
Operating Licence

State Water Corporation Operating Licence
2008-2013

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1 Information about the Licence

1.1 Purpose of the Licence

The purpose of the Licence is to set out the terms and conditions under which State Water is to:

- (a) meet the objectives and other requirements imposed on it in the Act;
- (b) provide, construct, operate, manage and maintain efficient, co-ordinated and commercially viable systems and services for capturing, storing and releasing water;
- (c) recognise the rights given to Customers and the community by the Licence;
- (d) be subject to audits of compliance with the Licence;
- (e) undertake the Functions of the Minister administering the *Water Management Act 2000* under that Act or the *Water Act 1912* or the Ministerial Corporation under any Act or law conferred on State Water by the Licence; and
- (f) comply with the quality and performance standards in the Licence.

Note: The Licence is granted pursuant to section 11 (1) of the Act.

1.2 Term of the Licence

1.2.1 The Licence is renewed for a term of 5 years from the Commencement Date.

1.2.2 Notwithstanding the expiry of the term, the Governor may renew the Licence in accordance with the Act.

Note: Section 14 of the Act allows the Governor to renew the Licence for a maximum of 5 years at a time.

1.3 Mid Term Review

1.3.1 On or about 1 January 2011, a Mid Term Review of the Licence or any part of the Licence may be undertaken if there is a change in regulation or public policy or any other event which, in the reasonable opinion of IPART, may have a significant impact on the operation of the Licence or any part of the Licence.

1.3.2 A Mid Term Review must be undertaken of the Licence, or any part of the Licence, if requested by the Minister.

1.3.3 The Mid Term Review is to be undertaken by IPART.

1.3.4 IPART must engage in Public Consultation as part of the Mid Term Review.

- 1.3.5 IPART must report to the Minister on the following:
- (a) the findings of the Mid Term Review;
 - (b) any recommendations for amendment to the Licence; and
 - (c) any recommendations for amendment to any law that impacts upon the operation of the Licence.
- 1.3.6 The Minister may accept or reject any recommendation made by IPART.
- 1.3.7 If any recommendation made by IPART and accepted by the Minister requires an amendment to the Licence, the recommendation is of no force or effect unless the Licence is relevantly amended under section 13 of the Act.
- 1.3.8 Any recommendation made by IPART that is not accepted by the Minister is of no force or effect.

1.4 End of Term Review

- 1.4.1 On or about 1 July 2012, an End of Term Review of the Licence must be undertaken:
- (a) to determine whether the Licence is fulfilling its objectives;
 - (b) in relation to any matter required to be reviewed by the Licence; and
 - (c) to determine the terms of any renewal of the Licence.
- 1.4.2 The End of Term Review is to be undertaken by IPART, unless the Minister otherwise determines.
- 1.4.3 The person undertaking the End of Term review must engage in Public Consultation as part of the review.
- 1.4.4 The person undertaking the End of Term Review is to report to the Minister within 12 months of commencing the End of Term Review on the following:
- (a) the findings of the End of Term Review;
 - (b) any recommendations for amendments to the Licence, including any additional terms to be included in any renewal of the Licence; and
 - (c) any recommendations for amendments to any law that impacts upon the Licence.

- 1.4.5 The Minister may accept or reject any recommendation made by the person undertaking the review.
- 1.4.6 If any recommendation made by the person undertaking the review and accepted by the Minister requires an amendment to the Licence, the recommendation is of no force or effect unless the licence is relevantly amended in accordance with section 13 of the Act.
- 1.4.7 Any recommendation made by the person undertaking the review that is not accepted by the Minister has no force or effect.

1.5 Amendment of the Licence

- 1.5.1 Subject to the Act and clause 1.5.2, the Licence may be amended by the Governor by publication of notice of the amendment in the Gazette.
- 1.5.2 Before notice of an amendment to the Licence is published in the Gazette, the Minister must give State Water reasonable notice of the proposed amendment to enable it to comply with the amendments (if relevant) upon their commencement.

1.6 Contravention of the Licence

- 1.6.1 If the Minister is of the opinion that State Water has contravened the Licence, the Minister may take action against State Water under the Act.

Note: Section 16 of the Act provides that, where the Minister is of the opinion that State Water has contravened the Licence, the Minister may:

- (a) serve a notice on State Water requiring it to rectify the contravention; or*
- (b) in addition to or instead of the notice to rectify, the Governor may direct that State Water is to pay a monetary penalty of an amount to be determined by the Governor.*

- 1.6.2 If State Water knowingly contravenes the Licence, IPART may take action against State Water under the Act.

