

26 July 2016

Review of the Hunter Water Corporation Operating Licence
Independent Pricing and Regulatory Tribunal
P O Box K35
HAYMARKET POST SHOP NSW 1240



Dear Sir/Madam,

SUBMISSION TO WATER LICENSING - ISSUES PAPER MAY 2016

The following provides discussion to the points relevant to NSW Health in the above IPART Issues Paper and forms NSW Health's formal submission.

Water Quality

1. Should the operating license obligations for drinking water be retained, given the presence of similar requirements under the *Public Health Act 2010*?

Hunter Water Corporation's Operating Licence requirements are consistent with the requirements of the *Public Health Act 2010* (the Act) and Regulation and therefore appropriately manage the delivery of safe drinking water. Hunter Water Corporation previously requested and received an exemption from the Chief Health Officer from the requirements under section 25(1) of the Act and clause 34(1) of the Regulation.

This exemption avoids regulatory duplication and is for the duration of the operating licence (2012-2017) so long as the following conditions are met:

- Hunter Water Corporation must continue to implement a Drinking Water Quality Management System that addresses the elements of the Framework for the Management of Drinking Water Quality (as set out in the *Australian Drinking Water Guidelines*).
- Hunter Water Corporation must ensure that NSW Health is provided any update or amendment to the Drinking Water Quality Management System.
- Hunter Water Corporation must continue to provide to NSW Health an Annual Compliance and Performance Report on implementation of the Drinking Water Quality Management System.
- The annual Operational Audit must find that Hunter Water Corporation's implementation of the Drinking Water Quality Management System is satisfactory.

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The Chief Health Officer may cancel this exemption if Hunter Water Corporation's implementation of the Drinking Water Quality Management System is not satisfactory. If the Operating Licence were amended such that the requirements of the Act were not met, the Chief Health Officer may revoke the exemption.

2. How should NSW Health's role in the review and endorsement of water quality management systems be articulated? Are there other viable options for approving water quality management systems in accordance with the *Australian Drinking Water Guidelines* and *Australian Guidelines for Water Recycling*?

NSW Health has a role to assist Hunter Water Corporation in meeting public health aspects of drinking water supply and recycled water applications. Public health whilst important is not the only facet of overall scheme establishment and operation. There are other considerations such as environmental and safe work practice which also require consideration.

NSW Health does not see itself as an approval authority and on the whole, has no statutory approval processes. NSW Health is satisfied with current arrangements of review and expressing satisfaction with finalised documents. Such documents are available for further critique during annual audits through IPART.

The Operating Licence clauses could be updated to reflect the wording used in the Sydney Water Operating Licence which specifies 'to the satisfaction of NSW Health.'

3. How should the risk of potential inappropriate use of recycled water with industrial customers be managed? What action could/should Hunter Water take in the event that the end-use is considered inappropriate?

The IPART issues paper does not accurately reflect NSW Health's comments on the use of recycled water by industrial customers. The *Australian Guidelines for Water Recycling* (the Guidelines) recommend end user agreements between the utility and user which specify the actions and conditions that the end user is required to adhere to. Compliance with the Guidelines is therefore sufficient detail to include in the Operating Licence. However, Hunter Water Corporation is responsible under the Operating Licence and needs to be satisfied that the end user is operating in accordance with the agreement. The implications of Hunter Water Corporation ceasing supply to industrial customers needs to be understood with regard to Hunter Water Corporation's discharge requirements under its various Environment Protection License conditions.

NSW Health supports the proposal to modify the obligation to manage recycled water quality to include reference to the *Australian Guidelines for Water Recycling* for clarity.

Water Quantity

7. Should the new operating license require Hunter Water to continue to have a roles and responsibilities protocol with DPI Water, given that the development of the Lower Hunter Water Plan is complete? If so, what should be the scope of such a protocol?

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The Lower Hunter Water Plan is under constant review and has relevance to multiple agencies including NSW Health. It is considered that maintaining a relationship with DPI is important and the scope of a roles and responsibilities protocol would best be determined through discussion and negotiation with DPI.

Customers and consumers

11. What are your concerns regarding the supply of non-potable water to residential customers, the conditions of supply, and the approved end-uses? How should these concerns be addressed – in the operating licence, the customer contract, or is there some other method?

NSW Health has concern that non-potable water supplied to residential customers may be consumed as drinking water or used for preparation of food including washing foods and cooking or for oral hygiene purposes. Of additional concern is the provision of the non-potable water to third parties such as children in school camp settings or guests at Bed and Breakfast accommodation where the third parties may or may not be informed of the status of the water supply.

The provision of non-potable water where the provision of potable water is not feasible needs to be well managed and controlled. It is probably best managed through clear and concise individual customer agreements which are reflective of the management framework of the *Australian Drinking Water Guidelines*.

13. What changes if necessary, are needed in the operating license and/or customer contract to account for 'wholesale' customers and services?

14. Are the definitions of 'customer' and 'consumer' in the customer contract suitable for the current operating environment? If not, how can the definitions be amended to provide better clarity?

15. Should Hunter Water be obliged to service anyone other than property owners? If so, who are these 'customers' and what are the appropriate obligations on Hunter Water to service them?

In response to questions 13, 14 and 15 above, Water Industry Competition Act (WICA) licensees are not typical customers and therefore it is considered appropriate that they are required to negotiate a non-standard contract. Some WICA licensees operate a distribution system, including reservoirs, downstream of the connection to Hunter Water and are required to develop and adhere to water quality management plans. If the licensee failed to control risks in the distribution system, Hunter Water Corporation should be obligated to supply the licensee.

It is also not clear how any costs of implementing the supply to a development would be allocated between Hunter Water Corporation and the WICA licensee who will profit from the supply.

Environment, Quality, Performance Monitoring and Memorandum of Understanding

23. How could the reporting of information (content and frequency) be improved to reduce the regulatory burden on Hunter Water but still sufficient to inform the customers and the public?

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As a result of discussion around reporting frequency during their Operating Licence review, Sydney Water now provides a daily online water quality report for the public. NSW Health notes that while the report is updated daily, the purpose was never to 'inform the public and prevent risks to public health' as suggested in the IPART issues paper. The Chief Health Officer is responsible for public health advice, including calling a boil water alert if required. Under these circumstances the online water quality report would not be the mechanism to communicate or prevent public health risks.

Daily reporting of water quality should not be a requirement under the Operating Licence.

24. What are your views on maintaining the current licence obligation to require a Memorandum of Understanding with NSW Health?

NSW Health supports the obligation to require a Memorandum of Understanding (MoU) with NSW Health. The MoU outlines the basis for the cooperative relationship between the organisations and has been revised as required over time. The MoU review is aligned to the Operating Licence review which provides an opportunity to revise any relevant clauses.

25. What alternative methods are there to include NSW Health in the auditing process for water quality, to ensure it is kept informed of issues that may affect public health in the Hunter region?

NSW Health is informed directly by Hunter Water Corporation of any immediate risks or potential risks that may affect public health. NSW Health's review of recycled water and drinking water management plans focuses on potential public health issues but should not be considered an approval or endorsement of the utility's documentation.

NSW Health is consulted by IPART for input into the audit scope and directly by the auditor as required. NSW Health regards the audit process essential to ensure the ongoing adequacy of the recycled water and drinking water management plans and compliance with the *Australian Guidelines for Water Recycling* and *Australian Drinking Water Guidelines*.

Thank you for engaging with NSW Health with respect to the IPART Issues Paper. Should you require any additional information in relation to the above, please contact Mr Philippe Porigneaux, Environmental Health Manager, Hunter New England Population Health on [REDACTED].

Yours sincerely

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