

**REVIEW OF THE OPERATING LICENCE FOR
HUNTER WATER CORPORATION**

**SUBMISSION BY TOTAL ENVIRONMENT CENTRE TO
THE INDEPENDENT PRICING AND
REGULATORY TRIBUNAL**

September 2001

INTRODUCTION

The review of the Hunter Water Corporation (HWC) Operating Licence provides a valuable opportunity to improve the corporation's environmental performance and increase public confidence.

This submission presents a framework for a new Operating Licence that will bring Hunter Water's operations into line with ESD principles. It also details mechanisms to increase the corporation's transparency and accountability.

HUNTER WATER'S FUNCTIONS AND REGULATORY ARRANGEMENTS

Primary functions

TEC believes that in addition to the primary functions set out in the *Hunter Water Act 1991*, **HWC should be required to meet similar objectives to Sydney Water i.e. protection of the environment, public health and economic viability. The Operating Licence should define these objectives and require HWC to give them equal weight.** Such a requirement would be consistent with the triple bottom line approach which is increasingly being adopted by progressive corporations. As a major corporate entity in the Hunter region HWC should take a lead in adopting and promoting this approach.

Regulatory Environment

The Tribunal's Issues Paper (IPART, 2001a) identifies the key elements of Hunter Water's regulatory framework as including the Operating Licence, the Licence Regulator and Memoranda of Understanding with its primary regulators. These primary regulators include the EPA, DLWC, NSW Health and IPART.

Hunter Water has argued against including provisions of other regulatory instruments in the Operating Licence (HWC, 2001). It is important, however, that HWC's obligations relating to public health, water quality and environment protection be included in the Operating Licence. The Operating Licence provides a simple and transparent mechanism for ensuring HWC's operations are publicly accountable. It is important that the Operating Licence be an overarching instrument that clearly sets out the corporation's obligations and performance requirements. Relationships with other statutory instruments should be included in the Operating Licence as detailed elsewhere in this submission. Placing these obligations within other instruments could lead to regulatory confusion and create barriers to review of performance by the Licence Regulator. The Operating Licence provides an integrating instrument that allows coherent management of HWC as a whole. No other regulatory agencies or instruments provide such a function.

The Operating Licence needs to commit HWC to strictly adhere to ESD principles. This would be best achieved by developing a set of indicators of sustainability such as energy use, water conservation, sewage effluent, green purchasing policies and sub-contractors environmental systems. All major projects undertaken should be required to address compliance with these indicators. This is discussed in more detail elsewhere in this submission.

The Licence Regulator should be responsible for ensuring the organisation conducts its operations in accordance with ESD by checking performance against this set of indicators.

HWC also argues that the licence should not include third party obligations i.e. the licence should not impose requirements on other agencies or parties . It further argues that the activities of third parties are outside of the control of the regulated utility and that a licence issued to one party cannot be a regulatory instrument on any other party (HWC, 2001).

TEC rejects this argument. HWC cannot absolve itself of responsibility to ensure that activities carried out on its behalf are consistent with the corporation's own requirements and obligations. HWC must be responsible to ensure that contracts with agencies or other parties require those parties to adhere to the same standards as those imposed upon the corporation. HWC must not be able to engage others to perform activities it is not permitted to carry out itself or to conduct operations at a standard below its own. **The Operating Licence should, therefore, require HWC to ensure that any contracts it enters into include provisions consistent with those in the licence and other instruments. HWC should also be responsible for ensuring that contractors adhere to those provisions.**

Curiously, in arguing against a more prescriptive and detailed Operating Licence, HWC has suggested that regulators need to be mindful of the words of Thomas Jefferson and ensure that regulation is not "*wasting the labours of the people on the pretext of looking after them*". It is unclear whether the late US President had considered regulatory arrangements for monopoly water agencies in forming this view. In any case, this should not be seen as the last word on the subject of regulation. We draw the Tribunal's attention to the words of John Ralston Saul (1995) that "*economic regulation protects the marketplace from itself by introducing common sense. In the process it protects society*".

DRINKING WATER STANDARDS

The current Operating Licence for HWC requires compliance with Draft 1994 Australian Drinking Water Guidelines established by the National Health and Medical Research Council (NHMRC) and Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ). These guidelines have been superseded by the 1996 guidelines which have been adopted by the corporation.

We note also that the NHMRC proposes to continually update the guidelines as new information becomes available (HWC, 2001). It is likely, therefore, that the current 1996 guidelines will be updated throughout the period of the next HWC Operating Licence.

