

The Hon Rose Jackson MLC
Minister for Water, Minister for Housing,
Minister for Homelessness



Minister for Mental Health, Minister for Youth,
Minister for the North Coast

Our ref: BN24/1398

Ms Carmel Donnelly PSM
Chair
Independent Pricing and Regulatory Tribunal
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By email: maria_morahan@ipart.nsw.gov.au; Jonathan_Hopson@ipart.nsw.gov.au

Dear Ms Donnelly Carmel

NSW Government submission on the Draft WaterNSW Operating Licence

I am pleased to provide the NSW Government's further submission to the Independent Pricing and Regulatory Tribunal's (IPART) review of the WaterNSW operating licence.

The draft licence package, released on 15 December 2023, incorporates many of the changes requested in the NSW Government submission to the Issues Paper.

Thank you for your updates to the licence that reflect the changes to long term planning for drought and water security, consistent with the strategic direction outlined in the NSW Water Strategy, regional water strategies and the Greater Sydney Water Strategy. The draft licence includes updates to ensure WaterNSW is equipped to perform their critical role as catchment manager in Greater Sydney, and supplier of two thirds of water used in NSW. The changes seek to support WaterNSW in managing water supplies in a way that looks to improve the security, reliability, quality and resilience of water resources, particularly in the context of climate change and population increase.

NRAR has provided its independent Board approved submission (**Attachment A**).

Catchment management

The NSW Government is committed to improving catchment management on a state-wide basis to deliver improved health, environmental, and water quality outcomes, and is working to deliver on three key actions under the NSW Water Strategy (Action 3.2, 4.4, 6.9) to help achieve these outcomes. Our submission to the Issues Paper noted that whole-of-government efforts on these actions is ongoing, and that transferring sole responsibility for state-wide catchment management to WaterNSW is not recommended at this time. However, the NSW

Government supports the draft licence conditions expanding Water NSW’s education and research obligations beyond the declared catchment (effectively expanding Water NSW’s obligations from being solely Sydney-focused to include regional areas). This aligns with recommendations made by the Chief Scientist and Engineer in the report ‘Independent review into the 2023 fish deaths in the Darling-Baaka River at Menindee’ (29 September 2023) and supports incremental improvements in regional areas, whilst further policy work continues. The NSW Government notes the research and education draft clauses are assessed in the preliminary CBA published by IPART as returning uncertain or net disbenefits. The NSW Government is of the view that if Water NSW’s research and education efforts are targeted to priority areas where there are clear gaps, the benefits would outweigh costs.

Clause	IPART Recommendation	Proposed change and rationale
32	Modify the scope of the requirement to undertake catchment research to non-declared catchment areas	The NSW Government supports this condition and recommends research should be targeted to priority areas.
33	Modify the requirement for WaterNSW to maintain an ongoing community education program for non-declared catchment areas and downstream rivers	The NSW Government supports this clause and expects WaterNSW will collaborate with other agencies to ensure complementarity in education programs and aims (for example, DCCEE’s Reconnecting River Country Program).

Water Planning and Climate Change

The NSW Government, in our submission to the Issues Paper, supported changes to enhance collaboration, clarity and adaptive planning in the preparation and review of key documents, such as the Drought Response Plan, the Long-Term Capital and Operating Plan and regional water strategies. Water conservation, long term planning and water efficiency play a critical role in building our resilience to future drought, flood and increasing population pressures. The NSW Government supports IPART’s updates in the draft licence to reflect this and suggests further changes to facilitate a higher degree of collaboration alongside an adaptive planning approach to be taken by WaterNSW, the NSW Government and Sydney Water.