Note: Section 17 of the Act provides that, where State Water knowingly contravenes the Licence, IPART may require State Water to undertake remedial action or may impose a monetary penalty not exceeding \$10,000 for the first day on which the contravention occurs and a further \$1,000 for each subsequent day (not exceeding 30 days) on which the contravention continues.

1.7 Cancellation of the Licence

The Licence may be cancelled by the Governor in the circumstances described in the Act.

Note: Section 19 of the Act sets out the circumstances in which the Licence may be cancelled by the Governor. These include:

- (a) where State Water ceases, otherwise than as authorised by the Licence, to carry out its Functions in accordance with the Licence in its area of operations for any reason; or*
- (b) where State Water is, in the Minister's opinion, in material default in compliance with the Licence viewed in terms of the operation of the Licence as a whole and has not, within the time specified by the Minister in a rectification notice (including a notice under s16(1) of the Act) either rectified the default or shown cause why the operating licence should not be cancelled; or*
- (c) where State Water has been convicted on more than three occasions within a period of 12 months of offences that are punishable by a fine of at least \$10,000 or, if State Water were a natural person, imprisonment for 12 months or more.*

1.8 Availability of the Licence

State Water must make the Licence available to the public.

2 State Water's Responsibilities

2.1 Responsibility of State Water under the Licence and other laws

2.1.1 State Water must comply with the Licence and all applicable laws.

Note: State Water has obligations under a number of laws including:

- (a) State Water Corporation Act 2004;*
- (b) Water Management Act 2000;*
- (c) Water Act 1912;*
- (d) Protection of the Environment Operations Act 1997;*
- (e) Independent Pricing and Regulatory Tribunal Act 1992;*
- (f) Environmental Planning and Assessment Act 1979;*
- (g) State Owned Corporations Act 1989;*
- (h) Dams Safety Act 1978;*
- (i) Fisheries Management Act 1994;*
- (j) Public Health Act 1991;*
- (k) Fluoridation of Public Water Supplies Act 1957; and*
- (l) Water Act 2007 (Cth).*

2.2 Objectives of State Water under the Act

2.2.1 State Water's principal objectives are to capture, store and release water in an efficient, effective, safe and financially responsible manner.

- 2.2.2 State Water's other objectives (each of which are of equal importance, but not as important as its principal objectives) are:
- (a) to be a successful business and to that end:
 - (i) to operate at least as efficiently as any comparable business; and
 - (ii) to maximise the net worth of the State's investment in State Water;
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which State Water operates;
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6(2) of the *Protection of the Environment Administration Act 1991*; and
 - (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.

2.3 Memoranda of Understanding

- 2.3.1 State Water must use its best endeavours to maintain a Memorandum of Understanding (MoU) with each of the Directors-General of DWE, DPI and DECC for the term of the Licence.
- 2.3.2 The purpose of the MoUs is to form the basis for co-operative relationships between the parties to each MoU, in particular:
- (a) the MoU with DWE is to:
 - (i) recognise the roles of DWE in regulating water access, use and management and State Water in releasing water and managing assets; and
 - (ii) address the co-ordination of Functions and associated responsibilities between DWE and State Water in undertaking their respective roles;
 - (b) the MoU with DPI is to:
 - (i) recognise the role of DPI as the agency responsible for fisheries management in the State; and
 - (ii) address the impact of State Water's operations and information sharing arrangements on the aquatic habitat and fish passage;

- (c) the MoU with DECC is to:
 - (i) recognise the role of DECC as the agency responsible for environmental protection and conservation of natural and cultural heritage; and
 - (ii) address the impact of State Water's operations and information sharing arrangements on river health and water quality.

2.3.3 Clause 2.3.1 does not limit the persons or regulatory agencies with whom State Water may enter into a MoU.

2.3.4 State Water must make available to the public the MoUs referred to in clause 2.3.1.

2.3.5 State Water must, by no later than 1 September each year, report to IPART on its performance against, and compliance with, the MoUs referred to in clause 2.3.1 for the preceding financial year, including such relevant information as may be required by IPART to be included in the report.

2.3.6 State Water must make available to the public the report referred to in clause 2.3.5.

2.4 Functions of State Water arising from other legislation

Note: Section 6 of the Act specifies the principal Functions of State Water as follows:

- (a) *to capture and store water and to release water:*
 - (i) *to persons entitled to take the water, including release to regional towns;*
 - (ii) *for the purposes of flood management; and*
 - (iii) *for any other lawful purpose, including the release of environmental water;*
- (b) *to construct, maintain and operate water management works;*
- (c) *any other Functions conferred or imposed on it by the operating licence or by or under this or any other Act or law.*

In addition, under section 12 of the Act the Licence may confer on State Water specified Functions of the Minister administering the Water Management Act 2000 under that Act or the Water Act 1912 or the Ministerial Corporation under any Act or law. Functions conferred on State Water may also be exercised by the Minister or Ministerial Corporation unless these Functions are exclusively conferred on State Water. The Functions conferred under this clause are not conferred exclusively.