TEC strongly believes that it is essential that the Operating Licence require HWC to comply with the most up to date standards for drinking water that are in place at any time. For this reason we believe that **the licence should require HWC to comply with the 1996 guidelines and any revisions to the health related aspects of those guidelines.** This would ensure consistency with the requirements for Sydney Water Corporation and promote public confidence that the most advanced standards of public health protection are in place.

TEC welcomes the proposal by HWC to undertake a program of monthly and annual public reporting of compliance with the operating licence requirements for drinking water quality. We would support the inclusion of such a provision in the operating licence.

Following the 1997 Sydney water crisis, there is a need for water agencies to address the issue of *Cryptosporidium* and *Giardia* in order to ensure public confidence in the safety of drinking water. While there has been no similar crisis affecting HWC it is entirely possible that *Cryptosporidium* and *Giardia* may pose problems in the future. At present it is not possible to define standards for *Cryptosporidium* and *Giardia* in regulation due to a lack of information and technical limitations. For instance, not all strains of these micro-organisms are capable of causing infection in humans and it is difficult to determine whether *Cryptosporidium* and *Giardia* detected in water supplies are still viable organisms.

In view of this the Operating Licence should require HWC to keep abreast of world best practice for *Cryptosporidium* and *Giardia* in drinking water and update standards as new information comes to light. The Operating Licence should also commit HWC to rigorously test for the presence of these micro-organisms, maintain strict catchment protection programs and ensure that drinking water is free of viable *Cryptosporidium* and *Giardia* capable of causing infection in humans.

In a similar fashion the licence should also require HWC to remain up to date with standards in other health related issues such as endocrine disrupting chemicals and other pollutants in drinking water.

TEC believes that the relationship between the Operating Licence and the MOU with NSW Health needs to be strengthened. In a submission on the Operating Licence for Sydney Water Corporation (PENGOs, 1999) environment groups noted the Licence Regulator's comments that its ability to effectively review Sydney Water's operations was limited by the lack of targets and timelines in the MoUs. Effectively, the Licence Regulator was only able to check that MoUs have been completed. The report of the Sydney Water Inquiry (McClellan, 1998) recommended that the Operating Licence should be amended to require that MoUs include targets, timelines and review provisions and specifically require the Water Auditor (currently the Licence Regulator) to audit their contents. Furthermore, the Operating Licence should specifically bind Hunter Water to meeting these provisions.

We are concerned that the current HWC Operating Licence may similarly constrain the scope of the licence audit. **In the interest of transparency and accountability we believe that the licence should include the requirements of HWC's MOU with NSW Health and make performance against them subject to consideration in the operational audit.**

SYSTEM PERFORMANCE STANDARDS AND MEASURES

Customer needs and preferences

TEC notes from the discussion paper (IPART, 2001a), that the Halcrow Management Sciences review indicates that service levels in NSW water agencies have generally chosen to reflect system capability rather than customer expectations. In the case of Hunter Water, it was concluded that the licence service standards are not reflective of customer expectations of water services. It is clear that the standards need to be improved in order to be more reflective of customer expectations, however, as noted in the discussion paper little is known about customer expectations and levels of satisfaction with various performance measures. It is likely, however, that customers expect, as a minimum, that there will be no deterioration of service levels. Hunter Water's submission makes it clear

that they have exceeded targets in the current licence for water supply reliability, pressure, and sewer surcharges on private property and sewer transport system performance. **To comply with expectations that there should be no decline in service standards, these targets should be raised to ensure current service levels are enshrined in the licence as minimum standards.** Given that HWC is easily meeting most of the Operating Licence standards it is unlikely that this would impose a severe additional cost on the corporation. It would, however, provide HWC with a strong incentive to maintain a sufficient level of investment in asset maintenance to prevent a decline in service.

The issues paper (IPART, 2001a) notes that research is required to gain a better understanding of customer expectations and willingness to pay for higher service standards. HWC proposes that detailed standards should be considered in the review of the new licence, when details of research conducted by the Water Services Association of Australia (WSAA) for the CSIRO will be available. TEC believes that HWC should also be responsible for identifying the requirements and expectations of its customers. To this end the **licence should include a requirement for HWC to conduct research into customer expectations and requirements. This should take the form of establishing Customer Councils along the same lines as Sydney Water.** This is discussed in more detail later in this submission.