The NSW Government supports a new requirement for a Water Conservation Plan, in line with similar requirements in the Hunter Water Operating Licence and the draft Sydney Water Operating Licence. The Water Conservation Plan should demonstrate WaterNSW’s forward plans for water conservation and the results of its research and water conservation activities, with leakage reduction activities being of particular relevance. This reflects the importance the NSW Government places on maximising the resources we have through increasing water efficiency and conservation. WaterNSW notes in the CBA published by IPART that while costs would not be high

for a Water Conservation Plan, water saved would likely be insignificant. The Department of Climate Change, Energy, the Environment and Water (DCCEEW) notes that benefits of water conservation initiatives would be quantified in a Water Conservation Plan and only cost-effective activities undertaken thereafter. The NSW DCCEEW Regional Leakage Reduction Program has found an average of 0.64ML/yr leaking per km of water supply pipeline surveyed. Trunk mains are likely to leak less than this, but leak reduction will most likely be cost effective for WaterNSW. The Water Conservation Plan will also aid in improving transparency whilst also elevating the focus of water efficiency, in line with Sydney Water and Hunter Water's reporting requirements.

Greater transparency and monitoring of water conservation efforts will become increasingly important in the context of climate change challenges affecting the quantity and quality of water available, as identified in the Sydney Drinking Water Catchment Audit 2019-22. To this end, the NSW Government also supports the draft clauses requiring WaterNSW to demonstrate how they consider, plan for and manage climate related risks, consistent with changes being proposed for the Sydney Water Operating Licence.

The NSW Government also supports changes to the objectives of the licence to consider climate impacts more broadly, and DCCEEW would support expanding this to the environment. This is consistent with the *WaterNSW Act 2014*. IPART should also consider including a definition of 'environmental flows' to clarify when WaterNSW may have to notify or communicate with the NSW Environmental Water Holder, and other stakeholders.

Clause	IPART Recommendation	Proposed change and rationale
34	Modifications to system yield requirements to clarify roles for water planning	The NSW Government supports this condition but suggests rather than specifying a time frame (i.e., at least 30 years), the focus be on capturing all available instrumental data, unless climate change studies suggest otherwise. What is most important to yield calculations is that the hydrological data captures rainfall characteristics as much as possible.
35	New requirements for WaterNSW to maintain and comply with a 5-year conservation plan (state-wide) that considers the NSW Water Efficiency Framework,	The NSW Government supports this clause. This is broadly consistent with similar clauses in Hunter Water and draft Sydney Water operating licence, while providing WaterNSW with flexibility to adapt to the diverse contexts in which it operates. DCCEEW notes likely benefits for

Clause	IPART Recommendation	Proposed change and rationale
	to the extent it applies to WaterNSW operations	WaterNSW in terms of cost savings from leakage reduction, and reducing potential losses from storage and transportation.
37	Modify requirements for WaterNSW to cooperate with Sydney Water on the Greater Sydney Drought Response Plan	<p>DCCEEW requests clause 37(1) (a) be revised to require WaterNSW cooperate with Sydney Water and the Department to review the DRP.</p> <p>DCCEEW seeks collaborative involvement in the development of the DRP, and that a final copy is submitted to the Department ahead of the Minister, as it is DCCEEW's role to advise the Minister on the Plan's contents.</p> <p>DCCEEW recommends retaining the clauses requiring the report be provided to the Department at least 30 days in advance to being provided to the Minister.</p> <p>Consistent with our submission to Sydney Water's licence review, DCCEEW recommends that this clause recognise the need for implementation of the DRP to be adaptive (to the context of each drought) and be consistent with the drought governance arrangements.</p>
39	Modifying the requirements to maintain a Long Term Capital and Operational Plan and remove the requirements to implement actions under the GSWS	<p>These draft clauses are supported. DCCEEW note the value of flexibility around the review to enable WaterNSW to do this when it is appropriate for them, to support pricing determinations, or in response to other factors.</p> <p>DCCEEW note it is not necessary for the licence to dictate WaterNSW internal approvals and processes. Clause 39 (3)(c) and (d) can be removed.</p>

