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NSW IRRIGATORS' COUNCIL

RESPONSE TO THE

IPART ISSUES PAPER

ON

STATE WATER'S

OPERATING LICENCE

November 2004

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**STATE WATER OPERATING LICENCE
ISSUES PAPER
NSW IRRIGATORS' COUNCIL RESPONSE**

EXECUTIVE SUMMARY

NSW Irrigators' Council supports the corporatisation of State Water and, the introduction of an Operating Licence that clearly lays out the operational obligations that State Water must meet in the conduct of its bulk water delivery business.

It is critical for industry confidence that State Water is prevented from abusing its monopoly power in the bulk water delivery business. The Operating Licence will be one important feature in the regulatory framework that directs the business operations of State Water.

It is essential that the Operating Licence delineates between operational and regulatory functions, so that State Water is able to undertake its commercial water delivery activities in a manner that is efficient, effective and commercially viable.

Regulatory functions must remain the responsibility of the Department of Infrastructure, Planning and Natural Resources (DIPNR) or other government departments where appropriate.

The Operating Licence must align with the objectives, roles and functions for State Water as spelt out in the *State Water Corporations Act 2004* (SWCA). The Operating Licence must not be used to establish new regulations, that is the role of the Parliament.

It can not be highlighted strongly enough that State Water is now a business entity with a clear and unambiguous commercial focus and must be allowed to conduct all aspects of its business operations without interference from other Government departments or agencies unless their requirements are clearly defined, described and accountable.

Important issues such as State Water's obligations to environmental management, customer service and community obligations must be articulated in the Operating Licence.

NSWIC supports the introduction of objective, measurable performance standards and performance indicators that clearly and unambiguously demonstrate State Water's management of its asset-base and associated water delivery, monitoring and service delivery systems.

Above all, there must an auditing and reporting regime introduced that provides stakeholders, shareholders and communities with confidence that State Water is operating its business in a manner consistent with its objectives, roles and functions as spelt out in the SWCA and is meets all of its legislated regulatory requirements.

NEW SOUTH WALES IRRIGATORS' COUNCIL

NSW Irrigators' Council (NSWIC) represents more than 10,000 irrigation farmers across NSW. Its members include valley water user associations, food and fibre groups, irrigation corporations and commodity groups from the rice, cotton, dairy and horticultural industries.

[Attachment 1](#) records the membership details of the NSW Irrigators' Council.

In responding to the issues raised in the IPART Discussion Paper, NSWIC is representing the views of its members. However, each member reserves the right to make independent submissions on issues that directly relate to their areas of operation or expertise.

SUPPORT FOR CORPORATISATION

When responding to the State Water Corporatisation Discussion Paper, NSWIC stated:

“NSW Irrigators' Council supports the NSW Government's decision to corporatise State Water as a State Owned Corporation (SOC) and endorses the key objective of the corporatisation of State Water: to separate the Government's commercial water delivery functions from its policy and regulatory functions.

Council fully supports the establishment of corporate governance and management functions that will ensure State Water's activities are subject to a transparent and accountable governance regime.

The establishment of an independent Board of Directors is paramount to the future success of State Water as a State Owned Corporation. As NSWIC members have been instrumental in the successful operation of the Private Irrigation Corporations since they were privatised some years ago, it is Council's view that State Water would benefit from expertise of this nature being represented on its Board of Directors.

The Independent Pricing and Regulatory Tribunal (IPART) must continue to regulate bulk water prices. All previous IPART bulk water determinations must be preserved, in full. Council also supports the Consumer Price Indexation adjustment to bulk water charges being applied from 1 July, 2004.

Consultative arrangements must be established to bring industry's perspective on river operations and bulk water delivery to the benefit of State Water's executive and regional management decision making processes.

State Water's accountability to its shareholders, stakeholders and the regional communities it serves must be supported by timely publication of a wide range of indicators and reports that demonstrate its performance against its corporate ideals and objectives and, importantly, its stakeholders expectations.

The NSW irrigation industry must have confidence that State Water is focused on cost efficient delivery of bulk water, utilising the application of best practice corporate governance and management processes and principles. State Water must have a clear business objective of delivering bulk water efficiently and cost effectively. There must be no transfer of new debt by the Government to State Water. This would be viewed as a new tax on industry, at a time when NSW irrigators are still recovering from the impact of drought and historically low allocation levels.¹

State Water must be committed to being a global leader in the delivery of bulk water and the management, maintenance and operation of its asset base.

Corporatisation of State Water as a stand-alone State Owned Corporation is a positive start by Government to meeting industry's expectations.”

Clearly, many of the issues raised by NSWIC in its response to the Corporatisation Discussion Paper will be best addressed through the development of the State Water Operating Licence, or, through the review of Bulk Water Prices, also being undertaken by IPART.