Incentives to improve standards

As discussed above it is clear that HWC has out performed most of its compliance targets set out in the current Operating Licence. The current standards are thus unlikely to provide any incentive for the corporation to improve performance. In fact, it could be argued that maintaining targets that are below current performance levels might provide HWC with an incentive to reduce investment in asset maintenance and allow a decline in service levels. It is significant that the drop in compliance for continuity of supply in 1996/97 represented a considerable decline in performance from usual levels, but still remained above the licence standard. Of particular concern is the comment of the auditor that the decline was a result of several significant system failures which demonstrated limitations in Hunter Water's management systems and inconsistent response procedures relating to critical assets (IPART, 2001a).

We recommend that as a minimum, current levels of performance should be enshrined as new standards in the Operating Licence. As discussed below these standards should be defined in terms of numbers (consistent with Sydney Water) rather than as percentages. It is recognised that as population increases this will produce a gradual tightening of standards. This tightening of standards will provide HWC with a strong incentive to improve performance and ensure adequate investment in the maintenance of its assets.

Definitions and measurement

TEC does not believe that current procedures, which allow HWC to interpret definitions and establish its own measurement and sampling procedures of Operating Licence standards, are adequate. Such self-regulation is unlikely to inspire confidence in the objectivity of the process of measuring the corporation's performance.

Given the monopoly status of Hunter Water Corporation it is appropriate that definitions and measurement procedures for standards should be included in the Operating Licence. This would provide for greater transparency and accountability and allow the licence regulator to comment on the process for defining and measuring standards.

Comparison with other water utilities

TEC believes that it is essential that system performance standards in HWC's Operating Licence be made consistent with the standards of Sydney Water and other utilities. Hunter Water Customers are entitled to expect comparable standards of performance to those of Sydney Water and other utility customers.

Establishing consistent performance standards would also provide a valuable tool for comparing performance between utilities and establishing benchmarks. This would provide useful information for setting performance standards in future licence reviews.

Performance standards

TEC is particularly concerned that existing service standards do not serve as adequate performance measures. As discussed in the Tribunal's Issues Paper (IPART, 2001a) criteria for water supply continuity and sewage surcharges are based on numbers (percentages) of customers rather than incidents, and customers with multiple incidents in one year are counted only once, thus making it easier for HWC to meet performance targets. The use of number of incidents as a performance measure for water pressure, continuity and sewage surcharges would provide a more accurate reflection of operational performance. Identifying repeat incidents is also of particular importance in highlighting localised problems within the system. As discussed below one notable example is the repeat occurrence of sewer overflow events in the Swansea area. Such localised poor performance is likely to be obscured by overall figures showing compliance with targets. **In addition to basing standards on number of incidents rather than customers TEC believes that additional indicators be included in the licence requiring HWC to report on numbers of repeat events.** The inclusion of such indicators in the licence would encourage HWC to address localised system deficiencies and provide information on which to base performance standards for repeat occurrences in the next Operating Licence.

Water continuity

As noted above, the current Operating Licence standard for water continuity is well below actual performance levels. **To encourage HWC to maintain investment in asset maintenance at a level sufficient to prevent a decline in service levels, the standard should be raised to current performance levels.**

As discussed above, TEC believes that Operating Licence standards should be expressed in terms of numbers rather than percentages. Apart from making it easier for the public to interpret, this would produce a gradual tightening of standards as population grows, leading HWC down a path of continuous improvement. **We strongly believe, however that the licence standard should be based on numbers of incidents rather than**

properties or customers to ensure that repeat incidents are included in compliance statistics.

To address the problem of repeat incidents, TEC also believes that new performance indicator should be included in the Operating Licence which requires Hunter Water to report on the number of properties experiencing more than one loss of supply each year. Data obtained from this indicator should be used to develop a performance standard for inclusion in the licence at the mid term review or licence renewal.

The present continuity standard also fails to distinguish between planned and unplanned interruptions. TEC also supports the view that unplanned interruptions cause greater inconvenience to customers. **Consequently we would support the introduction of separate standards for planned and unplanned interruptions. In the interests of consistency with SWC the reporting threshold should be reduced from 6 to 5 hours .**

Water pressure

The current Operating Licence standard requiring that less than 5% of properties shall incur verified low pressure incidents is considerably below performance over the last 5 years (HWC, 2001a). **TEC supports the proposal by HWC that the standard should be raised to less than 2%. We believe however that the standard should be expressed in terms of numbers of incidents rather than percentages. A new performance indicator should be included in the licence which requires Hunter Water to report on the number of properties experiencing multiple low-pressure incidents each year. Data obtained from this indicator should be used to develop a performance standard for inclusion in the licence at the mid term review or licence renewal.**

Wastewater standards

Wastewater standards in the current licence present similar issues to water supply and pressure standards.