Clause	IPART Recommendation	Proposed change and rationale
Objective and Definitions	IPART has recommended changes to the objective clause that require WaterNSW to consider climate change impacts and inter-generational equity in how it carries out its activities.	<p>DCCEEW agrees with these changes and considers they could be expanded to refer to the environment. The <i>Water NSW Act 2014</i> includes WaterNSW objectives such as the protection of the environment, and a requirement for WaterNSW to conduct its operations in compliance with the principles of ecologically sustainable development.</p> <p>Obligations for WaterNSW that could be reflected in the licence include:</p> <ul style="list-style-type: none"> - Protect the environment - Provide water for the environment in accordance with NSW Government policies to protect and enhance the environment more generally, including ecological species and communities that rely on or use water managed and released by WaterNSW. <p>The licence should also include a definition for 'environmental flows'. The term is currently not defined in the draft Operating Licence, which creates uncertainty about whether it extends to environmental flows that are in-channel only, or also flows that overtop banks and inundate land, as is the case for floodplains and wetlands.</p> <p>We recommend a definition of environmental flows to make it clear the term can include:</p> <ul style="list-style-type: none"> • water orders (both within channel or out of channel where authorised); • components of the hydrograph protected by Active Management and/or Prerequisite Policy Measures

Clause	IPART Recommendation	Proposed change and rationale
		(PPMs), including return flows where authorised; <ul style="list-style-type: none"> • Discretionary Planned Environmental Water releases from allocations set within relevant WSP provisions; and • access to unregulated flows in the southern connect Basin as River Murray Unregulated Flow.

Performance Standards and Water Quality

The NSW Government submission to the Issues Paper supported performance standards being included in the licence, including new standards which focus on early notification for service interruptions.

In our position in the submission to the Issues Paper, the NSW Government supported the inclusion of draft clause 11, requiring WaterNSW to work towards having in place an organisation-wide Quality Management System (QMS) by 1 July 2026. DCCEEW has revised its position in light of cost concerns raised by WaterNSW. We also acknowledge gaps and benefits may be more clearly assessed following development of the Section 10 review’s recommended Quality Management Framework.

DCCEEW is currently working together with NRAR and WaterNSW to develop a Quality Management Framework. This is in response to the findings of the recent review of the ‘activities of the department under section 10 of the *Water Management Act 2000*’, that there was a lack of explicit evidence for how the principles of the Act were given effect in policies, processes and decisions. The Framework being developed will be high-level, and is primarily concerned with the overarching principles outlined in section 5 of the *Water Management Act*. Consequently, we consider there is benefit for WaterNSW in working towards an organisation-wide QMS in the longer term, which will provide more useful guidance for everyday operations. A QMS helps an organisation demonstrate how it consistently provides services that meet customer and applicable statutory and regulatory requirements. A QMS aims to enhance customer satisfaction through the effective application of the system, including processes for improvement and the assurance of conformity to customer and applicable statutory and regulatory requirements. We consider a QMS can complement the Environmental Management System, Asset Management System, Drinking Water QMS and Data Management System required in the draft licence, and is consistent with existing requirements in both Sydney Water and Hunter Water’s operating licences. The proposed QMS is expected to have a net benefit of \$0.2 million, with unquantified benefits including improved risk management, more reliable information provided to IPART and other regulators and reputational gains. We support reconsidering the issue beyond 1 July 2026, and once the QMF is finalised.

NSW Health recommends rewording of certain water quality clauses to clarify intent, and DCCEEW recommends expanding certain notification clauses to meet the needs of the Environmental Water Holder and improve NSW's ability to meet commitments under the Murray Darling Basin agreement.

