



Review of fees under the *Water Industry Competition Act 2006*

Final Report

March 2024

Water >>

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Tribunal Members

The Tribunal members for this review are:

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The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

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1 Executive Summary

We have reviewed the application, approval and annual fees for NSW private water utilities because of changes to the regulatory framework under the *Water Industry Competition Act 2006* (WIC Act). We are proposing a new structure to align with the changes in licensing and approval instruments.

The WIC Act has changed and the new regulatory framework commenced on 1 March 2024 when the *Water Industry Competition Amendment Act 2021* and new *Water Industry Competition (General) Regulation* commenced.

This report outlines our new fee structure under the new regulatory framework. Our licence and approvals application fee structure is described in **Table 1** and annual fee structure in **Table 2**.

Table 1 Application fees under the WIC Act

Type of application	Fee (\$)
Operator licence	6000
Retailer licence	6000
Combined operator/retailer licence	10,000
Convert combined to separate operator and retailer licences	2000
Part 5 assessment	5000
Variation of licence	3000
Scheme Approval	8000
Operational Approval	2000
Variation of Approval	2000

Note: Fees apply from 1 March 2024.

Table 2 Annual fees under the WIC Act

Fee type	Category determination	Annual fee (\$)
Operator licence 1	1 scheme	1300
Operator licence 2	2 to 5 schemes	1900
Operator licence 3	6 or more schemes	2500
Scheme – scale 1	See scales in Table 4	1100
Scheme – scale 2	See scales in Table 4	3200
Scheme – scale 3	See scales in Table 4	4200
Retailer licence 1	30 to 249 customer premises per scheme	1300
Retailer licence 2	250 to 10,000 customer premises per scheme	1900
Retailer licence 3	more than 10,000 customer premises per scheme	2500

Note: New annual fees will apply once licences are issued under the new framework, that is around the end of the 12-month transition period that begins on 1 March 2024.

We released our Draft Report in February this year for stakeholder comment. We have responded to stakeholder comments in this Final Report. See Appendix A for our response to stakeholder submissions.

For further information about changes to the WIC Act, please visit [our website](#).

2 Changes to private water utility regulation

2.1 IPART administers the WIC Act

IPART has key functions under the WIC Act. Our role includes:

- assessing licence and licence variation applications and making recommendations to the Minister administering the WIC Act to approve or not approve licences or variationsⁱ
- assessing approval and approval variation applications and deciding to approve or not approve approvals or variationsⁱⁱ
- monitoring compliance through audits
- undertaking 5-yearly reviews of licences.ⁱⁱⁱ

The Minister determines licence application and licence fees under the WIC Act. Since 2009, we have charged licence application fees and annual licence fees under the WIC Act and collected the fees to provide to NSW Treasury. The Minister has continued the delegation of these functions under the new framework.

2.2 The licensing structure has changed

There is a different licensing structure under the new regulatory framework. Features of the new structure include:

- Applicants can apply for operator and/or retailer licences without necessarily applying for a scheme at the same time.
- The operator licence will specify the maximum scale of schemes authorised to be constructed or operated under each class of water industry infrastructure.
- Each scheme will have a scheme approval which authorises an operator to construct a scheme. Scheme approvals will specify the design capacity of the infrastructure.
- An operator will need an operational approval or variation to start operating once they have completed constructing a scheme or commissioned new or changed infrastructure.

More detail on the new regulatory structure under the WIC Act can be found on [our website](#).

2.3 Licences and schemes are categorised by scale

Under the new framework, licences and schemes are categorised by scale. Our new fee structure categorises licences and schemes using the same criteria:

- **For an operator licence** the scale is determined by the number of schemes the licensee has obtained approval to construct and operate.^{iv} See **Table 3**.
- **For a scheme** the scale (from 1 to 3) is determined by reference to our Scale Guide and using the highest category (i.e. 1 to 3) of all services provided. **Table 4** provides the relevant section from the Scale Guide.

- **For a retailer licence** the scale is determined by the number of customer connections of the largest scheme for which the licensee is to be authorised to act as retailer.^v **Table 5** provides the relevant section from the **Scale Guide**.

Table 3 Operator licence categories

Category	Maximum number of schemes
Operator 1	1 scheme
Operator 2	2 to 5 schemes
Operator 3	6 or more schemes