TERMS OF REFERENCE

Council supports the scope of the Terms of Reference and notes that the direction to consult with “*other interested persons and the general public*” will allow stakeholders ample opportunity to present argument in support of industry's preferred options.

INTERIM OPERATING LICENCE

NSWIC supported the introduction and Purpose of the Interim Operating Licence for the term of one year, or until the granting of an Initial Licence under Section 11 of the Act.

NSWIC viewed this approach as an appropriate strategy to enable the corporatisation of State Water to take effect on 1 July 2004. It was deemed by Council as an appropriate course of action, as it did not disadvantage any individual entitlement holder and enabled State Water to commence business activities as a corporatised entity on 1 July, 2004 the commencement of both the water and financial years.

¹ As at November 2004, drought conditions continue to impact on the level of allocations for irrigators across the State.

TIMETABLE FOR THE REVIEW PROCESS

Timing

NSWIC is concerned at the tight timetable for the conduct of this review process, in particular, the short period of time for consideration of issues that will be raised in the State Water submission and the closing time for receipt of public submissions.

Indecent haste and a lack of meaningful consultation on the part of the Minister and all Government departments involved in this process, has been one of the major criticisms that Council has expressed of the corporatisation process. It is disappointing to note that IPART has now continued this trend with its tight timeframe for the conduct of this review.

Public Workshops

NSWIC supports the conduct of public hearings into the issues raised in the IPART Issues Paper, State Water's response and the expected responses from various stakeholders and interested parties.

For equity reasons and, to facilitate wider industry involvement, NSWIC recommends that at least three hearings be held in regional NSW and nominates Griffith, Moree and Deniliquin as the most appropriate centres for these hearings.

Draft final report for discussion

The Issues Paper is silent on the intention of IPART to circulate for comment, or to otherwise seek stakeholder comment on its final draft of the Operating Licence.

NSWIC recommends that IPART circulate a draft of its final Operating Licence Report to key stakeholders for comment prior to the finalisation of its report to the Minister for Energy, Utilities and Sustainability.

STATE WATER'S RESPONSE TO THE IPART ISSUES PAPER

NSWIC has reviewed the State Water submission in response to the IPART Operating Licence Issues Paper and other related issues and commends State Water for the depth and clarity of its submission.

Both the State Water response and the IPART Issues Paper have identified the complexity of the issues to be addressed, in particular the need to ensure clear delineation between regulatory and operational responsibilities and, accountability and audit requirements.

OBJECTIVES, FUNCTIONS AND AREAS OF OPERATION

The Operating Licence implemented for State Water must unambiguously focus on the objectives and functions for State Water as articulated in the *State Water Corporation Act 2004*.

The Operating Licence must recognise that State Water is to operate as a commercial entity and that a core customer base, NSW irrigators', own and operate significant commercial business operations that are dependent on State Water's performance in the conduct of its water delivery operations.

State Water's principle objective is to:

“capture, store and release water in an efficient, safe and financially responsible manner.”

Other objectives spelt out in the *Act* which must also be clearly supported by the Operating Licence are:

- to be a successful business and to that end:
 - to operate at least as efficiently as any comparable business; and
 - to maximise the net worth of the State's investment in the Corporation.
- to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates;
- where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*, and
- to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.

NSWIC supports the position that State Water's role is primarily operational and commercial in nature. Regulatory and policy functions are now, by virtue of the separation achieved through corporatisation, the exclusive province of DIPNR. Similarly, DIPNR has no role and must have no role in the day-to-day operations of State Water.

NSWIC supports the articulation of this point in the State Water submission as follows:

“As the natural resource regulator, DIPNR should only be accountable for regulatory functions (policy, strategy, planning), determining the balance between water resource use and conservation. If DIPNR is accountable for flow measurement and State Water's performance is compromised through poor flow measurement, State Water cannot be held accountable for non-compliance or poor performance.

State Water's operational effectiveness and its performance in delivering water are measured by target flows and volumes. Therefore, State Water must be empowered to undertake flow measurement for river operations, if it is to be accountable and auditable for this business critical function. Water usage measurement and reporting are functions that State Water carries out effectively and efficiently.

Equally importantly, State Water must not be empowered with any regulatory powers, in accordance with the separation principles. State Water must be enabled however to enforce compliance with its operational requirements for water ordering, extraction, metering, transfers, payments and site safety.”

The objectives, functions, operations, and performance indicators would benefit from the inclusion of a greater provision for a development role for State Water. This particularly relates to the environmental, asset management and water distribution aspects of its operations.

The cost/benefit incentives would create the imperative for State Water's business activities to focus on innovative water efficiency improvements. This will be enhanced if State Water is able to fund efficiency programs from the sale of water savings attained as a direct result of its water efficiency investment decisions.