Clause	IPART Recommendation	Proposed change and rationale
8	Water Quality Management System – drinking water in areas with services already regulated by the <i>Public Health Act 2010</i> , section 25 (picnic areas and regional sites) are excluded from scope of the WQMS	<p>NSW Health requests a re-wording of the clause, to make clear the exclusion in 8(1)(b)(iii) relates to regional sites that include small supplies near Water NSW dams only and does not include any utility-like services. WaterNSW is not exempt from the <i>Public Health Act 2010</i>, section 25, for any direct drinking water supply.</p> <p>NSW Health recommends the addition of obligations relating to fluoridation of the Fish River Water Supply Scheme in the Operating Licence. NSW Health considers the Licence to be the most appropriate mechanism to set out key Government requirements of public interest in a succinct and accessible form.</p>
13, 15.1	Calculation of performance standards – IPART has explicitly stated water quality performance standards for water WaterNSW releases from dams, or supplies directly under bulk water contracts	<p>NSW Health does not support the draft clause in its current form. WaterNSW is not required to maintain a quality assurance program under section 25 of the <i>Public Health Act 2010</i> for released dam water, and has limited control over the quality of water that would be released. Requiring 100% compliance with performance targets for raw water with limited control is not appropriate or achievable. Turbidity of released water would provide more meaningful information to downstream drinking water suppliers. NSW Health is available to work with IPART and WaterNSW to develop more appropriate performance standards if required. Changes to water quality are not necessarily related only to extreme events.</p>
15	Performance standards tables for water quality, delivery, service interruptions, trades and the Fish River Water	<p>DCCEEW request IPART amend clause 15.1 R-WQ-1 to include a requirement for releases to consider temperature to minimise cold water pollution. This is consistent with the NSW Cold Water Pollution Strategy.</p>

Clause	IPART Recommendation	Proposed change and rationale
	Supply Scheme (FRWSS)	<p>Each performance standard for water delivery refers to water orders, made in accordance with a water access licence. This excludes Planned Environmental Water (PEW). The holder of the water access licence for environmental water is the relevant customer, in this case the NSW Water Holder or the Commonwealth Environmental Water Holder.</p> <p>DCCEEW recommends, where releases of Held Environmental Water (HEW) are rescheduled:</p> <ol style="list-style-type: none"> 1. The Operating Licence should require WaterNSW to have regard to the need to deliver the beneficial environmental outcomes that were being sought by the release. 2. The notification in R-SI-3 should not be limited to the customer (NSW Water Holder or the Commonwealth Environmental Water Holder). Rather, given that the release of the HEW is endeavouring to achieve a public good, notification needs to also be given to the relevant Environmental Water Advisory Group (EWAG), or equivalent, relevant local Council/s and possibly advertised in a local newspaper. <p>Environmental water includes HEW and PEW. By definition, the above performance standards only apply to HEW.</p> <p>PEW includes (in relation to the Gwydir River and Wetlands system at least):</p> <ol style="list-style-type: none"> 1. The Environmental Water Allowance, which is released in accordance with the relevant Water Sharing Plan. 2. The Environmental Contingency Allowance, which is released on order by the NSW Environmental Water

Clause	IPART Recommendation	Proposed change and rationale
		<p>Manager in accordance with the relevant Water Sharing Plan.</p> <p>DCCEEW recommends including performance standards for each of these categories of PEW to the effect that:</p> <ol style="list-style-type: none"> 1. 100% of PEW is released in the volume and at the times required in accordance with the applicable Water Sharing Plan. 2. Notification is given to the relevant Environmental Water Advisory Group, relevant local Council/s and possibly advertised in a local newspaper if the PEW releases are to be rescheduled or are delayed. <p>To reflect the recommended performance indicators, the reporting manual should also be updated in a consistent manner.</p>
18	New clauses requiring WaterNSW maintain a system to provide early warning to all registered persons, from 1 July 2026	DCCEEW request that Clause 18(3)(a) explicitly refer to releases of PEW or HEW that may cause inundation.
20	New requirements for an enhanced Water Quality Monitoring Program	DCCEEW agrees there is value in an enhanced, ongoing water quality monitoring program that takes a more proactive approach to collecting and sharing relevant information adapted to local water utilities needs. This complements and continues work commenced under the Town Water Risk Reduction Program. Timely updates can assist local water utilities to plan for changes in water quality by adjusting water treatment plant operation in order to maintain safe drinking water standards, reduce operating costs, while also lowering the risk of the need to issue boiled water alerts.