Table 4 Maximum scale of the schemes in operator licences

Classes of water industry infrastructure ^a	End-use	Source	Parameter	Category	Scales
Drinking Water - supply only (on-selling)	Drinking water	Drinking water from another utility	Design capacity (kL/day)	A1	0 to 250
				A2	251 to 500
				A3	501 to specified maximum
Drinking Water – production or supply	Drinking water	Any	Design capacity (kL/day)	B1	0 to 250
				B2	251 to 500
				B3	501 to specified maximum
Recycled water production - stormwater	Recycled water	Stormwater	Design capacity (kL/day)	C1	0 to 200
				C2	201 to 750
				C3	751 to specified maximum
Recycled water production – sewage ^b	Recycled water	Sewage	Design capacity (kL/day)	D1	0 to 200
				D2	201 to 750
				D3	751 to specified maximum
Recycled water production - further treatment of recycled water	Recycled water	Recycled water	Design capacity (kL/day)	E1	0 to 200
				E2	201 to 750
				E3	751 to specified maximum
Non-potable water production – groundwater	Non-potable water	Groundwater	Design capacity (kL/day)	F1	0 to 200
				F2	201 to 750
				F3	751 to specified maximum
Non-potable water production – wastewater (other than sewage, stormwater or recycled water)	Non-potable water	Wastewater (other than sewage, stormwater or recycled water)	Design capacity (kL/day)	G1	0 to 200
				G2	201 to 750
				G3	751 to specified maximum

Classes of water industry infrastructure ^a	End-use	Source	Parameter	Category	Scales
Sewage treatment for disposal ^b	Effluent discharge	Sewage	Design capacity (kL/day)	H1	0 to 200
				H2	201 to 750
				H3	751 to specified maximum

a. Section 3A of the WIC Act.

b. A treatment system that produces recycled water that is not reused but is disposed of to land via irrigation is "sewage treatment for disposal" not "recycled water production - sewage". A recycled water system that disposes of treated effluent and produces recycled water is 'recycled water production - sewage'.

Table 5 Retailer licence scale categories

Category	Scales (Maximum number of customer premises per scheme)
R1	30 to 249
R2	250 to 10,000
R3	>10,000

Note: The maximum scale of a licence is determined by the number of customer premises in the largest scheme for which the applicant wishes to be authorised to act as retailer.

3 Fees under the WIC Act

Because of the changes to the structure of licence and scheme approval instruments in the WIC Act, the new fee structure must reflect the new regulatory framework. Our fee structure has the following features:

- one-off fee for licence applications (both operator and retailer licences) and variations to existing licences - there will be an additional fee to be paid if a Part 5 assessment under the *Environmental Planning and Assessment Act 1979* (EPA Act) is required
- one-off fee for scheme approvals, operational approvals and approval variations
- annual licence fees, the amount of which are determined by reference to:
 - for an operator licence – the scale of the licence and the number and scale of schemes operated under that licence
 - for a retailer licence - the scale of the licence.

This structure follows a 'user pays' principle as the burden of fees is distributed based on the amount of effort IPART and other Government departments put into application assessments and annual regulatory activities. We have used the scale of the licensed activities as a proxy for the level of effort. We explain how we arrived at our proposed fee structure in sections 3.1 and 3.2 below.

Our fee structure is based on:

- partial cost recovery of the efficient costs incurred by the NSW Government in assessing applications for licences, scheme approvals and operating approvals (i.e. application fees)
- full cost recovery of the efficient costs incurred by the NSW Government caused by licensee activity on an ongoing basis (i.e. annual licence fees).

3.1 Application assessment costs and fees

The cost to Government of assessing an application under the WIC Act is mostly driven by the number of labour hours incurred by the IPART Secretariat in assessment-related tasks (i.e. reviewing applications, preparing licences and reports, and undertaking application-related administrative tasks). Other costs include labour hours used by:

- the Tribunal in preparing and meeting to decide upon a recommendation to the Minister
- the Department of Climate Change, Energy, the Environment and Water (DCCEEW) and NSW Health in reviewing applications and/or assessments
- consultancy costs incurred in assessing applications that require an assessment under Part 5 of the *Environmental Planning and Assessment Act 1979* (EPA Act)
- internal and/or external legal reviews and other specialist consultancy.

Our proposed licence application fee structure is detailed in **Table 6**:

Table 6 Application fees under the WIC Act

Type of application	Fee
Operator licence	6000
Retailer licence	6000
Combined operator/retailer licence	10,000
Convert combined to separate operator and retailer licences	2000
Part 5 assessment	5000
Variation of licence	3000
Scheme approval	8000
Operational approval	2000
Variation of approval	2000

Note: Fees apply from 1 March 2024.

3.1.1 Partial cost recovery of assessment costs

The cost of assessing applications is substantial. Application fees that reflect the total cost of assessments would create high barriers for new entrants to the private water industry and existing participants wanting to gain approval for new schemes. Discouraging new licences and scheme approvals would be detrimental to competition and innovation in the private water industry. Consistent with the objects of the WIC Act, we consider a new fee system, where possible, should facilitate competition and encourage innovation in the water industry, by not restricting new entrants.^{vi}

To lower the up-front cost for applicants seeking a licence or scheme approval, our proposed application fees recover around 20% of the estimated total costs to Government of assessing applications.

We have increased licence application fees as previous fees did not cover the cost of assessment and have remained nominally the same since their introduction in 2009. Our new fees better reflect the actual cost of assessment and allow fee levels to catch up, on a partial cost recovery basis, with the increase in costs over the past 13 years.