2.4.1 The following Functions under the specified sections of the *Water Management Act 2000* are conferred on State Water by the Licence:

- (a) granting consents to temporary water transfers under sections 71T and 71V;
- (b) debiting and crediting of water accounts under sections 76, 85 and 85A, subject to the condition that State Water provide water account information to DWE;
- (c) suspending access licences under section 78 and suspending approvals under section 109 in relation to a failure to pay any fees, charges or civil penalties imposed by State Water;
- (d) debiting water from water accounts and/or imposing civil penalties under section 85B, subject to the condition that State Water provide 14 days written notification of any proposed action to the Executive Director, Water Legal and Compliance of DWE or the Deputy Director General, Water Management of DWE prior to taking that action;
- (e) imposing and recovering fees and charges under section 114 consistent with any relevant determination in relation to the price of Bulk Water made by IPART or any other pricing authority vested with the power to determine water prices for State Water;
- (f) directing temporary water restrictions under section 323 where water restrictions are required as a result of an emergency works failure. In such cases, State Water must notify in writing to the Executive Director, Water Legal and Compliance of DWE or the Deputy Director General, Water Management of DWE as soon as practicable after making any direction;
- (g) issuing directions concerning the production of information under section 324 to require production of information related to metering;
- (h) issuing directions concerning the waste of water under section 325, subject to any requirement approved by the Minister;
- (i) issuing directions concerning unusable Water Management Works under section 330, subject to any requirement approved by the Minister;
- (j) issuing directions to protect water sources under section 326, subject to any requirement approved by the Minister;

- (k) issuing directions to stop work where unlawful activity is occurring under section 327, subject to any requirement approved by the Minister;
- (l) issuing directions to holders of basic landholder rights under section 328, subject to any requirement approved by the Minister;
- (m) issuing directions for temporary stop work orders under section 329, subject to any requirement approved by the Minister;
- (n) ordering landholders to take specified measures to prevent damage to water management works by straying stock under section 331, subject to any requirement approved by the Minister;
- (o) taking remedial measures when a person fails to comply with directions, under section 334, subject to any requirement approved by the Minister;
- (p) applying to the Land and Environment Court for an injunction under section 335, subject to any requirement approved by the Minister;
- (q) issuing certificates under section 362B, subject to any requirement approved by the Minister;
- (r) recovering fees, charges and civil penalties under sections 362A and 362C, subject to any requirement approved by the Minister; and
- (s) approving the form of an application for an assignment dealing with an access licence under section 71L, subject to any requirement approved by the Minister.

2.4.2 The following Functions under the specified sections of the *Water Act 1912* are conferred on State Water by the Licence in relation to State Water's operations on the Belubula, Brogo and Peel Rivers, the Border Rivers, the Lowbidgee Area, and Iron Pot Creek:

- (a) receiving water orders under section 20AF;
- (b) approving or refusing temporary transfers under Division 4C of Part 2, including taking action under section 20XA;
- (c) imposing and recovering charges in respect of any entitlement under sections 22C, 117B or 194;
- (d) suspending any licence or entitlement under sections 22C(9) or 117B (8);

- (e) waiving or remitting State Water's charges under sections 22C(10) or 117B;
- (f) suspending or revoking licences under sections 17A(1), (2) and (3);
- (g) suspending or revoking an authority granted to enable the taking of water from a river or lake for the purposes of a joint water supply scheme under sections 20H(1), (2) and (3);
- (h) suspending, modifying or revoking a group licence granted to a board of management elected under the *Private Irrigation Districts Act 1973* under sections 20S(1), (2) and (3);
- (i) giving a direction to remove the whole or part of a water work under section 21 B(1)(b);
- (j) entering any land to take levels, make surveys and marks, fix pegs and stakes and inspect any water works under section 22(1);
- (k) entering land and removing any dam, weir or other work that unlawfully obstructs a water flow or preventing or stopping any unlawful diversion of water from a river or lake under sections 22(3)(a) and (b);
- (l) issuing a written enforcement order directing a water management authority to do, or cease doing, such things as specified in the order under section 192; and
- (m) fixing water management charges under section 194 by reference to costs recoverable under subsection 194(2)(c).

2.4.3 The following Functions specified under the specified sections of the *New South Wales – Queensland Border Rivers Act 1947* are conferred on State Water by the Licence, subject to any requirement approved by the Minister or the Border Rivers Commission:

- (a) constructing, maintaining, operating and controlling relevant works in New South Wales under section 14; and
- (b) exercising the powers and obligations of a "Controlling Authority" under section 20.