It is clear that the current licence standard for sewer surcharges is considerably below performance over the last five years. **The standard should be raised to effectively rule a line under present performance and prevent any deterioration in performance as a result of inadequate investment in asset maintenance. The standard should also be expressed in terms of number of incidents rather than percentages to promote public understanding and ensure that multiple events to one property are included in compliance statistics.** As is the case with water supply and pressure standards, expressing the standard in terms of number of incidents rather than properties would lead to a gradual tightening of standards as population grows, thus providing an incentive for HWC to improve performance.

The present standard also fails to identify the number properties subjected to repeat surcharges or overflows. As noted above this has the potential to disguise localised problems and poor system performance amongst generally favourable compliance figures. In particular, there have been repeated problems in the Swansea area with sewage overflows.

A further problem is that the present standard deals only with surcharges affecting private property, and does not consider overflows to public land. **Surcharges to properties should cease to be the parameter for Hunter Water's performance in relation to sewer surcharges. In other words, all sewer surcharges, to all land or waters and particularly volumes discharged, should form the basis for assessing Hunter Water's performance.**

As recommended for SWC (IPART, 2001b) **standards should be introduced to set compliance targets for overflows onto both public and private land as well as the number of overflow incidents where the time since the last overflow at the same location is less than 1 year.** This would provide a strong incentive for HWC to address localised system problems and poor performance. TEC also supports the introduction of additional indicators as recommended for SWC in the review of system performance standards.

Stormwater

Pollution from stormwater is an issue needing considerable attention. **Hunter Water should meet measurable performance targets for both the quantity and quality of stormwater that flows through its drains.** These standards should be developed in cooperation with other relevant agencies, including local government and the targets written into the Operating Licence. The fact that local councils are generally responsible for top-of-catchment stormwater drainage is not a justification for maintaining inadequate performance.

Performance standards for stormwater must be based on *the hydrological capacity of each catchment*. Capacity targets should reflect the need to reduce both the quantity and velocity of stormwater which runs off urban catchments. This target would involve consideration of initiatives undertaken upstream in the catchment, especially as the tendency for development and redevelopment is to increase the amount of impervious land in a catchment. (NCC et al, 1998). In this respect a standard for stormwater would strengthen HWC's EMP requirements in relation to participation in Catchment Management Committees and working with councils to develop Stormwater Management Plans.

Operating Licence stormwater standards would also encourage HWC to vigorously pursue source control initiatives and encourage cleaner production amongst local industries.

As a further step toward improving stormwater management HWC should actively pursue a program (in association with local government) of restoring and rehabilitating drainage canals to a more natural, riverine habitat. Such a program would offer considerable environmental benefits through improving the quality of stormwater discharged into receiving environments and increasing aquatic habitat. **The Operating Licence should include a requirement to develop a program of canal restoration along with a target for km's of stream to be restored over the course of the licence.**

Asset management

Appropriate investment in asset management is essential to prevent decline in service levels and environmental protection.

Changes to performance standards recommended above (i.e. raising standards to rule a line under current performance and expressing standards in terms of number of incidents rather

than properties) will provide an incentive for HWC to maintain its assets in good condition. We note, however, the Tribunal's comment that individual targets are often insufficient to ensure appropriate investment. We note also the fact that other water agencies such as the Water Corporation of Western Australia and Melbourne water utilities are required by their operating licence to maintain asset management systems (IPART, 2001a).

It is particularly significant that auditor has previously identified concerns in relation to management systems and response procedures relating to critical investments (IPART, 2001a). In view of this, **TEC believes that the Operating Licence should include a requirement for HWC to maintain an asset management strategy that is subject to independent audit.** The discussion paper indicates that HWC's asset management strategy may be too detailed to readily assess each year as part of the Operational Audit. If this is the case, then **as a minimum the asset management strategy should be subject to audit as part of the mid-term and end of licence reviews.**

Use of indicators

TEC supports the introduction of performance indicators to complement Operating Licence standards. We believe that **similar performance indicators to those recommended for Sydney Water in the review of system performance standards (IPART, 2001b) should be applied to HWC.** This would ensure consistency in regulation between the corporations and allow closer comparison and benchmarking of performance. It would also provide HWC with strong incentives to improve performance and provide essential information for developing performance standards for the next licence. Several specific indicators were discussed earlier in relation to performance standards.