The amount and type of information received and assessed during the licence assessment process is similar under the previous and new regulatory structure. Therefore, historical costs have provided guidance when estimating costs under the new structure.

There may however be efficiencies found under the new framework where licensees and applicants will only need to undertake a streamlined scheme approval process rather than the previous lengthier licence variation process required for a new scheme. We will monitor for efficiencies that can be realised under the new structure and review our fee structure within 5 years.

There are very few jurisdictions comparable to the NSW private water market. Our proposed fees are somewhat comparable to [Western Australia's water licensing fees for the mining and public water supply sectors](#), where licence and permit application fees vary from \$172 to \$8,929.

3.1.2 We estimated assessment costs using historical assessment times

We estimated the cost of assessment based on the time taken to assess applications under the previous WIC Act framework.

- Under the previous WIC Act, applications could be made for a network operator licence or a retail supplier licence. To have a licence approved, the applicant, and the proposed scheme, needed to meet the criteria in section 10(4), and we were required to consider the principles in section 7, of the previous WIC Act.
- Within these 2 types of licence applications, an application could be for a new licence, or for a variation of an existing licence. Assessing a variation may have required less effort than assessing the application for a new licence.
- Under the previous WIC Act regulatory structure, we could not charge a fee for a variation.

In arriving at our cost estimates, we selected historical assessment time data, including:

- **Total assessment time** – that is the total number of weeks from when an application is received to when IPART's recommendation is sent to the Minister's office for consideration and approval.
- **'Clock-on' time** – This is the time, in weeks, the IPART secretariat works on the assessment. When an application is incomplete, and/or more information is requested through a formal information request, the assessment is 'clock-off' and this time, until the further information is received, is excluded from the clock-on time.

Using clock-on time data, we estimated costs by calculating variable labour cost (i.e. the assessing analysts' time), a fixed labour time component (i.e. managerial and legal review, technical support and Tribunal member time), and estimates of costs provided by the then Department of Planning and Environment (DPE) and NSW Health.¹ Our cost estimates include salaries, labour on-costs and an overhead application.

Our data included:

- low risk schemes – for example, the collection of sewage from a small number of domestic premises for treatment then disposal through irrigation to land (<50 connections)
- high risk schemes – for example, the collection and treatment of domestic sewage to produce recycled water that is then distributed to residential premises through dual reticulation (>750 connections).

Cost estimates are included in **Table 7**:

¹ WIC Act related functions previously undertaken by DPE now are the responsibility of the Department of Climate Change, Energy, the Environment and Water (DCCEEW).

Table 7 Cost estimates to NSW Government for licence application assessments

Application characteristics	Estimated Cost (\$)
Large, complex, higher risk	111,800
Small, less complex, lower risk	39,300
Average of on-clock data sample (23 weeks)	86,550

3.1.3 Assessment times depend on several variables

Accurately estimating the time and cost incurred in assessing applications is difficult and requires the use of averages. The level of complexity or risk attached to a licensee or scheme will influence the time spent on an application assessment. Factors that make estimation difficult include:

- **Variability in quality of the applications.** Historically, some applications have required multiple requests for information and changes in scope due to the quality of the information provided. This is also related to the business maturity, and our prior knowledge, of the applicant. We will continue to address this issue with continuous improvements in application guidance and assessment processes.
- **Variability of the type of applicants.** Current licensees include domestic subsidiaries of multinational corporations and large institutional investors, small to medium domestic companies, an incorporated co-operative, and small single scheme corporations. The inherent risk and complexity of an applicant influences assessment times.
- **Variability of the size and type of water schemes.** Licensed schemes vary from single industrial customers, to small housing developments, to large housing developments or high-rise with thousands of small retail customers. The level of inherent risk attached to a scheme's operations influences the assessment time.
- **Different types of products or services provided by each scheme.** Products can include drinking water, recycled water and/or sewerage services. Recycled water can be sourced from several sources, such as ground water, dams or sewage, and licensed for many uses which may require different levels of treatment (e.g. toilet flushing, air conditioning, industrial processes, washdown, or irrigation).
- **Complexity of technology solutions.** There are different technology solutions for each scheme, for example a recycled water plant can be:
 - situated in the basement of a high-rise residential block and extract sewage to produce water to a high standard for cooling towers, or
 - situated in a rural area and treat sewage from a small number of homes and produce water to a lower standard for irrigation.
- **Complex legislative requirements of the WIC Act.** The WIC Act and related regulation contains complex application assessment requirements. Our assessment process is costlier for schemes that have more attached risk.

Our experience tells us the better prepared an application is, the less time, in *total* weeks, the application will take for us to assess. This is mainly because of less need for requests for information, and the replies, which add time to the total assessment time.

