

8 March 2024

CICL submission - WaterNSW operating licence review discussion paper CBA report

Introduction

Coleambally Irrigation Co-operative Limited (CICL) welcomes the opportunity to provide feedback on IPART's discussion paper and Cost Benefit Analysis for WaterNSW draft operating licence (Operating Licence).

IPART has articulated it *"..wants to recommend terms and conditions for the operating licence that reflect customers' preferences and needs."*¹

IPART goes on to say *"...feedback allows a customer-focussed approach to the Review which will improve outcomes to ensure we have the right customer protections in the recommended operating licence."*²

CICL is concerned many of IPART's draft recommendations for WaterNSW Operating Licence will impose additional costs on WaterNSW with no transparency around how these additional costs will be recovered from customers. It is CICL's view some of the draft recommendations are a response to demands from outside of the bulk water user base and not from WaterNSW's bulk water customers.

IPART's approach does not adequately articulate how the new licence conditions should be funded, in particular many of the proposed new licence conditions provide services to a particular class of customer. Where this is the case the customer receiving the service should fund 100 percent of the costs.

CICL believes, the operating licence review needs to clearly articulate where the customers who are seeking or benefit from the additional requirements being imposed on WaterNSW or where the driver is government, this should be explicit.

CICL is concerned with regulatory overlap between the operating licence and the roles and responsibilities of other government agencies under NSW legislation. Where possible CICL aims to identify these issues. In principle WaterNSW operating licence should not impose conditions on WaterNSW, where WaterNSW is not in control of the condition.

WaterNSW customer base is diverse. CICL understands 66 percent of WaterNSW customers pay the minimum annual charge (currently \$261.80).³ This is in stark contrast to the accounts of the large bulk water users.

In CICL's view the operating licence needs to be "fit for purpose," cognisant of the complex regulatory framework for Water in NSW and recognise WaterNSW is a bulk water supplier not a retail supplier.

¹ IPART (2023) WaterNSW operating licence review 2023/2024 Discussion Paper pg.7.

² Ibid.

³ Andrew George, CEO WaterNSW Water Working Group – South 21 February 2024.

About CICL

CICL is a gravity, off river, irrigation supply scheme in the Murrumbidgee Valley. CICL is a “group scheme” which means it has shared infrastructure providing irrigation and drainage services to its members.

We supply irrigation and drainage services to just under 500 farms owned by nearly 300 farm businesses who are mainly “mum and dad” farmers. Our irrigation service is automated, and it is world’s best practice for an open, earthen channel system. Cotton, corn, and rice dominate our summer irrigation and in winter our farmers grow a wide range of irrigated annual crops. We deliver environmental water to sites within our system in partnership with the NSW Government and the Commonwealth Environmental Water Holder. We also deliver operational and environmental water to the Yanco Creek and Tombullen Storage based on WaterNSW orders.

CICL is an important customer of WaterNSW, receiving bulk water supplies of raw water at our single off-take in the Murrumbidgee River, with the volume available determined by the NSW Department of Climate Change Energy the Environment and Water (NSW DCCEEW) in accordance with the Water Sharing Plan for the Murrumbidgee Regulated River Water Source.⁴

CICL also has two groundwater bores, to extract water in accordance with the [Water Sharing Plan for the Murrumbidgee Alluvial Groundwater Sources Order 2020](#)⁵

CICL’s submission

CICL’s submission is intended to provide clarity on the proposed operating licence changes to IPART on its views as a bulk, raw water customer of WaterNSW.

Feedback is provided on each of the 62 recommendations provided in the discussion paper⁶.

Feedback includes CICL’s views on the drivers or impactor of the service requirement and therefore based on IPART’s “impactor pays” principle, the customer segment which should pay for the costs associated with meeting this service standard.