ENVIRONMENTAL REQUIREMENTS

Environmental Management Plan

The provision in the Operating Licence which includes assessment of and reporting on performance and progress of the Environment Plan should be strengthened and brought into line with arrangements for Sydney Water and the Sydney Catchment Authority. Current arrangements making the EMP an internal document with some of its provisions forming part of the Environment Report are insufficient to ensure environmental accountability and public confidence. **The licence should specifically require HWC to produce an Environment Plan and to engage in extensive consultation when developing or amending the plan. To be effective the licence must include rigorous and measurable targets for the plan and performance in meeting these must be examined and reported in the Operational Audit.**

The logic of Hunter Water's argument that imposing strict compliance targets would provide it with a disincentive to adopt more ambitious environmental targets and programs is difficult to understand. The existence of compliance targets would in no way prevent the corporation from going beyond compliance and achieving more ambitious goals. As discussed elsewhere in this submission, we welcome Hunter Water's proposal for ambitious "stretch targets" or ultimate goals. **These additional targets should be**

included in the licence as an adjunct to compliance standards. Progress towards achieving these stretch targets should be reported in the Operational Audit.

Demand management, water efficiency and reuse

Demand management

Demand management and effluent re-use must be given priority as options for meeting increasing demand for water and avoiding augmentation of supply. The discussion paper indicates that Hunter Water has the second lowest household usage of the 19 Australian water authorities (IPART, 2001a). This is largely a result of historic factors, including the fact that HWC was the first agency to adopt user pays pricing and that its introduction corresponded with a major drought and water restrictions. It is unclear whether HWC's non-price demand management is adequate. We note with particular concern, the finding of the Halcrow Management Sciences Review of NSW water agencies (HMS, 1999) that HWC uses demand management forecasting techniques that are not best practice.

TEC strongly believes that a demand management target must be included in the Operating Licence. As an interim measure the licence should require household usage to be maintained at the present level. This requirement will not, however, be sufficient to prevent future augmentation of supply or ensure greater drought proofing. As population grows household consumption will need to be reduced. Consequently, **a target for reducing household usage should be included in the licence, as is the case for Sydney Water. If there is insufficient information to set such a target immediately, then appropriate indicators should be chosen and HWC required to report against them to enable a target to be developed and adopted by the Minister for inclusion in the licence at mid-term review.**

As noted in the discussion paper water consumption in the Hunter is disproportionately influenced by changes to the industrial structure. It is clear that the emergence of new industry has the potential to significantly increase demand. Hunter Water's submission argues that demand management targets may discourage the establishment of industries and prevent employment opportunities. Hunter Water should be actively promoting re-use as a viable alternative for new industry through pricing and other incentives.

Demand management targets should be supported by the inclusion of leakage reduction and re-use targets in the licence as discussed below.

Reduction of water leakages

It is clear from available data that Hunter Water's present performance in relation to reducing leakage is extremely poor. The fact that HWC has the highest overall leakage rate of any metropolitan water agency in Australia at 15.5% (IPART, 2001a) is particularly disturbing given the Corporation's current program to augment supply by enlarging Grahamstown Reservoir. Reducing this unacceptably high leakage rate would make a valuable contribution to demand management and may assist in deferring future supply augmentation.

TEC does not support HWC's view the number of main breaks and leaks per 100km of main is a more appropriate indicator than percentage of water lost. It is true that Hunter

Water has a large geographic area and low customer density. These are factors, however, that the corporation must take into account in developing its asset management programs and ensuring appropriate levels of investment, rather than offering as excuses for poor performance. There may, however, be some value in requiring HWC to report on the number of main breaks and leaks per 100km in addition to the actual percentage of water lost. This would provide an indication of the condition of HWC's water supply assets and the appropriateness of the level of investment in asset maintenance.

Even using HWC's preferred measure performance on preventing losses from the system is extremely poor compared to other Australian water agencies (IPART, 2001a). It is clear that considerable effort is required to identify and reduce losses from the system. **The Operating Licence should require HWC to implement a rigorous program of leak detection and prevention. The licence should also include targets for reducing the percentage water lost from the system.**

It may be argued that such requirements would place an additional cost burden on the corporation, however, this should be considered in light of deferring the costs of supply augmentation.

The development, implementation and effectiveness of leak detection and prevention programs should be subject to audit by the Licence Regulator.