Clause	IPART Recommendation	Proposed change and rationale
		<p>DCCEEW and the Department of Regional NSW consider there is further value in expanding its remit to integrate existing monitoring in unregulated rivers for broader purposes, in order to provide better environmental outcomes and benefits for those not on town water supply.</p> <p>DCCEEW request that clause 20(2) be amended to request WaterNSW consult with DCCEEW in developing the program, and that the report in 20(3) required to be submitted to IPART also be provided to the Department.</p>
49	Environment, climate and water quality reporting	<p>Amend clause 49 to include requirements to monitor and report on performance indicators related to HEW and PEW releases.</p> <p>Consider a requirement for an annual report on the management and release of HEW and PEW, including any reported feedback from the community.</p> <p>Without doubling up with the water quality and quantity indicators, the reporting manual should include environmental performance indicators relevant to the maintenance of environmental flows – in particular, the maintenance of minimum flows through the release of PEW.</p>

Customers, Community and Cooperation Protocols

The NSW Government in its submission to the Issues Paper supported WaterNSW taking a customer and community centred approach to its engagement and service delivery. The draft licence recommends transitioning away from current customer advisory groups, to a consultation policy developed by WaterNSW. This approach will allow greater flexibility in engagement, while specifying that WaterNSW's engagement should be representative of its diverse customer base and include broader impacted community.

The NSW Government notes that more formal arrangements may be required and merit funding from WaterNSW, to ensure that Aboriginal rights and access to water is protected and expanded, in line with commitments NSW has made in the NSW Water Strategy and Closing the Gap.

Clause	Recommendation	Proposed change and rationale
25-30	Modify consultation requirements to be more outcomes-focussed, and outline support (family violence, payment options) and complaints mechanisms available to customers	<p>DCCEEW supports moving away from mandated Customer Advisory Groups (CAGs) to a flexible policy that supports engagement tailored to customer needs, as long as there is ongoing oversight about the effectiveness and inclusion of engagement. DCCEEW notes that the term customers may in some cases be too narrowly applied. For example, the responsibility of WaterNSW for releasing PEW in circumstances where there may not be a customer indicates that the processes of complaint management needs to be broader than complaints from customers only. Complaints might be received in relation to PEW or HEW, including from the community, environment groups, and landowners whose land is inundated.</p> <p>DCCEEW recommends Part 7 include a service charter, notification requirements and complaints handling procedure relating to the release of PEW and HEW. This will need to consider complaints from members of the public and affected landowners.</p>
Part 11	Includes legislated requirements for MoUs with EPA and Health, and cooperation protocols with NRAR and NSW Fisheries	<p>The NSW Government supports the inclusion of cooperation protocols with NRAR and NSW Fisheries.</p> <p>DCCEEW requests a cooperation protocol between WaterNSW, the NSW Water Holder, and the NSW Water Manager. A similar agreement previously existed.</p> <p>The Cooperation Protocol should cover:</p> <ol style="list-style-type: none"> 1. Pre-planning for the release of HEW and PEW

Clause	Recommendation	Proposed change and rationale
		<ol style="list-style-type: none"> 2. Notification of the public of proposed releases 3. Notification of affected landowners 4. The placing of orders for releases 5. Reporting on compliance with the WSP in relation to release of PEW. 6. Annual reporting of cases where orders for environmental water were not delivered as required/requested and a committee review process for continuous improvement.

Data and Transparency

Transitioning to a data management system and a water sector information hub aligns with the direction and intent of the NSW Joint Technology Roadmap DCCEEW, NRAR and WaterNSW are currently developing. DCCEEW considers current data sharing arrangements and systems are not fit for purpose and will cost more to sustain in the long term. Transitioning to the proposed information hub represents cost savings into the future, as well as significant benefits for government agencies in terms of productivity gains and better timely information. NRAR has provided more detailed feedback on these clauses in their independent submission. There are also considerable benefits for the public in terms of increased transparency.

DCCEEW supports 'water sector' being defined appropriately to specify the data WaterNSW currently has custodianship over. Similarly, DCCEEW acknowledges the hub includes data and information for various purposes and audiences, both open source and confidential. DCCEEW supports appropriate safeguards being in place to maintain security at the differing levels required. DCCEEW also supports information provided being fit for the purpose of the requesting agency. Where WaterNSW cannot meet this standard for reasons beyond their control, the information should be provided with clear caveats about any quality issues or gaps.