2.4.4 State Water must exercise any Functions conferred on it in clauses 2.4.1, 2.4.2 and 2.4.3 consistently with the *Water Management Act 2000*, the *Water Act 1912*, the *New South Wales – Queensland Border Rivers Act 1947*, the Licence and any relevant Water Management Plan.

3 Asset Management

3.1 Asset Management Obligation

State Water must ensure that its Assets are managed in a manner consistent with:

- (a) its obligations in the Licence and all applicable laws, policies and guidelines with which State Water must comply, including the requirements of the NSW Dams Safety Committee;
- (b) the principles of the NSW Government's Strategic Management Framework and the NSW Government's Total Asset Management (TAM) Policy and Guidelines;
- (c) achieving the lowest cost of service delivery across the whole life of the Assets; and
- (d) identifying business risks related to the Assets and managing them to a commercially acceptable level.

3.2 Reporting on the Asset Management System

3.2.1 At least once during the Licence, at a time agreed with IPART, State Water must report to IPART on the state of each group of Assets managed by State Water.

3.2.2 The report under clause 3.2.1 must include the following information:

- (a) a description of the processes, practices, systems and plans State Water uses in managing the Assets;
- (b) a description of each group of Assets;
- (c) an assessment of the expected capability of the Assets to deliver the services required to be delivered by State Water and meet the existing obligations of State Water, consistent with the Licence and all applicable laws with which State Water must comply;
- (d) an assessment of the major issues or constraints on current and future performance of the Assets;
- (e) the strategies and expected costs of future investments in the Assets;
- (f) progress in implementing any recommended improvements in processes, practices, systems and plans for the management of the Assets; and
- (g) such other information reasonably required by IPART.

3.3 Auditing the Asset Management System

- 3.3.1 At least once during the term of the Licence, IPART must (at any time it decides) conduct an audit of State Water's compliance with this clause 3. The audit may form part of an Annual Audit or be conducted separately from an Annual Audit, at the discretion of IPART.
- 3.3.2 In addition, IPART may at any time audit State Water's compliance with this clause 3 for the purpose of:
- (a) investigating and reporting on, or reviewing the pricing of State Water's services under the *Independent Pricing and Regulatory Tribunal Act 1992*; or
 - (b) investigating compliance by State Water with specific areas of State Water's management of its Assets.
- 3.3.3 Any audit undertaken under this clause 3.3 must comply with the audit scope and audit specifications determined by IPART.
- 3.3.4 The provisions of clause 11 apply to an audit under this clause 3 as if the audit under clause 3 was an Annual Audit under clause 11.1 or an Additional Audit under clause 11.4.

3.4 Augmentation of Water Management Works

When considering any augmentation of a Water Management Work, State Water must consider any additional scope for cost effective demand management strategies by Customers.

4 Customers' rights and consultation

4.1 Community Consultative Committee

- 4.1.1 State Water must continue to consult regularly with the state-wide community consultative committee established under clause 4.1.1 of the Previous Licence (the CCC) to enable community involvement in issues relevant to the performance of State Water's obligations under the Licence, except in relation to the Fish River Scheme.
- 4.1.2 State Water must appoint the members of the CCC consistently with the Licence. The membership of the CCC must include one representative from each of the following:
- (a) Customers (excluding Fish River Customers);
 - (b) environment groups;
 - (c) basic water right holders;

- (d) regional business and consumer groups;
- (e) Catchment Management Authorities; and
- (f) local government.

4.1.3 The term of a member of the CCC will expire two years after his or her appointment. A member will be eligible for re-appointment for one further consecutive term.

4.1.4 State Water must provide the CCC with information within its possession or under its control necessary to enable the CCC to discharge the tasks assigned to it, other than information or documents over which State Water or another person claims confidentiality or privilege.

4.2 Valley based customer service committees (excluding Fish River customers)

4.2.1 State Water must continue to consult regularly with the valley based customer service committees established under clause 4.2.1 of the Previous Licence (together the CSCs) to enable Customer involvement in issues relevant to the performance of State Water's obligations to Customers under the Licence, or the customer service charter referred to in clause 4.3. For the purposes of this clause 4.2, Customer does not include a Fish River Customer. The membership of the CSCs must also include a representative of DECC or its nominee to represent the public interest in the provision of water for environmental purposes and representatives from Unregulated River water users, Ground Water users and the relevant Catchment Management Authority.

4.2.2 State Water must provide the CSCs with information within its possession or under its control necessary to enable each CSC to discharge the tasks assigned to that CSC, other than information or documents over which State Water or another person claims confidentiality or privilege.