3.1.4 Part 5 assessments are more costly

Our cost estimates for application assessments in section 3.1.2 do not include the cost of an assessment under Part 5 of the EPA Act. Not all applications will require a Part 5 assessment. This is generally decided on a case-by-case basis. We estimate the average cost to be around \$20,000 per assessment. This includes \$10,000 for an environmental assessment consultant, \$5000 for external legal advice and \$5000 for IPART internal legal advice.

3.1.5 Scheme assessment times will reduce but costs remain the same

We estimate that around 65% of costs in assessing a network operator licence under the previous WIC Act directly relates to assessing the scheme.

Our scheme assessment times will likely reduce under the new regulatory structure, and we will achieve this by placing more analysts on an assessment, but the total number of on-clock labour hours, and therefore the cost, to complete an assessment is expected to remain the same.

Under the new regulatory structure, we are required to complete scheme approvals within 90 days and operational approvals within 60 days. The 90-day and 60-day fixed assessment times will exclude (i.e. 'stop the clock' conditions will apply to) days the application is open for public submissions or requests for information are outstanding. The new fixed assessment time requirements will commence after the one-year transitional period has ended.

3.1.6 Variations cost less than applications

Fees for licence and approval variations are lower than applications as the amount of work involved in assessing variations is expected to be less. The most likely variation scenarios are detailed below.

Licence variation fee

New operators and retailers will apply for state-wide licences which will authorise the maximum scale or number they can establish capacity to operate or service. As their capacity increases and their operator and retailer activities expand beyond already licensed capacities (e.g. they wish to operate or connect more schemes than are authorised under their existing licence), licensees will need to apply for variations to their licences. These variation applications will involve a similar, but not equal, level of assessment and scrutiny as a new licence application. A licence variation applicant's operational, organisational and financial capacity will need to be re-assessed. However, in our experience, there will likely be some efficiencies. For example, management plans and systems may already be sufficient for the increased capacity thresholds. We have therefore set variation fees at half the amount of a new licence application, that is at \$3000.

Scheme approval variation fee

We expect that only one scheme approval will exist for each discrete scheme. If changes need to be made to a scheme, for example an expansion of the area of operations beyond the original scheme approval area, a scheme approval variation will be needed.

Our experience suggests that scheme approval variations will usually involve incremental change to scheme infrastructure and activities that do not widely impact other already approved scheme infrastructure and activities. This means that assessment effort relating to scheme approval variations will be substantially less than the assessment level of a new approval. For this reason the fee for scheme approval variations is lower than an Scheme Application fee at \$2000.

Operational approval variation fee

We expect that only one operational approval will exist for each discrete scheme. Operational approvals will require less assessment effort than either licence or scheme approval applications. For this reason, operational approval application fees are the lowest of all the instruments.

We expect that operational approval variations will be made each time a scheme requires new infrastructure or activities to commence operating, as the scheme is progressively developed or expanded (e.g. as the scheme is developed in stages) or as changes are made (e.g. new infrastructure or technologies added). Similar to scheme approvals, these changes will be incremental but will likely involve a similar level of effort to a new operational approval, as both types of application will require a review of similar audit reports. For this reason, we propose operational approval variation fees that are the same as a new operational approval application, at \$2000.

We have lowered the fee for a variation of an approval from \$4000 to \$2000 since our draft report. We changed this fee as we now better understand how approvals will operate. Under the new framework a scheme will only hold one scheme and one operational approval. As changes are made to the operations of a scheme (e.g. a development stage is completed, or new infrastructure commissioned) the existing single operational approval will be varied. Our previous understanding was there would be multiple operational approvals under each scheme approval. As the use of approval variations is to become an expected part of the lifecycle of a scheme, we adjusted the approval variation fee to eliminate any unwanted incentive arising from a fee difference between an operational approval and variation of an operational approval.

3.2 Annual fees

Our annual licence fee structure reflects the estimated cost of compliance activities under the new regulatory structure. The structure is described in **Box 1**.

Box 1 Annual Fees

The annual fee structure has the following characteristics:

- an **operator licence** annual fee comprised of both of the following components:
 - **licence component** – a base fee per licence determined by the category of the licence (see **Table 3**)
 - **scheme component** – for each scheme, determined by the number and scale of operational schemes, that is schemes, or the stages within a scheme, that have received an *operational approval* (i.e. not the total number and scale of schemes *permitted* under the licence). Scale of schemes is determined by reference to our Scale Guide (see **Table 4**).
- a **retailer licence** annual fee determined by the number connections of largest scheme operated under the licence, as per the Scale Guide (see **Section 3A** of the WIC Act).
- A treatment system that produces recycled water that is not reused but is disposed of to land via irrigation is "sewage treatment for disposal" not "recycled water production - sewage". A recycled water system that disposes of treated effluent and produces recycled water is 'recycled water production - sewage'.
- Table 5).