Clause	Recommendation	Proposed change/Rationale
Part 10	New requirements for a data management system, comprising systems, processes and procedures, and a water sector information hub.	<p>The NSW Government supports the proposed changes. The intent aligns with the NSW Technology Roadmap intended outcomes.</p> <p>DCCEEW notes implementation will be contingent on funding, and does not recommend removing the requirement for Data Sharing Agreements until sufficient</p>

		<p>progress is made on delivering the Data Management System and Water Sector Information Hub. DCCEEW requires long-term flow data (100+years) when reviewing water sharing plans. If this can't be managed through the information hub, DCCEEW would request the data sharing agreements remain in place.</p> <p>DCCEEW suggests the licence could clarify that 'system' (clause 41) could be described as system, process and procedures. It is recommended any system, process and procedures are developed and maintained in consultation with NSW Government (DCCEEW Water Group) and NRAR.</p> <p>DCCEEW supports elevating the outcomes of Water sector information hub currently in clause 42(4) to clause 42(1), to specify that WaterNSW must maintain a system that allows NSW Government agencies to access data and information held by WaterNSW that is relevant to their functions. DCCEEW also suggests including a clause specifying WaterNSW must consult and cooperate with the Department and NRAR to resolve any identified and prioritised data access and quality issues.</p>
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Thank you for the opportunity to raise these matters. Should you have any further questions regarding this submission, please contact Mr Ashraf El-Sherbini, Acting Chief Operating Officer, Water on 0428 441 699. I look forward to receiving your final recommended licence package.

Yours sincerely



*Thanks for your
consideration
R.*

Rose Jackson MLC

Minister for Water, Minister for Housing, Minister for Homelessness
Minister for Mental Health, Minister for Youth, Minister for the North Coast

Date: 22.3.24

Enclosed: Attachment – Independent NRAR submission

OFFICIAL

Water NSW Draft Operating Licence 2024-29

NRAR submission to whole of government response

Draft recommendation 38

Include a new obligation requiring WNSW 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).

Supported in principle.

NRAR agrees that WaterNSW is the custodian of most NSW water resource data and information, on behalf of the State of NSW. We note the footnote on page 55 of the discussion paper states “we consider that data owners are responsible for the collection and accuracy of the data and information”. NRAR notes that the NSW Government Data Glossary and NSW Infrastructure Data Management Framework Terminology state “Data Owner’ is often used interchangeably with ‘Data Custodian’. NRAR considers, in accordance with the Custodianship Policy, that Water NSW, as the data custodian, should hold overall accountability and responsibility for the dataset and cannot delegate its accountability for the integrity, quality, currency, accuracy, and accessibility of that information. We request that the Operating Licence reflect the role of data custodians as set out in the Custodianship Policy.

NRAR supports an obligation requiring Water NSW to develop and maintain a data management system. However, it is essential that this obligation is strengthened by the inclusion of appropriate timeframes for the delivery of the overarching product, and also for key milestones within each of the sub-products (data governance policy, data quality policy, and data sharing policy). These timeframes must ensure that adequate opportunities are available for input and review by key data users, including NRAR. The obligation should also be supported by clear governance arrangements for who will determine that the products and services are adequate. Such governance arrangements must include the key data users/consumers, such as NRAR, and include regular review periods to assess service levels.

NRAR is the NSW water regulator. We are responsible for enforcing water laws throughout the state with targeted compliance programs that ensure water is used lawfully and shared fairly.