4.3 Customer Service Charter (excluding Fish River)

4.3.1 State Water must, in consultation with the CSCs, continue to have in place a customer service charter (the **Charter**).

4.3.2 The Charter must set out the mutual responsibilities or obligations of State Water and its Customers (excluding Fish River Customers) consistently with the Licence, the Act, the *Water Management Act 2000* and the *Water Act 1912*.

4.3.3 State Water must make the Charter available to the public.

- 4.3.4 Following the release of the Annual Audit Report, State Water must, in consultation with the members of the CSCs, review, and if necessary update, the Charter in light of the Annual Audit Report.
- 4.3.5 State Water must by no later than 1 September each year, for the preceding financial year, report to IPART on its overall performance against its obligations under the Charter and where appropriate State Water is also to report on its performance against its obligations under the Charter in relation to each Valley.
- 4.3.6 State Water must make available to the public a copy of the report referred to in clause 4.3.5.

4.4 Fish River Customer Council

- 4.4.1 State Water must regularly consult with the Fish River Customer Council to enable Fish River Customer involvement in issues relevant to the performance of State Water of its obligations to Fish River Customers under the Licence and any Customer Contract.
- 4.4.2 State Water must appoint the members of the Fish River Customer Council consistently with the Licence. The membership of the Fish River Customer Council must include one representative from each of the following:
 - (a) Lithgow City Council;
 - (b) Oberon Council;
 - (c) Delta Electricity; and
 - (d) Sydney Catchment Authority.
- 4.4.3 State Water must provide the Fish River Customer Council with information within its possession or under its control necessary to enable the Fish River Customer Council to discharge the tasks assigned to it, other than information or documents over which State Water or another person claims confidentiality or privilege.

4.5 Customer Contracts (Fish River customers only)

- 4.5.1 State Water must use its best endeavours to enter into agreements with its Fish River Customers during the term of the Licence, in relation to the arrangements to apply to the supply of water by the operation of the Fish River Scheme.
- 4.5.2 The terms of the arrangements must, as a minimum, include:
 - (a) the standard of the quality of water supplied;

- (b) the continuity of water supplied (i.e. interruption, disconnection and reconnection to supply);
- (c) the metering arrangements;
- (d) the costs to be paid by Fish River Customers for the supply of water and other services to them; and
- (e) any other terms agreed between State Water and its Fish River Customers.

4.6 Code of Practice and Procedure on Debt Management

- 4.6.1 State Water must maintain a code of practice and procedure on debt management (the **Code**).
- 4.6.2 The Code must:
 - (a) provide for deferred payment or payment by instalment options; and
 - (b) require that State Water provide a point of contact, notified on bills, for customers in financial hardship.
- 4.6.3 A copy of the Code must be made available to the public.
- 4.6.4 State Water must report to IPART and the Minister quarterly, no later than one month following the end of each quarter, commencing 1 July 2008, on:
 - (a) the number of requests by Customers for assistance with paying Bulk Water bills under the Code, including which valleys they are located in; and
 - (b) the number of Customers in receipt of assistance with paying Bulk Water bills under the Code, including which valleys they are located in.
- 4.6.5 The report referred to in clause 4.6.4 must detail the types of assistance under the Code that have been requested by, and provided to, Customers.

5 Complaint and Dispute Resolution

5.1 Internal Dispute Resolution Process

- 5.1.1 State Water must have in place internal complaints handling procedures for receiving, responding to and resolving complaints by Customers and the community against State Water.

- 5.1.2 The internal complaints handling procedures of State Water must be based on the Australian Standard AS ISO 10002-2006 *Customer satisfaction – Guidelines for complaints handling in organisations*.
- 5.1.3 State Water must make information concerning its internal complaint handling procedures available to the public.
- 5.1.4 By no later than 1 September each year, State Water must report to IPART on an exception basis, for the immediately preceding financial year on the following details concerning Complaints made against State Water which are handled by its internal complaint handling procedures:
- (a) the total number of Complaints;
 - (b) the number of Complaints received by the category of Complaint;
 - (c) the number and type of Complaints resolved or not resolved in sufficient detail and using sufficient classifications to enable IPART to gain a reasonable understanding of how and how well those Complaints were resolved, or why the Complaint was not resolved, as the case may be; and
 - (d) any problems of a systemic nature arising from Complaints.
- 5.1.5 State Water must make a copy of the report referred to in clause 5.1.4 available to the public within one month of providing it to IPART.