⁴ [NSW legislation - Water Sharing Plan for the Murrumbidgee Regulated River Water Source 2016](#)

⁵ [NSW Legislation Water Sharing Plan for the Murrumbidgee Alluvial Groundwater Sources Order 2020.](#)

⁶ IPART (2023) WaterNSW operating licence review 2023/2024 Discussion Paper Pg 74.

Recommendation	Impactor	Supported as a customer
2.1 Water Quality Management System (WQMS)		
1 Water Quality Management System (WQMS) in non-declared catchment areas	Community expectations of access to water quality data. Government share.	Support continuation of the WQMS and the separate conditions for declared and non-declared catchments.
2 Exclude drinking water in areas with services already regulated by the <i>Public Health Act</i>	Government share.	Supported, regulatory overlap should be avoided.
2.2 Asset Management System		
3 Modify the requirement for WaterNSW to maintain and comply with its Asset Management System to bring it in line the ISO 55001:2024 during the licence term	Government and water user.	Supported.
4 Modify the obligation to clarify the links between the AMS and catchment works management and the construction maintenance of works.	Government and water user.	Supported.
2.3 Environmental Management System		
5 Retain the requirement to maintain and comply with an EMS in line with AS/NZ ISO 14001:2016.	Government and water user.	Supported.
2.4 Quality Management System		
6 Including the obligation requiring WaterNSW to develop, maintain and implement a Quality Management System in line with AS/NZS ISO 9001:2016.	Government	Not supported, the requirement to mandate WaterNSW implementing a Quality Management System is too prescriptive and a process approach to achieving outcomes. WaterNSW should retain the flexibility to decide the extent use of Quality Management Systems will provide benefits to WaterNSW and improve customer service.
2.5 Critical Infrastructure		
7 Do not impose national security clearance requirements in the Licence.	Not relevant.	Supported.
3.1 Performance Standards		
8 For direct water supply services: a. retain the water quality standard requiring compliance with the water quality management system b. include a water delivery standard requiring timely delivery of services.	Water users.	Supported.

Recommendation	Impactor	Supported as a customer
c. include a service interruption standard requiring WaterNSW to provide timely notification of cease to pump orders d. remove the requirement for WaterNSW to manage service interruptions in line with its AMS.		
9. For water release services: a. include a water quality standard for bulk water released from dams with multi-level offtake points, having consideration to temperature and algal readings consistent with a quality assurance program under section 25 of the Public Health Act 2010, or the Australian Drinking Water Guidelines. b. modify existing water delivery performance standard targets related to rectifying incorrect water orders and releasing water orders in a timely manner c. include a water delivery performance standard related to timely delivery of rescheduled water orders d. include service interruption performance standards around the rescheduling of water orders and timely notification in the event that WaterNSW ceases to or becomes unable to release water. e. modify the existing service interruption performance standard related to consultation about rescheduled water orders. f. Remove the requirement for WaterNSW to manage service interruptions in line with its AMS.	Water users.	WaterNSW is a bulk water supplier, it is not responsible for providing drinking water to customers. CICL questions the relevance of WaterNSW having to report against Australian Drinking Water Guidelines. In most circumstances WaterNSW has no control over the factors that impact on water quality, for example catchment issues, diffuse and point source pollution. CICL does not support WaterNSW having a specific water quality performance standard. The Water quality management plan for the Murrumbidgee water resource plan area includes a summary of the legislative context for water quality management in NSW, only references WaterNSW role for the declared catchment management areas. ⁷ CICL supports the other performance standards for water releases.
10. For the Fish River water supply scheme a. Modify the requirement for all water supplied to be compliant with WaterNSW's WQMS	Not applicable.	Not applicable.
11 For water trades: a. Retain the current temporary trades performance standards	Water users.	Continuation of the current performance standards for trade approvals are supported. A new performance standard for water entitlement (share component) transfers should be developed, consistent with

⁷ Water quality management plan for the Murrumbidgee water resource plan area, NSW Department of Planning and Environment, October 2019.