The scale categories within fee types in **Table 8** (i.e. from 1 to 3) represent increasing scale of size, complexity, and risk. For example, an operator licence with one scheme with a scale of A1 has a lesser degree of size, complexity, and risk than an operator licence with 6 to 20 schemes with scales of A2 and A3.

Licensees that operate multiple schemes are more likely, on average, to report non-compliances and incidents which would require annual audits. Likewise, schemes with a higher scale carry higher risk because of the greater consequences of any non-compliances and incidents. To better reflect the cost of regulating different scales of licences and schemes we have scaled the annual fees for operator licences depending on the number and scale of schemes that operate under a licence. Our proposed annual fee structure is detailed in **Table 8**:

Table 8 Annual fees under the WIC Act

Fee type	Category determination	Annual fee (\$)
Operator licence 1	1 scheme	1300
Operator licence 2	2 to 5 schemes	1900
Operator licence 3	6 or more schemes	2500
Scheme – scale 1	See scales in Table 4	1100
Scheme – scale 2	See scales in Table 4	3200
Scheme – scale 3	See scales in Table 4	4200
Retailer licence 1	30 to 249 customer premises per scheme	1300

Retailer licence 2	250 to 10,000 customer premises per scheme	1900
Retailer licence 3	10,001 or more customer premises per scheme	2500

Note: New annual fees will apply once licences are issued under the new framework, that is around the end of the 12-month transition period that begins on 1 March 2024.

Box 2 provides an example of annual fees for an operating licence:

Box 2 Annual fees examples

Example 1: A smaller licensee holds a retailer licence and one operator licence under which they operate one scheme. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retailer licence	Category 1 licence- highest number of customer premises per scheme is between 30 and 249	1300
Operator licence	Category 1 licence - licence has one scheme	1300
Scheme	Category 1 scheme – category determined per scale guide	1,100
Total annual fees	Total of all fee components	3700

Example 2: A larger licensee holds a retailer licence and 10 operator licences under which they operate 10 schemes. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retailer licence	Category 2 licence - highest number of customer premises per scheme, among all schemes covered by the licence, is between 250 and 10,000	1900
Operator licences	Nine category 1 licences – each licence has one scheme (\$1300 each licence)	11,700
	One category 2 licence - licence has between 2 and 5 schemes	1900
Schemes	Four category 2 schemes – category determined per scale guide (\$3200 each scheme)	12,800
	Six category 3 schemes - category determined per scale guide (\$4200 per scheme)	25,200
Total annual fees	Total of all fee components	53,500

Example 3: A larger licensee holds a retailer licence and an operator licence under which they operate 10 schemes. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retailer licence	Category 2 licence - highest number of customer premises per scheme, among all schemes covered by the licence, is between 250 and 10,000	1900
Operator licences	One category 1 licence – licence has 10 schemes	2500
Schemes	Four category 2 schemes – category determined per scale guide (\$3200 each scheme)	12,800
	Six category 3 schemes - category determined per scale guide (\$4200 per scheme)	25,200

Box 2 Annual fees examples

Total annual fees	Total of all fee components	42,400
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Example 4: A licensee with a single commercial/industrial customer and high volumes of water production. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retailer licence	Licence category 1 - highest number of customer premises per scheme is between 30 and 249	1300
Operator licence	Category 1 licence - licence has 1 scheme	1300
Scheme	Category 3 scheme – category determined per scale guide	4200
Total annual fees	Total of all fee components	6800

3.2.1 We estimated average annual compliance costs per licence

The compliance framework under the new WICA regulatory structure is largely unchanged from the previous arrangements. IPART will continue to:

- monitor all licensees for compliance, for example via audits
- undertake 5-yearly reviews of licences and approvals^{vii}
- require annual statements of compliance from licensees and prepare an annual compliance report to the Minister.

The cost of compliance activities can vary from year to year, and from licensee to licensee. The main drivers of variations in compliance costs between licensees and schemes are licensees' compliance histories and the occurrence and type of reportable incidents.

For example, if a licensee has a good compliance history, with no significant incidents reported, and no material non-compliances (i.e. non-compliance with regulatory or licence conditions) detected during annual audit activities, then the licensee is only audited once every 2 years. This halves the average annual compliance cost to IPART for that licensee.

A reportable incident is an incident that threatens, or could threaten, water quality, public health or safety, for example a sewage overflow, an out-of-range sample reading or a substantial customer billing error. A reportable incident may require a simple desktop review at low cost, or a long and complex investigation at substantial cost. Therefore, reportable incidents add variability to annual compliance costs because of their unpredictable occurrence, and unpredictable severity.

Some aspects of annual compliance are consistent across licences and schemes. For example, the cost to IPART of initiating, attending, and reviewing annual audits is mostly constant across licences and schemes.

Based on historical annual compliance activities under the previous WIC Act regulatory structure, we have estimated the annual compliance cost per licence by including an estimated average IPART, DPE and NSW Health labour cost, including on-costs and an overhead application. We estimate the average annual cost of compliance for a licence to be \$4,970 per year, and for a 5-year review of a licence to be \$8,900 every 5 years.