5.2 External Dispute Resolution Scheme

- 5.2.1 State Water must continue to have in place a dispute resolution scheme (the **Scheme**) incorporating a Dispute Resolution Body or be a member of an industry based dispute resolution scheme incorporating a Dispute Resolution Body (an **Industry Scheme**) to resolve disputes between State Water and its Customers.

Note: The Dispute Resolution Body that forms part of the Industry Scheme of which State Water is a member at the Commencement Date of the Licence is EWON – the Energy and Water Industry Ombudsman of New South Wales.

- 5.2.2 The Scheme established by State Water or an Industry Scheme of which State Water is a member is subject to the Minister's approval.
- 5.2.3 The Dispute Resolution Body (whether under the Scheme or an Industry Scheme) is to hear disputes and Complaints made by Customers in relation to:
- (a) Water Delivery;

- (b) Customer accounts;
 - (c) State Water's responsibilities in relation to the communication of water availability and access notifications; and
 - (d) the exercise by State Water of the Functions conferred under clause 2.4 of the Licence.
- 5.2.4 The Scheme or Industry Scheme must comply with the minimum standards, so far as applicable, specified in *AS 4608-2004 - Dispute management systems*.
- 5.2.5 The Scheme or Industry Scheme must have the following features:
- (a) the decision-making process of the Dispute Resolution Body and administration of the Scheme or Industry Scheme is to be independent from State Water;
 - (b) State Water must agree to abide by the decisions of the Dispute Resolution Body in relation to disputes referred to it for resolution;
 - (c) the Scheme or Industry Scheme must adopt informal proceedings which discourage an adversarial approach;
 - (d) decisions of the Dispute Resolution Body should observe the principles of procedural fairness, be based upon the information before it, and apply that information to specific criteria;
 - (e) the Scheme or Industry Scheme is to operate efficiently by:
 - (i) keeping track of disputes referred to it;
 - (ii) ensuring complaints are dealt with by the appropriate process;
 - (iii) the Dispute Resolution Body regularly reviewing the operation of the Scheme or Industry Scheme; and
 - (f) the Scheme or Industry Scheme is to be provided by State Water to Customers free of charge.
- 5.2.6 State Water must prepare a pamphlet that explains how the Scheme or Industry Scheme operates and how it can be accessed. State Water must make this pamphlet available to the public.
- 5.2.7 State Water must report to IPART by no later than 1 September each year, for the preceding financial year, on the Scheme or Industry Scheme based on information available to State Water and information reasonably able to be obtained from the Dispute Resolution Body. Where considered appropriate by State Water and the Dispute Resolution Body, confidentiality arrangements are to be made so as not

to disclose the Customer's identity in such reports. The report must take into account any issues raised by the Dispute Resolution Body and must contain the following information:

- (a) the number and types of Complaints received by the Dispute Resolution Body, classified in accordance with the Dispute Resolution Body's reporting arrangements;
- (b) information on any determinations made by the Dispute Resolution Body; and
- (c) any other relevant information required by IPART to be included in the report.

5.2.8 State Water must make a copy of the report referred to in clause 5.2.7 available to the public.

5.3 Complaints to other bodies

5.3.1 State Water must report to IPART by no later than 1 September each year, for the preceding financial year, on complaints made against State Water to a court or tribunal such as the Land and Environment Court or Consumer Trader and Tenancy Tribunal (based on information reasonably obtained from these bodies and State Water itself as a party to the complaint), and the report to IPART must contain the following information:

- (a) the number and types of complaints received by such other bodies;
- (b) the outcome of the complaints;
- (c) how the complaints were resolved;
- (d) any problems of a systemic nature arising from the complaints; and
- (e) any other relevant information required by IPART to be included in the report.

5.3.2 State Water must report to IPART by no later than 1 September each year, for the preceding financial year, on any civil actions brought against State Water in a court (based on information available from the courts and State Water itself as a party to the civil action) where the civil action claims loss, damage or other relief against State Water. The report to IPART shall contain the following information:

- (a) the number and types of civil actions commenced;
- (b) the outcome of the civil actions;
- (c) how the civil actions were resolved;

- (d) any problems of a systemic nature arising from the civil actions; and
- (e) any other relevant information required by IPART to be included in the report.

6 Water Delivery Operations

6.1 Water Infrastructure Operations

- 6.1.1 State Water must operate its Assets in accordance with any relevant Water Management Work Approval or Water Sharing Plan that may be issued by DWE.
- 6.1.2 When operating its Assets State Water must:
 - (a) ensure that releases of water are consistent with any Works Approval;
 - (b) operate its Assets efficiently and effectively;
 - (c) undertake periodic maintenance rehabilitation and replacement work;
 - (d) undertake enhancement and development projects; and
 - (e) implement flood planning and other operations instigated by the Dam Safety Committee.