It can not be highlighted strongly enough that State Water is now a business entity with a clear and unambiguous commercial focus and must be allowed to conduct all aspects of its business operations without interference from other Government departments or agencies that are not clearly defined, described and accountable.

All Government agencies must commit to supporting State Water's objectives, functions and areas of operation, to maximise the State's investment in this water distribution business.

There must be recognition, by all government departments and agencies, that State Water is a commercially focused business entity and, as such, is can not be saddled with the burden of delivering unnecessary regulatory outcomes, or be the vehicle to deliver unfunded community service obligations, merely because of its status as a State Owned Corporation.

REGULATORY FRAMEWORK

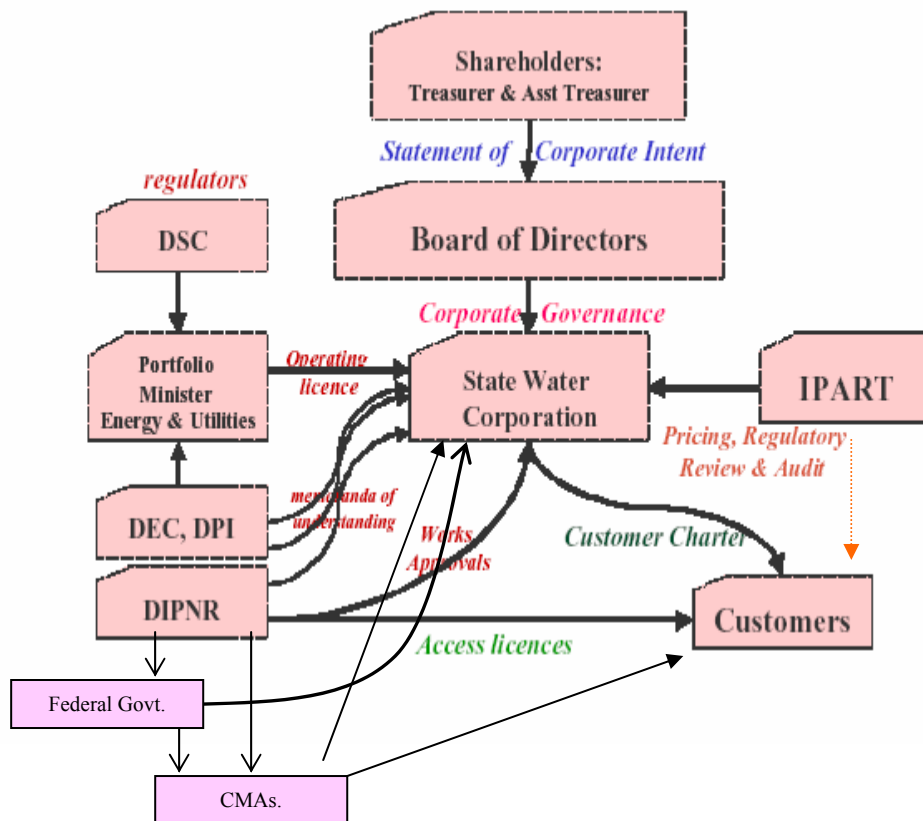
One of the key drivers of the corporatisation process is the State's compliance with National Competition Policy (NCP). The NCP dictates that the regulation aspects of the delivery of bulk water be separated from the service delivery component, this was the catalyst for the corporatisation of State Water.

NSWIC agrees, that as a wholly owned Government business entity, it is appropriate that State Water be subject to regulation to ensure that it does not misuse its monopoly market position and, to ensure that it complies with the legislative requirements associated with its areas of operations.

State Water is subject to the regulatory regime outlined in the *State Water Corporations Act 2004*, the *Water Management Act 2000* and the *Water Act 1912*, the latter two will be the responsibility of DIPNR to regulate.

State Water is also subject to the scope of other State legislation and various agreements and Memoranda of understanding that will be entered into with other Government Departments such as Treasury, the Department of Energy, Utilities and Sustainability, the Department of Primary Industries and the Department of Environment and Conservation. There may also be instances where State Water's operations are impacted by the introduction of Federal Government policies and program initiatives. Figure 1 depicts how NSWIC views these relationships.

Figure 1



The evolution of roles and responsibilities between DIPNR, CMA.s, and State Water will also be crucial to achieve maximum efficiency of river and water management. Recognising the complexity of the regulatory framework surrounding the corporatisation of State Water, it would be appropriate to exercise care in setting regulations in stone too early. This implies the need for flexibility and ‘adaptive management’ approaches to ensure that the interests of the State and stakeholders are both protected and maximised.