Water recycling and reuse

TEC notes the fact that Hunter Water currently recycles around nine percent of dry weather flows, a figure considerable higher than most other major water authorities (IPART, 2001a). It is important to consider, however, that most of this re-use is concentrated in a very small number of large applications (i.e. Eraring Power Station). Thus the figure of 9% does not necessarily indicate that HWC has actively promoted the wide spread development of re-use. It is also important to consider that the loss of any of the current applications would significantly reduce the quantity of water recycled. Hunter Water also notes the potential for new industries to significantly increase demand for water in their submission to the Tribunal (HWC, 2001). The potential for industry to place increased demand on potable water supplies is particularly strong under the newly established three tier pricing structure which offers water to high volume users at a significantly reduced rate (a pricing structure opposed by environment groups in submissions on pricing). To curb increasing demand Hunter Water must play a major role in promoting re-use applications and water conservation technologies for both established and new industries as part of its contribution to the development process. The Operating Licence should clearly commit HWC to this course of action and the goal of preventing supply augmentation.

The Operating Licence should, therefore, commit HWC to actively promoting increased effluent re-use and preventing supply augmentation. This will require the inclusion of a target for increased volumes of effluent recycled over the term of the licence. We understand that HWC currently has an internal re-use target of 13%. This target should be formalised as a starting point by inclusion in the Operating Licence.

Hunter Water has argued for the inclusion of "stretch targets" rather than minimum standards in the Operating Licence. While TEC believes that minimum standards are essential we

welcome the concept of establishing ambitious long term targets. In 1995 the EPA indicated in comments included in the Sydney Water Operational Audit (CH2M Hill and Coopers & Lybrand, 1996) that Sydney Water should aim to cease discharging through deep ocean outfalls in the next 20-30 years. **TEC recommends that the Operating Licence for Hunter Water should also commit the corporation to the ultimate goal of ceasing discharge to receiving waters.** It is recognised that this will ultimately require the development of potable re-use or dual reticulation systems.

While development of potable re-use may not be politically feasible in the short term, public concern about potable reuse must not be used as an excuse not to develop infrastructure for re-use. Considerable opportunities already exist for the development of non-potable reuse. An example of this is the Coffs Harbour Sewerage Scheme was been designed to avoid the construction of a new ocean outfall. The scheme provides for the development of non-potable reuse initially but will allow potable reuse options to be added later as the population grows.

Promotion of water efficient devices

Given the rapid population growth and new development occurring throughout HWC's area of operations the promotion of water efficient devices is a valuable demand management tool that should be energetically pursued.

While HWC's EMP currently includes some measures aimed at promoting the use of water efficient appliances, **TEC believes these should be strengthened with a requirement in the Operating Licence to participate in the National Water Conservation Rating and Labelling Scheme.** This would ensure consistency with Sydney Water and enable HWC's efforts to promote water conservation to be assessed in the Operational Audit.

TEC also believes that the Operating Licence should also require HWC to promote the installation of rainwater tanks to reduce demand on potable water supplies.

Water resource and catchment management

As noted in the discussion paper (IPART, 2001a) HWC's use of bulk water and its catchment management activities are regulated by DLWC, through the Water Management Licence, which is supported by a MoU. Other instruments include the Williams River REP, Regional Planning Strategy and the Healthy Rivers Commission report on the Williams River. In their submission (HWC, 2001) the corporation has argued that functions regulated by other agencies should not be included in the Operating Licence.

TEC does not support this view. As detailed in relation to the MoU with NSW Health **TEC believes that there are considerable advantages in including provisions in the Operating Licence specifically binding HWC to implement the requirements of each of the above instruments. Progress in meeting the requirements of such instruments should be examined and reported on in the Operational Audit.**

Unlike Sydney Water, HWC retains some responsibility for drinking water supply catchments. It should, therefore, be required to implement similar measures to protect catchments and drinking water supplies as those undertaken by the Sydney Catchment Authority. **In particular the Operating Licence should require HWC to undertake risk assessments for *Crptosporidium* and *Giardia* as well as threats to water quality such as**

biosolids application, STP's affecting the catchment, agricultural activities, such as proximity of livestock to watercourses, industry and mining (especially sandmining in the Tomago Sandbeds catchment). Where threats to water quality are identified, the licence should require HWC to develop threat abatement measures. Compliance with these catchment protection requirements should be subject to report in the Operational Audit.