6.2 Management of Allocated Water

State Water:

- (a) is accountable for the management and delivery of water allocated to Customers;
- (b) must manage water orders with a view to ensuring Customer access to water and the equitable delivery of water when physical supply constraints occur, or are likely to occur;
- (c) must process Temporary Water Transfers within a Valley promptly and efficiently; and
- (d) must monitor and maintain a water allocation account for each Water Licence issued to each Customer.

6.3 Water conservation

State Water must take such steps as are reasonably practicable to conserve water and to minimise losses that result from its operations.

6.4 Supply constraints

State Water must endeavour to manage its water release Functions under clause 1.1(b) and other operations to ensure the timely availability of water taking into account physical supply constraints.

6.5 Water metering

6.5.1 State Water must read Customer meters and audit the compliance of meters against any Commonwealth or State metering standard adopted by the Government.

6.5.2 State Water must report to IPART by no later than 1 September each year on what action it has undertaken over the preceding financial year to address the issue of metering accuracy (for example, the number or percentage of Customer meters State Water has audited or calibrated) and its findings in carrying out this action.

6.5.3 State Water must, by no later than 31 March 2009, submit to IPART, for IPART's approval, proposed performance measures with respect to State Water's performance in ensuring compliance with metering conditions as imposed by Water Management Works Approvals.

6.5.4 State Water must comply for the term of the Licence with the performance measures approved by IPART under clause 6.5.3 with respect to State Water's performance in ensuring metering accuracy.

6.5.5 State Water must maintain record systems that are sufficient to enable it to measure accurately its performance against the performance measures approved under clause 6.5.3.

6.5.6 State Water must report to IPART by no later than 1 September each year on its performance against the performance measures approved under clause 6.5.3 for the preceding financial year, including analysis of any systemic problems.

6.5.7 As part of its report, State Water must provide IPART with physical and electronic access to the records kept by State Water that enable it to prepare the report under clause 6.5.6.

6.6.8 State Water must make a copy of the report referred to in clause 6.5.6 available to the public.

6.6 Water balances

6.6.1 State Water must prepare by no later than 1 September each year, draft annual water balances, and by 1 December each year, final water

balances, each in the form of the template at Table 5-1 of the final report by Sinclair Knight Merz entitled "State Water Operating Licence – Water Balance Template" dated 30 March 2005 and in accordance with the requirements of that report.

Note: A copy of this report can be found on IPART's website at www.ipart.nsw.gov.au.

- 6.6.2 State Water may, in preparing the annual water balances referred to in clause 6.6.1, deviate from this template provided that it has obtained the prior written approval of IPART to do so.
- 6.6.3 State Water must make the annual water balances referred to in clause 6.6.1 available to the public.

6.7 Fish River water balance and system yield

- 6.7.1 In relation to the Fish River Scheme, State Water must:
 - (a) prepare by no later than 1 September each year, draft annual water balances for the Fish River Scheme, and by 1 December each year, final water balances, each in the form of the template at Table 4-2 of the final report by Sinclair Knight Merz entitled "Outcomes of consultation on performance standards and indicators for the Fish River Water Supply Scheme" dated 11 March 2005 and in accordance with the requirements of that report; and

Note: A copy of this report can be found on IPART's website at www.ipart.nsw.gov.au.

- (b) report to IPART, at least once during the term of the Licence, on system yield at a specified level of reliability of supply to be determined by State Water in consultation with the Fish River Customer Council. For the purpose of this clause 6.7, "system yield" is the average annual volume of water that can be supplied by the water supply system, subject to system inflows, an adopted set of operational rules (including the release of environmental water) and a typical demand pattern, without violating a given level of service standard. "Reliability of supply" is the proportion of time that a supply system is expected to be able to meet demand, often expressed as the probability that restrictions of any given severity will not be imposed in a given year or month.
- 6.7.2 State Water may, in preparing the annual water balance referred to in clause 6.7.1(a), deviate from the template referred to in that clause provided that it has obtained the prior written approval of IPART to do so.

- 6.7.3 State Water must make the annual water balance referred to in clause 6.7.1(a) available to the public.

7 The Environment

Note: State Water must conduct its operations in compliance with requirements of the Water Management Act 2000, the State Water Management Outcomes Plan and the Water Management Plans established under that Act.

7.1 Environment Management Plan

- 7.1.1 At least once during the term of the Licence, prior to 30 November 2010, State Water must review and update its document entitled *Environment Management Plan 2006-2011* (the **Environment Management Plan**).

Note: The Environment Management Plan was developed during the term of the Previous Licence and remains in force until 2011. The latest version was last updated in June 2007.