With no competition to its bulk water business operations, NSWIC agrees and recommends that it remains appropriate that State Water's pricing structures be subject to continued scrutiny by IPART as directed by Pricing Orders under the *Independents Pricing and Regulatory Tribunal Act 1992*.

Auditing of the Operating Licence

The Operating Licence must be a dynamic, living document that is subject to regular review and renewal as the operating environment for State Water evolves. Mechanisms must be introduced that provide opportunity to fine-tune the Operating Licence to reflect changing best practice standards and industry and community expectations.

NSWIC supports IPART's role in developing and undertaking regular auditing of State Water's Operating Licence. NSWIC suggests that the initial Operating Licence be granted for a period of 5 years with a short review of its performance 2 years after its introduction. It is envisaged that the Operating Licence will be an ongoing instrument that is constantly refreshed, rather than one with an expiry date that then presages a completely new instrument being negotiated and introduced.

DIPNR's decision making processes, with respect to enforcing State Water's compliance with its regulatory obligations, must be seen to be and, be demonstrated to be, in accordance with the various Acts of Parliament that apply to State Water's operations.

DIPNR's management of the compliance regime and the regulatory processes imposed on State Water must:

- recognise that State Water is a commercial business entity with service delivery obligations to its customers;
- provide confidence to all customers and stakeholders;
- be timely and transparent;
- provide an appropriate and independent appeals process;
- be accountable to both the Parliament and stakeholders; and
- deliver findings within defined timeframes that recognises the commercial nature of State Water's operations and the business operations of State Water's customer base.

All other regulatory obligations imposed on State Water must be clearly articulated and demonstrate the direct relationship to State Water's operations. Some issues, such as the deliberations of the Dam Safety Committee, relate directly to State Water's business operations and asset management, while others such as the activities of the Catchment Management Authorities may be more nebulous in their relevance to State Water as they have a wider resource management application.

All regulatory regimes must be:

- transparent;
- accountable;
- subject to public scrutiny;
- regularly audited and benchmarked;
- subject to regular review and revision to ensure continued relevance;
- contain a compliance regime that severely and quickly penalises State Water for any transgression of the regulatory framework imposed; and
- contain an appropriate appeals mechanism.

When considering the scope of the regulatory controls to be imposed on State Water, the attraction to use State Water as a vehicle to implement or deliver wider regulation or reform agendas must be resisted.

At all times, the focus must remain on State Water as a business entity with clear commercial objectives. If Government departments, agencies or authorities view State Water as a means of achieving their policy objectives, then State Water must be able to apply full commercial charges for meeting all obligations imposed on it.

Alternatively, the State Government must mandate that the services requested of State Water constitute a community service obligation that are paid for, in full, by the Government.

One of the major criticisms levelled at governments by small business is the regulation, red tape and bureaucratic work load. There must be a concerted effort to ensure that State Water is not bogged down with needless bureaucracy and red tape and that it is not subject to regulation overload by departments, agencies and authorities seeking to transfer compliance obligations to State Water as a form of cost shifting. This can be achieved with the establishment of consultative communication arrangements and inter-governmental co-ordination for and assessing the impacts of proposed changes to, or, the introduction of new regulations.

One of NSWIC's major concerns is to ensure that NSW irrigators are not saddled with a disproportionate share of State Water's regulatory cost burden. To maximise State Water's business efficiency, complying with its regulatory obligations must, wherever possible, be integrated into the day-to-day management practices established by State Water.

Regulation Impact Statements

If new programs or policy initiatives are established by the NSW Government, or, entered into with other governments or multi-government agencies, then the cost of compliance must be factored into the overall program costs.

To avoid regulatory overlap and to minimise the proliferation of expensive regulatory processes, NSWIC recommends that it be a requirement of the department, agency or authority seeking to impose a new or enhanced compliance regime on State Water to demonstrate that the outcomes sought can not be achieved through existing compliance mechanisms.

In every instance where it is proposed that State Water be subject to the imposition of a new regulatory regime, a Regulation Impact Statement must be prepared that demonstrates, to stakeholders, the underlying basis for the proposed regulatory obligation, the cost of compliance and any alternative options for demonstrating compliance with the regulation proposed.

To prevent the proliferation of regulations and delegated authorities, NSWIC recommends that sunset clauses be introduced for all regulations, to ensure that all regulations and authorities are regularly reviewed and justified.

THE ROLE OF THE OPERATING LICENCE

NSWIC supports the role of the Operating Licence to: “help ensure that State Water operates its business in a way that is consistent with the objectives set out for it in the *Act*, and to prevent it from abusing its monopoly power.”²

In establishing the scope of the Operating Licence, the primary focus must be maintained on State Water’s core business of providing services to about 6,200 customers who purchase water sourced from regulated rivers. These services include providing water allocations from dams, billing and metering with respect to regulated systems and for providing billing and metering services to DIPNR for around 15,000 groundwater and unregulated river customers.

