environmental performance can be built into the Operating Licence. The conservation groups would like to see State Water have incentives to outperform the regulatory minimums and be given recognition and reward for doing so. At the moment State Water's incentives are generally directed toward improving service to consumptive users, even to the point that by profiting from selling more water State Water has the perverse incentive to sell more water to make more money. The conservation groups believe that the Operating Licence must balance this by incorporating meaningful financial incentives to improve its environmental performance. The study should be focused on flexible incentives that do not prescribe how State Water achieves a higher standard of performance but simply provide a mechanism to support outcomes beyond the Operating Licence and regulatory minimum requirements.
- The Operating Licence should include a requirement that when State Water proposes a modification or upgrade to a dam or weir, that it undertake a full assessment of the environmental impacts of the dam or weir, with an alternatives analysis that includes the alternative of decommissioning. This would implement the recommendation on addressing existing dams contained in Chapter 8 of the Report of the World Commission on Dams (available at [www.dams.org](http://www.dams.org)).

#### ***SECTION 5 SYSTEM PERFORMANCE***

The conservation groups agree with IPART that performance indicators and performance standards have a vital role in ensuring that State Water complies with its statutory and regulatory mandates, maintains transparent operations and improves its environmental and business performance. Performance indicators and standards have an especially important role in relation to State Water's environmental performance. As a regulated entity State Water has direct and specific responsibilities to the environment; in addition State Water has responsibilities to the environment as a customer. Finally State Water has a general obligation to discharge its responsibilities in accordance with ESD principles and the objectives listed under sections 5(2)(b) & (c) and 6(1)(a)(iii) of the *State Water Corporation Act 2004*.

Performance standards and indicators are should assist State Water in meeting both its specific and its general ESD obligations. Where possible standards and indicators should not only set a bar for minimum environmental performance but also provide information to help State Water improve its performance above minimum environmental requirements.

In addition, performance standards and indicators increase State Water's accountability. Performance standards can ensure State Water discharges its obligations where it has substantial control over the environmental variable in question. Where State Water does not have direct or total control, but its operations or its infrastructure have impacts on the environment, performance indicators can illuminate State Water's ecological footprint and provide State Water with the information needed to improve environmental performance. For example, while State Water may not have comprehensive ability to control algal blooms in its impoundments (including weir pools) via its operations, the existence of those impoundments is a critical factor in the blooms and understanding those blooms necessary both for the purpose of improving ops and for assessing the environmental impact of SW infrastructure.

Finally, performance indicators and standards (and State Water's reporting) can make the Operating Licence an important forum for collecting integrated information on State Water's compliance with regulatory requirements and its environmental impacts. Although such information may be available elsewhere, e.g. in various WSP audits, collecting and reporting on it via the Operating Licence allows the public to track State Water's environmental performance w/o negotiating a maze scattered environmental compliance documents. Having a centralised information base on environmental performance is appropriate for a State owned corporation.

In accordance with the comments above, we strongly urge IPART to include all environmental performance indicators and standards in SKM's report and in the IPART issues paper on the Operating Licence.

In addition, we make recommendations for specific indicators and standards below:

- The Operating Licence should include the following additional standards:
  - All supplementary water rules should be met 100% of the time. This is because breach of the rules will result with the environmental share of the event being taken. The plans have very clear rules associated with supplementary water - which is off-allocation.
  - Standards for water quality for recreation should be identified in the storages with recreational users. While SW cannot solely control meeting those standards, they should be aimed for. If these indicators are not measured, no improvement can be made. Indicators could be based on ANZECC guidelines and include measurements for pesticides/herbicides, heavy metals, nutrients, fecal coliform and *E. coli* and blue green algae which directly impact on human health. This will allow State Water to perform its functions in relation to public liability



for water quality and also inform the public of catchment issues even though they may be partially outside State Water's sphere of influence.

- The following items provide commentary on indicators recommended for inclusion in the SKM report:
  - Volume of Operational Surplus (ML or GL) - This indicator should be supplemented with the number and volume of rain rejections – rain rejections are considered a poor practice in many valleys and should be phased out in the long term. Reporting will help SW focus on problem areas and valleys.
  - Percentage of water use that is metered – This indicator should include a requirement for regular independent audits of meters and meter readings (e.g. two valleys per year). This has two benefits - it identifies hotspots or areas where meters are inadequate or there are serious breaches, and it allows SW to improve performance (and revenue generation) through targeted action.
  - Volume of water taken illegally – This indicator should be supplemented with the amount of water taken that is not ordered by individuals, the action taken by State Water (it is a subset of illegal water taking) and the amount of water that goes missing in the system - whether that be through theft or increased losses due to a dry year.
  - Percentage of prosecutions - This needs to have a sub-indicator of the number of breaches etc reported to DIPNR and DIPNR's action to date. It also needs to indicate the number of attempted prosecutions and their reason for failure or termination.
  - Number of licences suspended – Detail should be provided on why the licence is suspended, whether because no water in the account or because of illegal use. This could again be expanded to include the number of accounts in debit and the number of days in debit, e.g. less than or greater than seven days. This may indicate whether it was an accident and efforts have been made to transfer water in, an administrative problem, or if it is a serious breach requiring further action.
  - Number of Approvals suspended – This is similar to the previous point and a similar indicator regime could be applied.
  - Temperature of water released - This should be compared with relevant upstream and tributary temperatures as these will impact decisions on multi-level off take releases, water quality within the dam, potential for algal blooms or other water quality related events. In

addition, this indicator should be supplemented with an indicator for kilometres of river affected by cold water pollution and compared to a 1 July 2004 (or as close as possible to this date) baseline.