Environmental and ESD indicators

The review of the Operating Licences for Sydney Water and the Sydney Catchment Authority established new indicators of environmental performance and ecological sustainability. There are considerable advantages in applying similar requirements to HWC. Such arrangements would provide consistency in regulation and allow comparison and benchmarking of environmental performance between agencies. Comparing performance between agencies would allow opportunities for improvement to be identified and successful strategies in one agency to be adopted by others.

TEC rejects the view put forward by HWC that environmental indicators should be based on information currently collected by the corporation and that performance against these indicators should be reported on in the annual environmental report.

Simply reporting on information currently collected by HWC is unlikely to provide a complete picture of environmental performance and sustainability. For this reason **HWC should also be required to report on similar ESD indicators to Sydney Water and the Catchment Authority. To ensure maximum accountability and transparency it is essential that performance against environmental and ESD indicators be considered and reported on in the annual Operational Audit.**

The indicators chosen should be made available for public review and comment. In the interests of efficiency and consistency they should also consider the draft ANZECC Environmental Indicators which will be used in the State of Environment Reporting processes of both the Commonwealth and NSW Governments.

Energy management

As noted in the discussion paper (IPART, 2001a) water agencies are major consumers of energy through STP's, sewage pumping and offices. Consequently, increasing energy efficiency and the proportions of electricity generated from renewable resources is one way in which Hunter Water could reduce the overall environmental impact of its operations.

As a first step toward placing HWC's energy use on a more sustainable footing the Operating Licence should include a clause requiring SWC to meet the 6% Green Power purchasing requirement included in the 1998 NSW Greenhouse Action Plan (EPA, 1998). Given the potential of HWC to generate its own green power through hydro-electric facilities at dams and co-generation facilities at STPs, the licence should stipulate that the corporation is required to purchase or generate at least 6% of its energy requirements from green power sources. Inclusion of this target in the Operating Licence would bring HWC into line with Sydney Water and the Sydney Catchment Authority. This must be viewed as an initial measure only and the licence should commit HWC to an annual percentage improvement on this figure. The licence should also commit HWC to NSW Government

Energy Management Policy goal of reducing total energy consumption of buildings by 25% of 1995 levels by 2005

To build upon this the Operating Licence for HWC should require HWC to adopt best practice in energy efficiency through measures such as:

- **implementing a comprehensive energy use and management strategy, incorporating energy audits and energy conservation measures;**
- **monitoring energy opportunities that may require additional capital expenditure but would allow and provide for;**
 - * **diversity and flexibility to switch between energy forms to complement and augment grid electricity;**
 - * **insurance against unexpected supply constraints or price rises.**
- **use energy efficient motors for all new projects or motor upgrades and replacements;**
- **ensure all new buildings meet SEDA requirements for energy efficiency and new electrical equipment is chosen according to energy efficiency standards.**

The issues paper (IPART, 2001a) suggests that including energy management requirements may impose cost increases on the Corporation. It is important to consider, however, that increasing energy efficiency may yield substantial cost reductions in terms of purchasing electricity. Development of green power generation facilities such as hydro-electric and co-generation may also provide HWC with the opportunity to sell electricity generated in excess of the 6% target proposed above.

Performance against energy efficiency measures in the Operating Licence should be subject to audit by the Licence Regulator.

Waste plan

As a further step toward improving environmental performance, the Operating Licence should require HWC to develop a comprehensive waste plan with the aim of reducing waste to landfill. The plan should set targets for waste minimisation in construction and demolition as well as the corporation's operational activities. The plan and performance against it should be included in the scope of the Operational Audit.

CUSTOMER AND CONSUMER RIGHTS

Customer Contract

It is significant that HWC's Customer Contract has remained virtually unchanged since 1991. TEC notes the Tribunal's comment that compared to more recently developed Customer Contracts, HWC's places a much stronger emphasis on its own rights than it those of consumers.

Clearly the current Customer Contract does not serve the best interests of customers or represent current standards in the water industry. **It is essential, therefore, that the contract be updated as part of the new Operating Licence to bring into line with industry standards. In particular provisions should be included matching Part A of Sydney Water's Customer Contract, which sets out customers rights on a range of**

issues. The Customer contract should also be consistent with the principles developed by the Tribunal for the Sydney Water contract.

An issue identified in the review of the Operating Licence for Sydney Water was the definition of a customer. In that Customer Contract a customer was defined as a land owner who is connected to water services, sewer services or is within a stormwater drainage area. This effectively excluded a large number of consumers such as renters who may need representation on customer councils. It could also result in the audit of the operating licence being restricted to the effect of operations on land owners who pay service charges (IPART, 1999).