3.2.2 Impact on existing licensees and customers is minimised

We modelled the impact of the new annual fee structure on existing licensees by comparing what licensees paid in 2021 to what they will pay under the new structure. We found that annually:

- six licensees would pay between \$1300 and \$19,700 less
- two licensees would pay between \$400 and \$1,300 more
- revenue collected from all licensees would be \$49,600 less.

One licensee could realise further reductions in annual fees by moving the operations of multiple schemes under fewer, or even a single, operator licence.

Although there are substantially lower fees for most licensees, the new fee levels better represent the actual cost that those licensees impose on the Government. That is, the lower fees are justified on a cost recovery basis.

Overall, there is a reduction in annual fees. The changes in fee levels should not have detrimental or unintended consequences as annual fees are a relatively small contribution to the total cost for licensees to meet other annual regulatory requirements, in particular the cost of engaging external auditors. However, where possible, we expect any cost savings from regulatory fees to be passed through to customers.

3.3 We will index fees by CPI

Fees under the previous WIC Act fee structure have not nominally increased since introduced in 2009. To align the fee structure with the costs of regulatory activities we propose to increase fees annually by a rate equivalent to inflation. We have selected Sydney CPI as an index that most closely reflects the increases in cost to the Government over time.

We will adjust the Sydney CPI index by IPART's annual productivity factor. This means fees will increase by slightly less than inflation each year. This ensures transparency and allows for costs to increase consistent with economy-wide movements in price, minus an allowance for efficiency gains. IPART's annual productivity factor is the rolling 15-year average of the Australian Bureau of Statistics' market sector value-added multifactor productivity based on quality adjusted hours worked.

IPART uses this same methodology in recommending electricity network fees to the Minister for Energy and Environment under the *Electricity Supply Act 1995*.

3.4 Transitioning to the new annual fee structure

Under the previous fee structure, annual fees for operator licences are levied in advance and retail licences in arrears. Under the new fee structure, for simplicity, we propose to levy all annual fees in arrears.

We will begin the process of transitioning existing licensees to the new licence and approval instrument structure from 1 March 2024. We intend to transition all existing licensees to new instruments on the same day (i.e. the transition date). This will be before the 12-month period and after 1 March 2024 (i.e. before 1 March 2025).

On the transition date, for operator licences transitioning to the new fee structure, we may have levied annual fees in advance up to 30 June 2025. After the end of the financial year, we will calculate any under payments or advance payments made by existing licensees on a number of days pro-rata basis. We will offer a credit or refund for any pre-paid fees owing to licensees as a result of transition to the new fee structure.

Annual retailer licence fees are already paid in arrears. We will continue to levy fees in arrears and make any adjustments for changes the fee structure on the transition date, on a number of days pro-rata basis in the next financial year.

For licensees that will no longer require a licence under the WIC Act, and the licence is discontinued, we will only charge fees up to the date the licence is discontinued, and refund any pre-paid fees, on a number of days pro-rata basis, paid from the date the licence is discontinued to the end of the financial year.

3.5 Review of fee structure commenced after 5 years

Consistent with Australian Government guidance on cost recovery, we propose commencing a review of our fee structure within 5 years. This is so we can make sure that our fee structure accurately reflects the actual historical costs of regulatory activities.^{viii}

Appendices



A Stakeholder feedback

We received 3 submissions to our draft report from industry stakeholders. Two submissions were in support of the proposed fees and one, from the Altogether Group (Altogether), provided further comment.^x We address Altogether's feedback in **Table 9** below.