- Fish kills in dams and weir pools and other State Water controlled areas. This could perhaps be enlarged to all regulated streams as per government definition and irrigation channels under their ESD and good corporate citizen responsibilities. If under contract to DIPNR for unregulated rivers then they could report this as well.
- These items provide commentary on auxiliary indicators recommended for inclusion in the SKM report:
  - Initial, conditional and end of season available water determinations – This indicator should be for both supplementary and bulk water determinations.
  - Total Water Supplied - This volume needs to be given in relation to the Long Term Extraction Limit for the relevant water sharing plan and also against the MDBC Cap, thus measuring SW compliance with the plan and Cap provisions and the relationship between the determinations and the meeting of these limits - i.e. is there a discrepancy that needs to be worked on. It is a DIPNR issue and DIPNR will report but it is nonetheless SW operations that lead to the breach or targets or rules and so they should report it.
  - Number of Water Orders and Bulk Water Customers - These two indicators are linked, and as State Water will deliver stock and domestic supplies in regulated river areas (which aren't metered) – these stock and domestic orders should also be accounted for. This accounting will aid DIPNR with the management of reasonable use of stock and domestic. This is important as there is little to no regulation of these users, and while most follow guidelines there is a need to know where hotspots of excess use are so that steps can be taken to control use.
  - Number of Dams and Weirs – This should be supplemented with indicators for kilometres of impounded river and kilometres of impoundments provided with fish passage, and should also indicate what structures have fish passage installed and which have been prioritised for action, what structures have been modified and when. The kilometres of fish passage indicator should also indicate whether the block is state or privately owned and the priority of this structure for modification. SW should report on private structures as there is no other reporting mechanisms and these structures can influence their operations.

- Finally, the conservation groups recommend development of auxiliary indicators relating to the following topics:
  - Organisational environmental performance – This indicator could include measures of how much greenhouse gas has been produced from offices and water storages etc, recycling initiatives, environmental management plan performance, in dams where SW has responsibility for foreshore lands - cattle access to dams (WQ issues) and riparian health. In these instances state water can influence the water quality within the storage even though it is only localised.
  - Sediment Loads flowing into storages – This indicator impacts on core business as sediment loads decrease dam/weir pool capacity and impact on SW operations. Sediment loads should be measured at several points up stream of the storage. There need be no standard but sediment loads are a good indicator of catchment health and will also impact on algal blooms within the dams and other water quality issues.
  - Environmental Harm – As a component of their general ESD obligations State Water should report all incidents of observed environmental harm to DIPNR or DEC and report all observed fish kills to DPI Fisheries. If the harm is considered to come from SW activities then this should be accompanied by a request for an adjustment of the implementation plans or operating rules that have caused the damage. The indicator would be harm reported in categories and then accompanied by action taken to date.
  - Environmental Risk - It is desirable that State Water have an environmental risk plan. This will allow State Water to assess the risk of its activities not only in terms of dam safety but also environmental impact and may allow for greater integration of environmental outcomes into State Water operations. This is relevant to its core requirements to perform within the bounds of ESD. If it is determined that the risk of a particular function or operation comes at high environmental risk then State Water may be required to approach one of the resource management agencies and seek advice on how to modify activities if possible.

#### COMPLIANCE WITH AND BREACH OF OPERATING LICENCE

The conservation groups are concerned that there are no specific incentives described in the issues paper for incentives for improved environmental performance, and conversely, no penalties for license breach. Developing an

appropriate mix of incentives and penalties will be an important factor in the long-term success of the Operating Licence.

As an example, if the Initial Operating Licence model is to be long term, there will need to be some incentive for the ongoing modification to infrastructure and water delivery mechanisms over time to improve system efficiency *and* return water to the environment. If transmission losses are ultimately undermining the viability of the system, then over time better ways of managing these will be required. For the above example, measurement and reporting of these losses would be required (also has a negative impact on pricing), and in the next instance, some incentives might be required to get alternatives considered and implemented.

The conservation groups have already recommended a study on incorporating incentives for improved environmental performance into the Operating Licence. Without prejudging the results of such a study, one way to provide these incentives would be allow return of some portion of dividends to State Water should it exceed environmental performance targets. Likewise, if State Water fails to meet key targets and essential criteria (and this is determined to be the fault of State Water through poor implementation of operational instructions) then funds would be withheld and made available to the NRC, DIPNR, DEC or DPI (depending on the nature of the failure) to carry out remedial works.