Recommendation	Impactor	Supported as a customer
<ul style="list-style-type: none"> b. Include a requirement that at least 95% of customers who place a non-complying trade application are contacted to rectify that order within 1 business day 		the processing times imposed on Irrigation Infrastructure Operators in the Water Market Rules (2009) for processing transformations ⁸ .
12. Clarify that the requirement to meet water quality performance standards for water release services, and certain performance standards for water delivery and service interruptions excludes non-conformance due to: <ul style="list-style-type: none"> a. extreme events that WaterNSW cannot reasonably prevent or mitigate b. WaterNSW complying with another law. 	Water users and Government.	Supported.
13. Include an obligation for WaterNSW to make its annual report on performance standards publicly available.	Government and water users.	Supported.
Bulk water quality for drinking water supplies		
14. We propose to replace the requirement for WaterNSW to have a register and an information request procedure for LWUs, with new requirements for WaterNSW to: <ul style="list-style-type: none"> a. develop and publish a policy regarding water quality for drinking water suppliers that specifies roles and responsibilities of parties including WaterNSW's role in improving the quality of water, the monitoring of it, identifying and reducing hazards and risks and educating drinking water suppliers on accessing and understanding water quality data. b. develop the policy in consultation with NSW Health and the relevant drinking water suppliers. c. maintain current contact details for each drinking water supplier d. include processes for determining water quality monitoring parameters, engaging with drinking water suppliers and data provision 	Local Water Utilities.	This proposed new standard directly relates to the supply of bulk water for local water utilities. The costs to comply with new approach to local water utilities must be directly borne by Local Water Utilities who are seeking increased services from WaterNSW.

⁸ [Water Market Rules Cth \(2009\)](#).

Recommendation	Impactor	Supported as a customer
<ul style="list-style-type: none"> e. determine the water quantity and water quality parameters consistent with the processes set out in the policy f. publish a summary of its service commitments to drinking water suppliers 		
<p>15. We propose to add a requirement increasing WaterNSW’s responsibilities to monitor and provide information on water source events and the quality of raw water provided to drinking water suppliers, including:</p> <ul style="list-style-type: none"> a. requiring WaterNSW to maintain an ongoing water quality monitoring enhancement program which takes into account the Water Quality Roadmap published by the Department on October 2021 and the activities already undertaken by WaterNSW under the Town Water Risk Reduction Program. b. requiring WaterNSW to annually report to IPART on the water quality monitoring enhancements program. 	Local Water Utility and Government,	<p>WaterNSW is required to report a range of water quality data to the Bureau of Meteorology under the Water Regulations 2008⁹.</p> <p>CICL does not support this new condition because of the regulatory overlap between WaterNSW and the NSW Department of Climate Change, Energy, the Environment and Water (NSW DCCEEW).</p> <p>It is not appropriate for IPART to impose obligations on WaterNSW where the performance and influence of other NSW agencies will impact on WaterNSW’s capacity to meet this licence obligations.</p>
16. Modify the requirements of the advance notification system to address information gaps in water quality data and flood risk.	Government and water users.	CICL in principle supports this condition provided the cost share framework recognises the range in the type of customer seeking this service. Often these information gaps are being demanded by the wider public, Local Water Utilities or riparian landholders.
WaterNSW obligations to its customers		
17. Retain the requirement for WaterNSW to establish and maintain customer supply agreements with customers to which it provides direct water supply services (clause 21). Full list of draft recommendations Water NSW operating licence review 2023-24 Page 76.	Water users.	Supported.
18. Retain the requirement for WaterNSW to maintain a water allocation account for customers with licences issued	Water users.	Supported.