Table 9 Our responses

Stakeholder comment	IPART response
The submission from Altogether queried the difference between fees for a variation of a licence and a variation of an approval.	<p>We have re-visited our variation fee setting methodology and lowered the fee for a Variation of an Approval from \$4000 to \$2000.</p> <p>Since our Draft Report, we have a greater understanding of how the licensing system will influence the frequency of applications for new, and variations of, existing licences and approvals. Our considerations in setting variation amounts are detailed in section 3.1.6.</p>
Request for clarity around which applicants, and what criteria IPART will apply when determining which applicants are required to make a payment for an environmental assessment on a "case by case basis".	<p>Only Applicants that require an assessment by IPART under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> (EPA Act) will need to pay a fee for an environmental assessment.</p> <p>These will be applications to undertake water infrastructure development works without any approvals under Part 4 of the EPA Act. In those cases, we assess the environmental impacts in more detail under the WIC Act. Our website has a fact sheet for WIC Act environmental assessments.</p>
Licensees should be notified of the expected indexation figures (and estimates going forward for at least 1 year in the future) to enable budgeting for licensing fees.	<p>Indexation will be based on Sydney Consumer Price Index (CPI) reduced by IPART's annual productivity factor. This means fees will increase by slightly less than inflation each year. In setting an annual increase licensees will be aware of the fee increases for the subsequent year. We do not provide forecasts of CPI, but note that the Reserve Bank of Australia's inflation target is between 2% and 3%.</p>
Further clarity and information should be provided as to whether a variation of licence also results in a further Scheme Approval cost	<p>Generally, a variation to a licence should not trigger a variation to a Scheme or operational approval, as a licence allows a licensee to undertake activities up to scale limit. Increasing the scale of a licence does not then change the activities allowed under an approval.</p> <p>However, a variation to a Scheme Approval may need to be accompanied by a licence variation if the variation will result in the scheme's operations, or the culminative activities across all of a licensee's schemes, to exceed the maximum scale of activities authorised under the registered operator's licence.</p>
What is the purpose of the definition "category A scheme" in section 5(1)(a) of the <i>Water Industry Competition (Amendment) Act 2021</i> ?	<p>A retailer licence is only necessary in relation to "regulated schemes" (see section 6B of the WIC Act). Regulated schemes are defined in the Dictionary to include category A schemes within the meaning of section 5(1)(a) of the WIC Act.</p>
Should the definition "category A scheme" in section 5(1)(a) of the WIC Amendment Act be included in the annual fee schedule?	<p>The annual retailer licence fees are only calculated by reference to regulated schemes, which include category A schemes. Referring specifically to category A schemes in the annual fee schedule is unnecessary.</p>

B Our cost recovery approach

In deciding upon a fee structure under the new WIC Act regulatory structure, we used a cost recovery approach. That is, we propose:

- application fees that partially cost recover the actual costs to Government of assessing an application for a licence, scheme approval or operational approval
- annual fees that are equivalent to the actual costs to Government of administering the regulatory activities of operators and retailers under the WIC Act.

B.1 IPART has the power to collect fees

IPART collects fees. The WIC Act allows IPART, under Ministerial delegation, to collect application fees and annual fees from licensees.^x The WIC Act does not however include power to collect application fees for:

- licences and approvals licences granted to replace existing licences
- an application for a licence or approval by a person in relation to an existing unlicensed scheme.^{xi}

B.1.1 The previous fee structure was based on best estimates

The previous fee structure was set in 2009 and based entirely upon best estimates of actual costs. Accurately setting fees was complicated as there was no available:

- actual historical costs for reference
- directly comparable regulatory structures or
- industry benchmarks.

For this review historical cost data was available to allow for more accurate, cost reflective, fee setting.

B.2 Fees are appropriate for WIC Act activities

We consider fees to be the most appropriate way to recover the cost of administering the WIC Act.

Australian Government guidance advises fees should be recovered from those who caused the demand for government services and match that fee with the costs of providing that service.

Table B.1 describes how we applied criteria in the guidance to WIC Act activities.

Table B.1 Criteria used in deciding to charge WIC Act fees

Criteria	Does criteria apply?	Are fees appropriate?
<p>A government should and can charge for an activity:</p> <ul style="list-style-type: none"> to achieve policy outcomes where those who create the demand for the activity can be identified and can pay. 	<ul style="list-style-type: none"> Policy outcomes are contained in the WIC Act Demand for regulatory activity is created by private water utilities. 	<p>Fees charged on a full or partial cost-recovery basis are appropriate where the charge is for:</p> <ul style="list-style-type: none"> a good, service or regulation made to a specific individual or organisation regulatory activities, such as licensing and monitoring.

Source: *Australian Government Department of Finance, Australian Government Charging Framework Resource Management Guide No. 302, July 2015, p 11-12.*

The Australian Government's charging framework guidance compares fee with levies (among other types of revenue raising). Of all revenue paths, we consider cost recovery fees are the most appropriate for WIC Act activities. For clarity in communications with stakeholders, we use the term 'annual fees' to also describe 'levies' for annual regulatory activities:

Table B.2 Types of government revenue

Type of revenue	Examples	Basis of calculation
Cost recovery fees	<ul style="list-style-type: none"> Registrations Applications Licences 	Charges must reflect efficient unit cost of a specific good or service
Cost recovery levies	<ul style="list-style-type: none"> Monitoring compliance Investigations Enforcement 	Charges must reflect efficient overall costs of the activity
Resource charges	<ul style="list-style-type: none"> Rights and privileges, including licences to access IP or natural resources Also includes lease and use of public property or infrastructure 	Charges generally based on the potential value of the activity to the recipient
Commercial pricing	<ul style="list-style-type: none"> Sale of publications or data Provision of specialist expertise Advertising and sponsorship 	Charges generally based on market rates
Fines and penalties	<ul style="list-style-type: none"> Fines, including statutory fines and enforcement penalties 	Amounts of fines and penalties relate to specific criminal sanctions
General taxation	<ul style="list-style-type: none"> Specific taxes, non-cost recovery levies, excises and customs duties 	Taxes generally do not relate to a specific activity or its costs (i.e. raise general revenue)

Source: *Australian Government Department of Finance, Australian Government Charging Framework Resource Management Guide No. 302, July 2015, p 5.*

Where appropriate, non-government recipients of specific government activities should be charged some or all the costs of those activities. A cost recovery policy promotes consistent, transparent and accountable charging for government activities and supports the proper use of public resources.^{xii}

Key considerations when deciding on which activities are appropriate for cost recovery are:

- will government be the only provider of the activity?
- who might be charged (e.g. is there an identifiable individual, organisation or group that receives the activity or creates the need for the activity?)