Where performance and operational failures are determined to be the result of inappropriate operational or other procedures then State Water is to be neither penalised nor rewarded and the corporation and the regulator must work together to solve the problem. If State Water is responsible for highlighting the failure of the regulatory framework to provide adequate control then there is again a case for providing an incentive of either greater budgetary reward.

This area of Operating Licence performance is critically important. If environmental or other performance standards are not reached and it is determined that there is a significant undervaluing of water sold (and this shortfall in budget is resulting in the Operating Licence not being met) then this process will feed into the price determinations and enable State Water to go about recouping necessary costs from users.

## **SECTION 6 ENVIRONMENTAL OBLIGATIONS**

Most of our concerns regarding State Waters' environmental obligations are dealt with in section 5. However there are a few issues that need to be addressed, particularly relating to the relationship between the MOUs, Works approvals and the Operating Licence. The Operating Licence will be complete and in operation before these other key regulatory documents are in place. As stated previously the conservation groups believe that there needs

to be some initial overlap in the regulatory functions and this includes the various MOU and Works approvals until these documents have had a chance to prove that they are capable of providing the regulation required and that the cosignatories are performing their duties at regulators.

Part of the initial overlap should be for State Water to provide copies of the reports provided to the other regulators so that IPART under its audit provisions can determine whether overlap exists and if it does, does it serve a relevant purpose such as providing information more clearly to the public.

The groups believe that it is not necessary to double up on provisions between these documents so long as the full reports are provided to IPART as part of the Audit process.

## **SECTION 8** COMMUNITY ENGAGEMENT OBLIGATIONS

The conservation groups believe that upfront, honest and open engagement with all stakeholders is required. There are strong provisions in State Water enabling legislation requiring engagement and consultation with customers, however engaging the broader community is not as strongly referenced in the issues paper. This is a significant gap. State Water operations impact on various sectors including recreational fishing groups, landcare and other care group activities and environmental organisations. These members of the community deserve the opportunity to input into State Water operations.

It is highly desirable that State Water actively seek the input of stakeholders but also the broader community within its areas of operation. Stakeholder committees such as the Community Consultative Committee (CCC) are often resource or time intensive and so alternative methods of consultation need to be considered such as newsletters, mailing lists, information lines which provide alternative modes of access. It may also be necessary to set up small or short-term processes to deal with specific issues such as infrastructure upgrades. The greater the public understanding of State Water operations the smoother various works and other operations will proceed, particularly if the involvement extends to having real influence over decision making processes.

The Community Consultative Committee (CCC) should have a broad membership including members of peak bodies such as NCC, NSW Aboriginal Lands Council, NSW Irrigators Council; relevant representatives from the MOU cosignatories; and a broader invitation for other groups to have representation on the committee if they feel that current membership will not represent their needs. The CCC should not only be provided with information regarding State Water operations and activities but also be able to influence decisions made by the board and senior executives.

Care and time should be taken in establishing the committee and for State Water to determine what they need the committee to discuss and provide direction on. It is strongly recommended that State Water seek advice from

specialists in the field of consultation and likely stakeholders to help direct investigations. Once the committee has been established time should again be spent on determining the protocols and terms of reference so that committee members are clear of their role and sphere of influence in this process. There should be a regular (once every two years) process of review for the committee where members have a chance to review their input and also potentially seek new nominations.

Regarding broader consultation, all State Water reports related to the MOUs, Works Approvals, Customer Service Obligations, Audit reports, pricing submissions etc should be publicly available and where possible the community should have the opportunity to input through submissions, focus group meetings etc. All these reports and documents should be available in hard copy and also on the Internet.

#### **SECTION 9 PROVISIONS IN RELATION TO AUDITING THE OPERATING LICENCE**

The conservation groups believe the best approach to regulation for State Water is a mixture of fixed audits that will reveal the exact nature of operations and the performance associated with key elements of the Operating Licence and risk management to be incorporated into later Operating Licence as State Water activities and performance results become better known. It is considered inappropriate to have risk management approaches as a primary regulatory approach while there is such a high degree of regulatory uncertainty. However, as the situation clears a risk based approach may become appropriate. The conservation groups would consider this a decision to be undertaken by IPART, State Water and the CCC.

Initially, the conservation groups perceive that the audit would be targeted across all areas of the Operating Licence to determine where the strengths and weaknesses in State Water operations lie, highlighting areas of regulatory overlap or gaps in regulation which would then provide future focus to the audit process.

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The conservation groups thank IPART for the opportunity to provide comments on the State Water Operating Licence. If you have questions regarding this submission, please call Rachael Young, Water Policy Officer for NCC, at 02 9279, or Brendan Fletcher, IRN Coordinator, at 02 9212 5112.

Sincerely,

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