At all times there must be a focus on international best practice, industry leadership and benchmarking against comparable public and private sector entities operating in ‘like’ businesses.

NSWIC supports the introduction of self-regulation and voluntary codes of practice to enable State Water the flexibility to introduce compliance regimes that are innovative, cost effective and timely. A self-regulatory approach should be complemented by periodic auditing and review processes.

Balancing this voluntary approach must be a strong and effective accountability, auditing and penalty regime that encourages State Water’s commitment to and innovation in meeting its compliance obligations.

As the Operating Licence is one of the regulatory instruments that provide the framework for State Water’s operations, NSWIC agrees that it must:

- clearly articulate the terms and conditions under which State Water must operate;
- enhance State Water’s accountability to its shareholders, stakeholders and customers;
- include measurable performance and quality standards; and
- provide for timely auditing and public reporting of State Water’s performance across all areas of its operations.

As discussed on in Regulatory Frameworks section of this response, NSWIC believes that the issue of regulatory overlap can be largely minimised through the introduction of [Regulatory Impact Statements](#). This will force a discipline on all proponents of new regulation to identify areas of regulatory overlap and justify the necessity for any new or enhanced regulatory imposts.

To ensure that all regulations imposed on State Water remain relevant to State Water’s operations, it is further proposed that a sunset clause be imposed on all regulations of 5 years.

² *Review of the Operating Licence for State Water Corporation*, Issues Paper, IPART, September 2004.

Figure 2 depicts NSWIC understanding of the interaction between Regulators, State Water and Auditors and Reviewers.

Figure 2

Regulators		State Water	Auditors & Reviewers
DIPNR DEC, DPI	WMA 2000 EP&AA, FMA	Water Delivery Operations	DIPNR on behalf of all Agencies
Dam Safety Committee	Dam Safety Act 1978	Dam Safety	IPART on behalf of portfolio Minister
Govt Asset Management Committee (GAMC)	GAM Policy	Asset Management	IPART on behalf of portfolio Minister
IPART	IPART Act 1992	Water Charges	Parliament
Portfolio Minister	SWCA 2004	Customer Service	IPART on behalf of portfolio Minister
Portfolio Minister & Shareholders	SWCA 2004 PA&FA	Business Operations	NSW Audit Office & Parliament

The overall responsibility for ensuring that State Water operates its business in a manner that is consistent with its regulated obligations rests with its independent Board of Directors. State Water is governed by a Board of Directors selected on the basis of skills and knowledge.

The Board is responsible for strategic direction and risk management through the application of rigorous corporate governance procedures and protocols. The Board will direct, monitor and regulate the organisation's performance to meet Shareholders' expectations and to meet the Portfolio Minister's requirements respectively. These Ministers represent the interests of the Government as the owner of the business, as well as the customers and community that use water or impact on water.

SYSTEM PERFORMANCE

NSWIC supports the introduction of objective, measurable performance standards and performance indicators that clearly and unambiguously demonstrate State Water's management of its asset-base and associated water delivery, monitoring and service delivery systems.

In every instance, performance standards and indicators must relate to State Water's objectives and functions as outlined in the *Act* and be cost effective to implement and administer.

NSWIC seeks the establishment of benchmarks that are publicly reported and can be:

- analysed to provide a meaningful comparison of State Water's service standards;
- compared with previous periods; and
- benchmarked against other 'like' business entities both in Australia and globally and in both the public and private sector.

IPART is encouraged to establish foundation standards, as at 1 July 2004, which will form the basis for future benchmarking of State Water's business performance.

NSWIC suggests that the following issues must be regularly and publicly reported by State Water:

- compliance with its works approval and other regulatory obligations;
- asset management by:
 - asset type;
 - region;
 - downtime; and
 - refurbishment and maintenance performance.
- Water delivery performance by:
 - region;
 - licence category;
 - water product;
 - accuracy; and
 - timeliness of reporting:
 - State Water must be required to publish indicators for daily reporting of dam conditions, including inflows, outflows, storage levels.
- System losses
 - State Water must be required to publish indicators for all system losses and measures introduced to minimise these losses.
- staff management
- financial performance
 - budget performance;
 - revenue and expenditure analysis;
 - billing accuracy; and
 - bad debts.
- efficiency improvements in all areas of the business operations
 - State Water must be required to report on the introduction and performance of water delivery efficiency programs.

- customer satisfaction
 - accuracy of water accounts;
 - complaints;
 - complaints resolution; and
 - benchmarking.
- Information services and communications systems
 - reports must analyse State Waters performance in the timely announcement of water allocations, supplementary water allocations and other business critical information.
- environmental outcomes;
 - environmental indicators must be integrated with storage and delivery service to other customers.
- compliance with delegated authorities and Memoranda of Understanding;
- Water Sharing Plans (WSP):
 - performance against all individual WSPs objectives;
- community satisfaction.