⁹ <http://www.bom.gov.au/water/regulations/index.shtml>

Recommendation	Impactor	Supported as a customer
under the Water Act 1912 or the Water Management Act 2000.		
19. Retain and clarify the requirement for WaterNSW to determine the volume of water supplied to direct water supply customers and extracted by customers receiving water release services on an annual basis.	Water users.	Supported.
20. Modify the requirements about how WaterNSW consults with its customers so the obligation focuses on the outcomes of the engagement.	Water users.	Supported.
21. Remove the requirement to maintain the Customer Advisory Group (CAG) and include requirements to engage with different customer groups.	Water users.	Supported with qualification. WaterNSW must be required to engage with customers on a valley by valley basis in the operating licence. Effective customer engagement is essential; however, customer engagement must be meaningful where the voices of customers are not diminished by special interest groups, and the opinions of customers who do not make a significant contribution to WaterNSW revenue.
22. Modify the requirement for WaterNSW to have a customer service charter.	Water users and government.	Supported.
23. Retain the requirement for WaterNSW to have, and carry out its activities in accordance with, a code of practice on payment difficulties and to make it available online.	Government.	Supported.
24. Include a new requirement for WaterNSW to maintain, comply with, publish and notify customers of, a family violence policy.	Government.	Not supported. WaterNSW is a bulk water supplier of services to specific work approvals, these issues should be captured in WaterNSW payment and privacy policies.
25. Modify the requirement to maintain an internal complaint handling procedure to reflect the revised standard for complaints handling and include new requirements for WaterNSW to provide a summary of the process on its website and provide a copy to anyone that requests it.	Water users.	Supported.
26. Retain the requirement for WaterNSW to be a member of EWON and make publicly available online contacts and details of dispute resolution services provided by EWON.	Government and water users.	Supported.

6.1 Managing catchments across NSW		
27. Retain the requirement for WaterNSW to manage and protect declared catchment areas only.	Declared catchment customers.	Supported
28. Include a new requirement that requires WaterNSW to publicly report on the health of the catchments by 30 November each year.	Government.	Not supported because of the regulatory overlap with other government agencies.
29. Modify the scope of the requirement for WaterNSW to undertake catchment research to the non-declared catchment areas and associated rivers with an aim to improve the health of WaterNSW's catchments and rivers, ultimately bettering water quality.	Government.	Not supported because of the regulatory overlap with other government agencies, including state and commonwealth agencies. CICAL notes the cost benefit analysis identified uncertainty in the benefits and costs of this condition.
30. Modify the requirement for WaterNSW to undertake an educative role to maintain an ongoing community education program for non-declared catchment areas and downstream rivers.	Government.	Not supported. CICAL note the cost benefit analysis was negative for this condition. CICAL believes there is significant risk of regulatory overlap with both state and commonwealth governments in "water sector" education programs. WaterNSW role in education for customers should be captured through customer service.
Water planning and climate risk planning		
31. Retain the existing system yield requirements with the following modifications: a. clarify the definition of 'in the long term' to mean 30 years a. clarify that WaterNSW must consider climate change impacts, consult with Sydney Water and consider guidance from DPE in determining system yield b. modify the triggers for which WaterNSW must recalculate system yield c. include a requirement for WaterNSW to provide information on system yield and how it was calculated upon request d. include a condition for WaterNSW to make the design criteria publicly available online. Full list of operating licence review 2023-24 Page 77 32. f draft recommendations Water NSW	Declared catchment customers.	Not applicable.