Data governance policy

NRAR supports the requirement for the data governance and management policy to be consistent with the NSW Government's Data Custodianship Policy and the State Records Act 1998. This requirement should also extend to the NSW Custodianship Guidelines for Spatial Data (2018). NRAR expects, consistent with NSW Government Standards, that WaterNSW as the custodians, will seek input from NRAR as an identified user, to assist in defining appropriate standards for data information in their custody and set standards according to agency business needs within appropriate frameworks. NRAR also notes the requirement under the Policy for custodians to maintain data, and to consult with key stakeholders prior to developing or defining collection and maintenance programs. This consultation with NRAR will be critical to successful implementation, as it will enable WaterNSW (the custodian) to understand and accommodate NRAR's needs for information. Similarly, NRAR would expect the custodian to consult with NRAR in fulfilling the obligation to correct faulty data.

NRAR recommends that the proposed clause 41(1) of the draft Operating Licence be amended to incorporate a requirement that the data governance and management policy be consistent with the water sector Roles and Responsibility Agreement (RRA). Additionally, NRAR requests that the obligation require that the final product be approved and accepted by NRAR.

Data quality policy

NRAR supports the requirement for a data quality policy and the requirements detailed in the proposed Operating Licence condition 41(b) being maintained.

NRAR notes the requirement for data quality statements to be applied at the data element level, or at a minimum at the dataset level.

Data sharing policy

NRAR supports the requirement for a data-sharing policy. However, the proposed clause does not sufficiently meet NRAR's needs in its current form.

The NSW Government's Open Data Policy is focused on external access to data and was not intended to cover agency-to-agency data sharing. NRAR's data needs extend beyond the data needs of the public and must be fit-for-purpose to enable NRAR to deliver its statutory enforcement functions.

NRAR recommends that the draft Operating Licence condition 41(c) be amended to:

- distinguish user groups (i.e. separately identify data users that have statutory functions) and recognise their unique data needs
- require WaterNSW to consult with NRAR prior to preparing the data-sharing policy
- require data to be provided in a form that NRAR can arrange and analyse for our needs at any point in time, including for enforcement purposes to evidentiary standards, building

strategic intelligence for priority setting and tactical intelligence for compliance program design

- require the final product to be subject to NRAR approval and acceptance
- require the data sharing policy to be kept up to date and any changes to the policy to reflect data and/or system changes- must be managed by first consulting with affected parties.

Draft recommendation 39

Remove all obligations related to the DQP portal.

Not supported.

NRAR supports the proposed integration of the DQP Portal requirements into the Water Sector Information Hub, and notes that the DQP Portal will therefore be subject to obligations of the data management system (draft recommendation 38). The DQP portal contains data that is essential for NRAR to determine and report compliance with non-urban metering rules.

The draft Operating Licence would obligate WaterNSW to deliver the water sector information hub by 30 June 2029 (clause 42 (3)(c)). The removal of the DQP portal condition prior to this time and application of a generic requirement (clause 42(4) to *'maintain a system that allows NSW Government agencies to access data and information held by Water NSW that is relevant to their functions'* is not sufficient to address NRAR's needs. To ensure business continuity, NRAR recommends that WaterNSW be required to maintain the DQP Portal until acceptance by NRAR that the Water Sector Information Hub delivers the required data and information for NRAR's operations, and that systems and processes using this information are updated. NRAR notes that such a requirement could be time limited to a period of not more than 12 months after acceptance of the Water Sector Information Hub by NRAR.

Draft recommendation 40

Remove the requirements for WaterNSW to maintain data sharing agreements with DPE and NRAR.

Not supported.

NRAR does not support the removal of the requirement for a data sharing agreement (DSA) with NRAR until all components of the data management system and information hub are delivered, implemented and accepted by NRAR. NRAR requires certainty that current access to data and systems will not be interrupted while improvements are delivered.

Draft recommendation 41

Include a new obligation requiring WNSW 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 (clause 42)

Supported in principle.

NRAR supports the establishment of a water sector information hub. NRAR's understanding is that that this will be a central repository where data and information is stored, maintained, and accessed by relevant government departments, including NRAR, and that this data and information will be managed consistently with the data management system. This would enable NRAR to extract data directly from a single source of truth and eliminate manual transfer of data. The success of the hub will be dependent on all required data being directly accessible in the hub, and on WaterNSW, as the data custodian, being accountable for maintenance of the hub. The hub should be able to be used as the single point of truth for administration, water management and compliance and enforcement. NRAR requires free and unfettered access to this data at all times to enable us to carry out our statutory functions.