Investment in Water Efficiency

State Water must have a clear and unambiguous objective to identify and invest in water efficiency projects, both in the systems under its direct control and influence and, if appropriate, on-farm or in other environments that can deliver water efficiencies and savings.

If providing State Water with an ability to accrue water savings, such as being able to own water entitlements in its own right, provides the appropriate incentive for innovative and extraordinary investments in water efficiency projects, then consideration must be given to allowing State Water to own entitlements in its own right.

There may well be potential for conflicts of interest to arise between management and investment decisions that should be made in the normal course of State Water's business activities, with savings returned to the system for distribution to entitlement holders, both extractive and environmental and those investments that may have a 'special' purpose focus.

Issues such as:

- how projects are funded and accounted for;
- who owns the saving;
- are the savings real, sustainable and annually quantifiable;
- do the savings in any way erode existing or future property rights of entitlement holders, including the environment;
- future rates of return on assets created

are complex and need to be further discussed. Also the impact on water trade and broader asset values must also be considered.

NSWIC believes that projects that may give rise to State Water accruing entitlements in its own right must not be funded by the application of either fixed or variable charges. To provide State Water, at both the Board and Executive level, with the appropriate discipline to apply high level business analysis and investment decision making criteria to these investments, special purpose loan facilities should be established that can only be serviced through the management of 'realised' water savings.

Such a discipline would ensure that the risk for investment in poorly researched projects would rest with State Water's shareholders, with a clear line of accountability to both the Executive and Board of State Water for projects that fail to meet investment outcomes.

Safeguards are required to ensure that State Water's bulk water customers are not left to bear the cost of failed or poorly performing water saving investments.

ENVIRONMENTAL OBLIGATIONS

State Water is currently required to conduct its operations in compliance with the *Water Management Act* and the *State Water Management Outcomes Plans* and *Water Sharing Plans*.

In addition, State Water is also required to enter into and abide by Memoranda of Understanding with the Department of Environment and Conservation, NSW Fisheries and DIPNR. State Water is also required to prepare an Environmental Management Plan (EMP) to encapsulate its environmental obligations.

NSWIC supports the introduction of the EMP as the most appropriate process to clearly articulate State Water's environmental obligations and partnerships. The EMP must be a public document, developed in consultation with stakeholders groups and, be dynamic and adaptive, to enable and encourage constant review and revision.

The EMP must be transparent, identify each of State Water's environmental obligations and outline the strategies to comply with these environmental targets. Measurement, monitoring and auditing processes must also be clearly spelt out for clarity and accountability.

Appropriate indicators must be developed to clearly monitor State Water's performance against the specific objectives of its EMP.

Importantly, there must also be an appropriate sanctions process to ensure that agreed environmental standards are maintained and outcomes achieved.

The EMP and the wider environmental standards must also encourage State Water to report on environmental benefits and impacts on its operations that are related to influences outside its control. This is critical to ensure that State Water and its customers are not held responsible for, or charged with meeting the cost of, environmental impacts beyond the operational control of State Water.

Issues that fit into this category include, but are not limited to:

- the impact of dryland salinity;
- third party impacts on river health; and
- catchment pollution that creates water quality issues within State Waters storages.

This principle applies equally to policy and strategic development costs which are the Water Resource Management responsibilities of DIPNR and other agencies and authorities.

State Water's environmental obligations must be clearly defined by the relevant regulatory department, agency or authority, by reference to existing legislation or regulations. State Water's Operating Licence and EMP must not be used as vehicles to introduce new, or amend existing obligations. For full accountability and transparency, this authority must continue to be exercised and reviewed by the NSW Parliament.

As outlined in the IPART Issues Paper, NSWIC agrees that it is appropriate that State Water report against environmental indicators that:

- are objective and measurable;
- measure both the environmental benefit and the environmental impact of State Water's operations;
- are project specific if applicable;
 - State Water must be required to provide comprehensive project reports for all environmental projects being undertaken.
- are reported in a manner that is understandable to stakeholders and the community;
- report the real cost of meeting its environmental obligations; and
- are consistent over time, to enable accurate comparison and assessment of performance and the trend in performance.

Environmental Management Indicators for State Water should include:

- compliance with all Acts and Regulations;
- compliance with the environmental provisions of Water Sharing Plans;
- water quality in State Water's storages;
- measurement of cold water pollution;
- water quality in-stream;
- effectiveness of fish passages;
- compliance with Catchment Management Plans;
- compliance with the NSW Government's Energy Management Policy; and
- compliance with native vegetation plans.