- the impact of cost recovery on competition, innovation or the financial viability of those who may need to pay charges and the cumulative effect of other government activities
- whether it is efficient to cost recover the activity (e.g. are the costs of administering cost recovery appropriate to proposed charges for and revenue from the activity?)
- how cost recovery might affect:
 - the policy outcomes for the activity
 - other government policies and legislation (e.g. policies relating to access to essential community services)
 - Australia's obligations under international treaties (e.g. free trade agreements).^{xiii}

We also aim to minimise cost recovery charges through the efficient implementation of cost recovered activities. The 3 principles that we apply to our cost recovery process are:

1. efficiency and effectiveness
2. transparency and accountability
3. stakeholder engagement.^{xiv}

B.3 We undertake activities efficiently and effectively

We have applied principles of good governance in applying a cost recovery approach to the proposed fee structure.

Good governance is both efficient and effective. Efficiency and effectiveness in government involve making the proper use of available resources to achieve government policy outcomes. Government activities should meet quantity, quality and other targets, be undertaken at minimum cost, and be conducted in accordance with applicable policy and legislative requirements.^{xv}

For a cost recovered activity, efficiency also relates to whether it is efficient to provide the activity on a cost recovery basis (i.e. the costs of administering cost recovery should be proportional to the charges for and potential revenue from the activity). Effective cost recovery includes appropriate revenue management.^{xvi}

A cost recovery model should align the costs involved in providing an activity and the revenue raised through related charges and fees. Cost recovery charges should be:

- clear and easy to understand
- closely linked to the specific activity
- set to recover the full efficient costs of the specific activity
- efficient to determine, collect and enforce
- set to avoid volatility, while still being flexible enough to allow for changes based on fluctuations in demand or costs.^{xvii}

Ideally, the expenses and revenue should be aligned on a yearly basis. However, where justified, they can be aligned over a longer period (e.g. the business cycle of the activity). Government entities should develop mechanisms (e.g. internal control systems) to manage any under- or over-recovery. There must not be systematic over- or under-recovery of costs.^{xviii}

C Previous fee structure

C.1.1 Previous application fees

The same application fee applied across all licences. **Table C.1** outlines the previous WIC Act application fee structure.

Table C.1 Previous application fee structure

Application type	Application fee (\$)
Network operator licence	2500
Retail supplier's licence	2500
Both a network operator licence and retail supplier's licence	5000

Source: [IPART website](#)

C.1.2 Previous annual licence fees

Table C.2 lists the previous annual licence fees that apply to each licence type.

Table C.2 Previous annual licence fees

Licence type	Category	Annual licence fee (\$)
Network operator	Small	2000
Network operator	Medium	4000
Network operator	Large	9000
Retail supplier	Small	1000
Retail supplier	Medium	3000
Retail supplier	Large	6000

Table C.3 details how licence categories were previously determined when issuing fees.

Table C.3 Previous licence categories for determining annual fees

Licence type/activities	Small	Medium	Large
Network operators of all water/sewerage infrastructure (excluding sewer mining systems or works only)	0-250kL/day capacity	250-750kL/day capacity	>750kL/day capacity
Network operators of sewer mining systems or works only	0-500kL/day conveyed, extracted or treated	500-1,500kL/day capacity conveyed, extracted or treated	>1,500kL/day capacity conveyed, extracted or treated
Retail Suppliers	0-250kL/day supplied or conveyed	250-750kL/day supplied or conveyed	>750kL/day supplied or conveyed

ⁱ WIC Act, sections 8B and 8M.

ⁱⁱ WIC Act, sections 7 and 7B

ⁱⁱⁱ WIC Act, section 85.

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- iv WIC Act, section 8E.
 - v WIC Act, section 8F.
 - vi WIC Act, section 2A(e).
 - vii WIC Act, section 85(2)
 - viii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 17.
 - ix Stakeholder comment was received from Solo Water, Sydney Desalination Plant, and the Altogether Group.
 - x WIC Act, sections 12(1)(d) and 8N(1)(a).
 - xi WIC Act Act, Schedule 4, Part 4, sections 10(4) and 14(3).
 - xii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl. 10.
 - xiii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl. 11.
 - xiv Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 15.
 - xv Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 24.
 - xvi Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 25.
 - xvii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 36.
 - xviii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 37.

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