<p>32 Include new requirements for WaterNSW to maintain and comply with a 5-year conservation plan and retain the requirements to maintain a water conservation strategy and water conservation program until it has developed the plan.</p>	<p>Declared catchment customers.</p>	<p>Not applicable.</p>
<p>33. Add new requirements, consistent with the NSW Climate Risk Ready Guide, for WaterNSW to:</p> <ul style="list-style-type: none"> a. designate a climate change risk officer to lead a climate risk assessment team and, if the climate change risk officer is not an executive level appointment, designate an executive level sponsor by 30 November 2024, b. assess Water NSW’s current level of climate risk management maturity on the enterprise scale by 30 June 2025, c. meet, on the enterprise scale, a systematic level of climate risk management maturity by 30 November 2026, d. meet, on the enterprise scale, an embedded level of climate risk management maturity by 30 November 2029. 	<p>Government.</p>	<p>Current condition not supported. CICL supports WaterNSW planning for climate related risks. CICL recommends this condition is rewritten to require WaterNSW to develop a Climate Risk Assessment Management Plan.</p>
<p>34. Modify the requirements relating to the Greater Sydney Drought Response Plan to require WaterNSW to:</p> <ul style="list-style-type: none"> a. co-operate with Sydney Water to jointly review the Greater Sydney Drought Response Plan. b. implement actions under the Greater Sydney Drought Response Plan that are assigned to it or jointly assigned to it with Sydney Water c. clarify the obligation to update the Greater Sydney Drought Response Plan with Sydney Water using a best endeavours approach d. include a requirement to submit the updated Greater Sydney Drought Response Plan to DPE. 	<p>Declared catchment customers.</p>	<p>Not applicable.</p>

35. Include a new requirement that WaterNSW maintain an MOU with Sydney Water to cooperate on water supply augmentation.	Declared catchment customers.	Not applicable.
36. Modify the requirement to maintain a LTCOP and remove the requirements to implement actions under the Greater Sydney Water Strategy. a. revise the requirement for WaterNSW to maintain a LTCOP b. remove requirements for WaterNSW to implement actions under the Greater Sydney Water Strategy c. remove the condition specifying the directions from the Minister to WaterNSW to implement actions under the Greater Sydney Water Strategy.	Declared catchment customers.	Not applicable.
37. Retain the authorisation to undertake flood mitigation and management in all areas of New South Wales, except for the Sydney catchment area as defined by the Act.	Declared catchment customers.	Supported
Data management systems		
38. Include a new obligation requiring WaterNSW to maintain and comply with a data management system that includes a data governance policy, data quality policy, and a data sharing policy (clause 41).	Government and water users	Qualified support. Data governance standards are important, CICL observes further work is required between WaterNSW and other government agencies around data governance, quality etc. It is important WaterNSW and government agencies resolve the data ownership and management issues. Water users should not be expected to fund resolution of these issues which are caused by continued government policy and structural changes.
39. Remove all obligations related to the DQP portal.	Not relevant.	Supported.
40. Remove the requirements for WaterNSW to maintain data sharing agreements with DPE and NRAR.	Not relevant.	Linked to recommendation 41.

<p>41. Include a new obligation requiring WaterNSW to lead the co-design and development of an 'information hub' with central storage, management and access to water sector information and data, and deliver it.</p>	<p>Government.</p>	<p>Not supported. The issue of data management, governance etc. is an on-going issue. WaterNSW can only lead if they receive 100 percent co-operation from the other agencies in the water sector. Recent changes arising from the Restoring our Rivers Act (2003) will make for the Murray Darling Basin the Bureau of Meteorology responsible for the Water Market Data Standards, adding to its existing responsibilities for Murray Darling Basin water information. CICL supports improvements in data however, it does not support regulatory overlap and expects NSW to efficiently comply with the Commonwealth legislation. This proposed licence condition should avoid duplication between WaterNSW and other government agencies.</p>
<p>42. Retain the requirement to download metering data at intervals of no more than 12 months (clause 43). 58 Full list of draft recommendations Water NSW operating licence review 2023-24 Page 78.</p>	<p>Water users and Government</p>	<p>Supported.</p>
<p>Promoting co-operative relationships with stakeholders</p>		
<p>43. Retain the requirement for WaterNSW to maintain and comply with memoranda of understanding with NSW Health (clause 44) and the EPA (clause 45) and specify the nature of those memoranda of understanding.</p>	<p>Government.</p>	<p>Supported.</p>
<p>44. Modify the obligation for WaterNSW to maintain the Roles and Responsibilities Agreement (RRA) with DPE to clarify that the:</p> <ul style="list-style-type: none"> a. obligation also extends to NRAR and WAMC, and b. RRA is not limited to the conduct of Conferred Function. 	<p>Government.</p>	<p>Supported.</p>
<p>45. Modify the requirement for WaterNSW to maintain and comply with a cooperation protocol with NRAR (clause 47).</p>	<p>Government.</p>	<p>Supported.</p>
<p>46. Include an obligation for WaterNSW to use its best endeavours to enter into, a cooperation protocol with NSW Fisheries by 30 June 2025 and to maintain and comply with that protocol.</p>	<p>Government.</p>	<p>Supported.</p>