NSWIC is of the view that the EMP constitutes a Community Service Obligation and must be funded, in full, by the NSW Government, on behalf of all NSW citizens.

Water Sharing Plans

The inclusion of "Actual flows to the environment versus natural flows" on page 27 of the IPART Issues Paper (Release of water allocated to customers and the environment) as a performance standard in the IPART issues paper highlights a poor understanding of separation of responsibility and accountability.

State Water must abide by a WSP and is, therefore, directed by the WSP with respect to environmental flow. WSPs will be used to address environmental issues in each river system. Environmental flow parameters will be stipulated in a WSP to potentially address a wide range of parameters (water quality, vegetation health, fish passage, in-stream biodiversity).

WSPs will therefore lead to improved environmental outcomes and can be modified to react to a changing environment, or a better technical understanding of environmental processes. State Water must follow WSP guidelines (as required by regulation), but it is not appropriate to measure the environmental performance of State Water using certain environmental parameters if they are clearly set by (or even limited by) an independent Water Sharing Plan process. This definitely applies to an assessment of actual flow versus natural flow and perhaps other environmental parameters.

CUSTOMER SERVICE OBLIGATIONS

Customer Service Committees

State Water has previously established a formal stakeholder consultation process through valley-based Customer Service Committees (CSC). NSWIC supports this initiative and recommends that this structure be retained. It is appropriate that at the commencement of corporatisation, that the membership, terms of reference and aims and objectives of the CSCs be reviewed for relevance and focus.

Membership must include:

- irrigators
 - regulated;
 - unregulated; and
 - groundwater.
- representatives of irrigation corporations and private irrigation districts;
- local government authorities;
- catchment management authorities; and
- government agencies, (in an advisory role only).

CSC members must be resident in the particular valley to be able to contribute to the deliberations through an understanding of the local issues impacting on State Water's operations in the region. Additional members may be co-opted as required, to encourage wider community consultation on specific issues.

State Water must be required to provide support service to the CSC and meet the expenses of all members of the CSC. One of the key elements of State Water's delivery of its customer service obligations could be met through regional offices throughout its operational areas.

Customer Service Charter

NSWIC supports the establishment of a Customer Service Charter. To be a driver of co-operative customer service relationships the Charter must include a detailed commitment by State Water to measurable and accountable customer service obligations.

Likewise, to demonstrate customers' reciprocal obligations, the Charter must also detail State Water's expectations of its customers.

This charter outlines the rights and obligations of customers on regulated rivers and sets out the standards of customer service that can be expected. It must be viewed in the eyes of the recipient, as State Water's demonstration of its commitment to its customers, in accordance with the provisions of State Water's Annual Operating Plan.

NSWIC members are working with State Water in the drafting of its Customer Service Charter. Issues being incorporated include:

- Customer service;
- Water delivery;
- Asset management;
- Business development; and
- State Water's personnel.

NSWIC supports consideration being given to issues such as:

- specific delivery performance standards for each valley, or regions within a valley;
- establishing a complaints handling mechanism;
- establishing a dispute resolution process;
- billing accuracy;
- accuracy of customer water accounts;
- fault rectification; and
- quarterly reporting against all aspects of the Charter.

This Charter will only be as effective as the compliance arrangements dictate. To ensure that the Charter has real effect, State Water must be required to report regularly against all aspects of the Charter and face severe penalties for failing to meet the terms and conditions of the Charter, that are proportional to the extent of this failure.

To drive innovation and enhanced levels of customer service, there must be inbuilt mechanisms incorporated into the Charter to compel State Water to continually build on the levels of customer service offered. Service level inflators must be implemented to achieve meaningful change through the adoption of innovative technologies and new business practices and processes that deliver beneficial outcomes to State Water customers.

Customer Service Committee Chairmen

NSWIC supports the continued convening of regular meetings of the CSC Chairmen with senior State Water Executives. These meetings provide an opportunity to exchange and build on experiences at a valley level for the benefit of the Corporation's overall business activities.

NSWIC also recommends that members of the NSWIC Board of Directors be formally invited to these meetings to further enhance the consultation between State Water and its major stakeholder and customer base.

State Water must be required to provide support service to the CSC Chairmen meetings and meet the expenses of all members of the CSC Chairmen group.

Relationships with Government Departments, Agencies and Authorities

State Water will, from time-to-time, be delegated functions from Ministers, DIPNR and other government departments, agencies and authorities. In every instance, there must be a clear articulation of the extent of State Water's delegated authority. All delegated authorities must be supported by processes and procedures that enable State Water to efficiently and effectively conduct its business operations, while also meeting its obligations under its Customers Service Charter.

State Water must have the ability to pass on to the delegating authority any penalties imposed on it that relate to a breach of its Customer Service Charter that are a consequence of the failure of the delegating authority to support the delegated authority.