The IPART Discussion Paper references the Joint Technology Roadmap which explores the technology needs of the water sector. The Roadmap articulates technology needs of NRAR at a high level. NRAR therefore recommends that the Operating Licence to reference the Roadmap in clause 42.

NRAR notes that clause 41 of the draft Operating Licence requires WaterNSW to adhere to the Government Open Data Policy 2016. While NRAR supports the inclusion of this clause, it does not sufficiently address all NRAR's requirements as this policy is focused on data for the public (data users external to government), not government agencies with statutory requirements. It is essential that this distinction is recognised and addressed in the Operating Licence.

To address this gap, NRAR recommends that the proposed clause 42(3)(a) of the Operating Licence be amended to explicitly require the implementation plan to specify/detail the data that will be provided for NRAR in the hub. This requirement must be explicitly stated because, as noted in NRAR's previous submission, current negotiated arrangements such as the MoU have not satisfactorily delivered NRAR's full data needs. To further address this, NRAR recommends that the proposed clause 42(2) be extended to not only require WaterNSW to cooperate, but consult and agree with NRAR and NSW DCCEE Water, on the design and development of the water sector information hub. This is essential to ensure that NRAR can meet its statutory objectives under the *Natural Resources Access Regulator Act 2017* to ensure the public confidence in the efficient, effective, accountable, and transparent enforcement of water laws in NSW.

Draft recommendation 42

Retain the requirement to download metering data at intervals of no more than 12 months (clause 43).

Supported.

NRAR supports the maintenance of this requirement in the operating licence as this data is used by NRAR in compliance assessments, investigations and for strategic intelligence to identify potential compliance issues and future programs of work.

Draft recommendation 44

Modify the obligation for WaterNSW to maintain the Roles and Responsibilities Agreement (RRA) with DPE to clarify that the:

- a. obligation also extends to NRAR and WAMC
- b. RRA is not limited to the conduct of Conferred functions (clause 46)

Supported.

NRAR supports the requirement to maintain the Roles and Responsibilities Agreement (RRA) and recognition that the RRA is not limited to the conduct of conferred functions. As detailed in earlier sections of this submission, it is imperative that documents, policies, and actions required by the Operating Licence are consistent with the RRA. NRAR recommends that draft clause 46 be amended to require that WaterNSW ensures the Data Management System and Water Sector Information Hub are consistent with the RRA.

NRAR seeks clarification of the intent of requiring Water NSW to make the RRA publicly available online.

Draft recommendation 45

Modify the requirement for WaterNSW to maintain and comply with a cooperation protocol with NRAR (clause 47)

Supported.

NRAR has no objection to replacing the requirement for an MOU between Water NSW and NRAR with a requirement for a Cooperation Agreement. The Cooperation Agreement should be limited to addressing matters that are by mutual agreement, not legally binding agreements. NRAR notes that clauses 41 and 42 of the draft operating licence address data and system matters which NRAR consider should be imposed as legally binding obligations.

For clarity, NRAR recommends that the proposed clause 47 details the types of matters that should be addressed by a Cooperation Agreement. Examples include:

- opportunities for complimentary work to improve service delivery and efficiency
- collaboration to deliver enhanced education and engagement programs and reduce overlap
- protocols for service requests outside the scope of the Operating Licence (e.g. historical hard copy records for investigations)
- establishment and monitoring of key performance indicators (e.g. measurement and performance of data quality statements)
- identification and resolution of emerging issues
- transparent service desk

NRAR does not support the current drafting of proposed clause 47 “recognises the shared and complementary responsibilities of the parties in relation to water supply compliance and enforcement” as our work and data needs is not limited to “water supply” compliance and enforcement eg Controlled Activity Approval enforcement. NRAR recommends that this clause be amended to broaden the scope to “responsibilities of the parties”.