TEC is pleased to note that the customer rights specified in the HWC Customer Contract also apply to consumers who occupy but do not own property (HWC, 2001). We believe, however, that **in order to avoid any possible confusion, this should be clearly specified in the contract and the Operating Licence.**

The Licence should clearly bind Hunter Water to implement the Customer Contract and make it subject to audit by the Licence Regulator. The Contract itself should form a schedule to the licence. Any alterations to the Customer Contract should be subject to extensive public consultation.

Customer Charter

The provisions of the Customer Charter should be strengthened and given legal status by inclusion in the Customer Contract. This would ensure the protection of customer interests and allow the effectiveness of the charter to be considered in the Operational Audit.

Community consultation

TEC notes that HWC does not presently have a system of Customer Councils like Sydney Water, but rather a Community Consultative Forum. **In the interests of consistency and maximising public consultation HWC should be required to establish Customer Councils along the same lines as Sydney Water. The Operating Licence and Customer Contract should allow any customer, irrespective of whether they are landowners or not, to be eligible for membership of Customer Councils. Further Customer Council meetings should be open so that any person may observe their proceedings.**

Complaints handling and dispute resolution

TEC welcomes the fact that HWC has established complaints handling system based on Australian Standard AS4269-1995 (IPART, 2001b). **We believe that this should be strengthened with a reference to this system in the Operating Licence and a requirement to make this information publicly available.** Including such a provision in the licence would allow complaint handling procedures to be considered in the Operational Audit. This would also ensure consistency of regulation with Sydney Water.

In addition, the Operating Licence should require HWC to establish an alternative disputes resolution mechanism by referring unresolved complaints to Energy and Water Ombudsman of NSW (EWON)

Debt and disconnection

Current provisions in the Customer Contract requiring HWC to give 48 hours notice of disconnection are not adequate. Given, the extreme hardship caused by disconnection, **it would be appropriate for the licence to require HWC to develop a policy on debt and disconnection and offer a variety of payment options along similar lines to Sydney Water.**

Customer service standards and indicators

In order to ensure the highest level of customer service, the Operating Licence should include indicators corresponding to the Tribunal's recommendations for Sydney Water (IPART, 2001b). Performance against these indicators should be considered in the Operational Audit.

PUBLIC REPORTING AND LICENCE REVIEW

Reporting arrangements

It is of considerable concern that there is presently no requirement for the operational report to be tabled in Parliament and that HWC is responsible for publishing the outcomes of the audit. In the interests of accountability and providing ready access to information for the public TEC strongly believes that **operational audits should be tabled in Parliament, with IPART responsible for printing and distributing the audit report.**

We also believe that **the Operating Licence itself should be subject to approval by Parliament, as is the case for Sydney Water and the Sydney Catchment Authority.** Not only would this create consistency in the regulatory arrangements for NSW water agencies, it would also increase the transparency and accountability of the licence process.

Term of licence

TEC believes that **the term of the Operating Licence should be set at five years.** This would ensure consistency with Sydney Water and the Sydney Catchment Authority and allow a sufficient period to determine the effectiveness of any new provisions included in the licence.

Review of Operating Licence

The Operating Licence should reflect community, market and Government priorities. Clearly these will alter over time as circumstances change and new information becomes available. The Operating Licence should be able to adapt to these changes, particularly in relation to new standards of environmental management. Failure to adapt the Operating Licence could essentially hold back improvements to the way in which HWC manages its operations.

The Operating Licence should be subject to end of licence and mid-term review in accordance with the licences for Sydney Water and the Sydney Catchment Authority. This is a realistic timeframe given the long lead times associated with implementing many aspects of the licence. The process for this review should involve extensive consultation with

environment, community and scientific groups. IPART would be an appropriate body to conduct this review with Hunter Water and the Licence Regulator the main bodies involved.

We totally reject the view put forward by HWC that mid-term review is unnecessary due to smaller scale of their operations and the annual operational audit already in place. As pointed out in the discussion paper (IPART, 2001a) a mid-term review ensures that the Operating Licence reflects recent performance and latest developments in the water industry. Given the fact that previous licences have been issued for a period of three years it is particularly appropriate that a mid-term review be introduced if the new licence period is set at five years (a move Hunter Water supports in their own submission, HWC, 2001).

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