Service delivery standards must be developed and publicly reported quarterly, that demonstrate to all stakeholders the commitment from delegating authorities to the provision of data supporting State Water's performance of its delegated authorities.

Fish River Water Supply Scheme

NSWIC supports the incorporation of the Fish River Water Supply into the State Water business, on the basis that there:

- are no cross subsidies applied to any aspect of the service delivery and management of the Fish River scheme; and
- is an equitable sharing of all efficiency savings across both business entities.

COMMUNITY ENGAGEMENT OBLIGATIONS

NSWIC does not support the establishment of a State Water specific state-wide Community Consultative Committee. Knowledge of State Water's operations will reside with individuals closest to the point of service delivery and operations. This is supported by the establishment of the CSCs and, where necessary, the expansion of individual CSCs by co-opting local expertise for consideration of specific business issues.

The convening of a consultative group on a state-wide basis would result in consultations being undertaken with individuals and groups significantly removed from the day-to-day operations of State Water and would therefore be of dubious value.

To avoid costly duplication, NSWIC recommends that State Water be required to attend and provide quarterly update to meetings of the Natural Resources Advisory Council (NRAC) on:

- the activities of the Corporation;
- keys resource management issues; and
- to receive advice on issues under NRAC's consideration that may benefit or impact on State Water's operations.

The membership of NRAC is provided at [Attachment 2](#):

AUDIT OF THE OPERATING LICENCE

NSWIC supports the auditing of State Water's compliance with its Operating Licence by IPART. There should also be specific reference to its performance against the conditions of the Customer Service Charter and the delivery of its delegated functions. IPART must incorporate into the audit process a report on the performance of departments, authorities and agencies who have delegated authority to State Water, as there is significant scope for poor performance by these organisations to directly impact on State Water's ability to meet the obligations of its Operating Licence.

The scope and timing of the audit process should address the critical areas of State Water's operations and be structured to realistically measure and monitor its performance.

The audit must be undertaken with due recognition to the fact that State Water's operations are already subject to regulation and review by a number of departments, agencies and authorities. Under these circumstances, NSWIC recommends that, in the first instance, a 'light touch' and adaptive management approach should be adopted. It may be appropriate that a risk management approach is adopted which will allow State Water flexibility in meeting its audit obligations, while minimising the resource impost, both in terms of personnel and financial resources that are required to complete and comply with the audit process.

Irrespective of the audit approach adopted, audit results must be provided to stakeholders in a timely manner and incorporate recommendations to rectify any shortcoming in the performance of either State Water or a delegating authority.

Performance Penalties

If State Water is subject to a penalty regime with respect to its non-compliance with the terms of its Operating Licence, it is imperative that any penalties imposed are transparently debited to the business owner and not permitted to be passed off to bulk water users.

The associated issue of what purpose any penalty payments made by State Water are ultimately used for requires further discussion. Wherever possible, penalty payments must be used to offset disadvantage incurred by bulk water users as a consequence of State Water's failure to comply with its Operating Licence.

ATTACHMENT 1 – NSW IRRIGATORS' COUNCIL MEMBERSHIP

Border Rivers Food and Fibre
Coleambally Irrigation Limited
Cotton Australia
Darling River Food and Fibre
Gwydir Valley Irrigators Association Inc.
Hunter Valley Water Users Association
Lachlan Valley Water
Macquarie River Food and Fibre
Murray Irrigation Ltd
Murray Valley Water Diverters Advisory Association
Murray Valley Groundwater Users' Association
Murrumbidgee Groundwater Pumpers' Association
Murrumbidgee Horticulture Council Inc.
Murrumbidgee Irrigation Ltd
Murrumbidgee Private Irrigators' Inc.
Namoi Valley Water Users Association
NSW Farmers' Association Dairy Section
NSW Farmers' Association
Ricegrowers' Association of Australia
Richmond Wilson Combined Water Users Association
Southern Riverina Irrigation Districts Council
South Western Water Users
Wine Grapes Marketing Board

ATTACHMENT 2 – NATURAL RESOURCES ADVISORY COUNCIL

The current membership of the Natural Resources Advisory Council is:

Birds Australia
Catchment Management Authorities
Country Women's Association
Fisheries management representative
Forest Products Association
Labor Council of NSW
Landcare community
Local Government Association
Native Title Services
Nature Conservation Council
NSW Aboriginal Land Council
NSW Farmers Association
NSW Irrigators Council
NSW Minerals Council
Planning Institute of Australia
Rural Lands Protection Board
Scientific representative
Shires Association
Total Environment Centre
WWF Australia
Department of Aboriginal Affairs
Department of Environment and Conservation
Department of Infrastructure Planning and Natural Resources
Department of Primary Industries