47. Modify the requirement for WaterNSW to cooperate with WIC Act licensees that seek to establish a code of conduct with WaterNSW and comply with any code of conduct entered into.	Government and WIC Act licensees.	Supported.
48. Do not impose a requirement for WaterNSW enter into a MOU, protocol or policy to manage its relationships with local water utilities.	Local Water Utilities.	Not Applicable.
Administration		
49. Replace the current licence objectives with objectives that better align with the Act.	Not Applicable.	Supported.
50. Set out a 5-year Licence term.	Not Applicable.	Supported.
51. Clarify that the licence applies to Water NSW's whole area of operations.	Not Applicable.	Supported.
52 Retain the non-exclusivity clause in the Licence.	Not Applicable.	Supported.
53. Retain the licence authorisations in the Licence.	Not Applicable.	Supported.
54. Retain the requirements related to operational audits.	Not Applicable	Supported.
55. Modify the reporting requirements to clearly identify and define WaterNSW's reporting obligations from the reporting manual to the Licence.	Government and water users	Supported.
56. Include a new requirement for WaterNSW to submit an annual report on water quality in the declared catchment areas to IPART and NSW Health and publish the report on its website (clause 51). 69	Government and declared catchment customers.	Supported.
57. Retain the existing: <ul style="list-style-type: none"> a. operational audit requirements b. reporting and record keeping requirements c. provision of information and performance monitoring requirements d. obligations requiring WaterNSW to cooperate with the person appointed to undertake the catchment audit. 	Not Applicable.	Supported
58. Retain the requirement for WaterNSW to monitor and compile environmental indicators consistent with the reporting manual. Amend the obligation to clarify	Government.	Supported.

that WaterNSW must report this data in a way that allows for year-to-year comparison of the indicators.		
59. Add a new requirement for WaterNSW report and publish annually its progress towards Net Zero and to report against the International Sustainability Standards Board (ISSB) sustainability-related disclosure standards. Full list of draft recommendations Water NSW operating licence review 2023-24 Page 79.	Government.	Government policy implementation.
60. Retain the licence obligations related to end of term review.	Not Applicable.	Supported.
61. Modify the licence obligations related to how and when communications under the Licence must be given to confirm that it applies to approvals.	Water users.	Supported.
62. Confer functions on IPART in connection with operational audits of Water NSW.	Not Applicable.	Supported.

Concluding comments

CICL's overarching concerns with the proposed changes to the WaterNSW operating licence are:

- it imposes a number of new obligations on WaterNSW which will increase its costs but will not improve the service provided to CICL.
- it imposes obligations on WaterNSW where WaterNSW is not in control of the outcome.
- the proposed conditions will result in regulatory overlap between WaterNSW and NSW – DCCEEW.

CICL is a member of New South Wales Irrigators' Council (NSWIC) and has provided input into the NSWIC submission, which includes expanded discussion on specific issues which CICL considers important. These include IPART's cost sharing framework, WaterNSW customer consultation and regulatory overlap.

If you require further information please contact Jenny McLeod, CICL Policy and Communication Manager, [REDACTED] or on [REDACTED]

Yours sincerely

A solid black rectangular box used to redact the signature of the sender.

Julian Speed
Chief Executive Officer