- 7.1.2 In undertaking this review State Water must consult with:

- (a) DECC;
- (b) DWE;
- (c) DPI;
- (d) IPART; and
- (e) peak environmental non-government organisations;

for the purpose of considering the views of those organisations consulted, including whether they seek amendments to the Environment Management Plan.

- 7.1.3 State Water must engage in Public Consultation when conducting this review.

- 7.1.4 The Environment Management Plan may be developed for all of State Water's operations (including the Fish River Scheme) or alternatively State Water may develop separate plans for the Fish River Scheme and the rest of its operations, in which the provisions of this clause 7 will apply to each Environment Management Plan prepared.

- 7.1.5 The Environment Management Plan must:

- (a) include details of State Water's program for addressing its environmental impacts and achieving environmental improvements, including (but not limited to):
 - (i) management and mitigation of riverbank and bed erosion;

- (ii) management and mitigation of water quality issues associated with storage and release (including mitigation of thermal impacts);
 - (iii) management and mitigation of barriers to fish passage;
 - (iv) an algal management strategy;
 - (v) energy management and consumption; and
 - (vi) waste management and minimization;
 - (b) adopt Ecologically Sustainable Development principles;
 - (c) be integrated into State Water's business plans;
 - (d) include indicators to measure the environmental impact of State Water's Asset operations and maintenance; and
 - (e) incorporate environmental improvement targets and timetables for State Water to achieve those targets over the term of the Environment Management Plan.
- 7.1.6 The Environment Management Plan must be provided to IPART on its completion and made available to the public.
- 7.1.7 State Water must, by no later than 1 September each year, or an alternative later date specified by IPART, for the preceding financial year, report to IPART on its environmental performance including its performance against or compliance with:
- (a) its Environment Management Plan;
 - (b) any environmental provisions of each Water Management Plan and the State Water Management Outcomes Plan issued under the *Water Management Act 2000* where applicable to State Water;
 - (c) any environmental regulatory requirements applicable to State Water, including those under the Water Management Work Approval(s) issued under the *Water Management Act 2000* and the *Fisheries Management Act 1994*; and
 - (d) the environmental provisions of any MoUs referred to in clause 2.3 including any performance standards and indicators established under these MoUs.
- 7.1.8 State Water must make available to the public the report referred to in clause 7.1.7.

8 Performance Indicators

- 8.1 State Water must maintain record systems that are sufficient to enable it to measure accurately its performance against:
- (a) the performance indicators set out in Schedule 1;
 - (b) any system performance indicators specified in any instruments that give effect to the National Water Initiative; and
 - (c) any service quality and system indicators in any other instrument determined by IPART.
- 8.2 State Water must report to IPART, by no later than 1 September each year on its performance against the performance indicators specified under clauses 8.1 (a), (b) and (c) for the preceding financial year, including an analysis of any systemic problems.
- 8.3 As part of its report, State Water must provide IPART with physical and electronic access to the records kept by State Water that enable it to prepare the report under clause 8.2.
- 8.4 State Water must make a copy of the report referred to in clause 8.2 available to the public.

9 Pricing

State Water must apply the level of fees, charges and other amounts payable for its services subject to the terms of the Licence, the Act and the maximum prices and methodologies for State Water's monopoly services as determined from time to time by IPART or any other pricing authority vested with the power to determine water prices for State Water.

Note: Part 3 of the Act governs the nature of fees and charges which may be imposed by State Water. Under the terms of the Independent Pricing and Regulatory Tribunal Act 1992, State Water is a government agency for which IPART has standing reference to conduct investigations and report on the determination of pricing for monopoly services supplied and pricing policies.

10 Licence Authorisations and Area of Operations

10.1 What the Licence authorises and regulates

- 10.1.1 The Licence is granted to enable and require State Water to provide, construct, operate, manage and maintain efficient, coordinated and commercially viable systems and services to capture, store and release water.

10.1.2 State Water must ensure that its systems and services meet the performance standards, including without limitation the performance indicators, specified or required to be developed under the Licence in relation to Water Delivery and any other applicable requirements set out in the Licence.

10.2 Powers not limited

The Licence does not restrict State Water's power to carry out any Functions conferred or imposed under any applicable law.

10.3 Operating guidelines

State Water must take into account any policies or guidelines made and issued by the Government as required for the purposes of meeting its obligations under the Licence.

10.4 Area of Operations

10.4.1 The Licence enables State Water to exercise its Functions in, or in respect of, an area in or outside, the Area of Operations as provided by Schedule 2.

10.4.2 The Licence authorises State Water to exercise its Functions within the area of operations of:

- (a) Sydney Water Corporation;
- (b) Sydney Catchment Authority;
- (c) Hunter Water Corporation; or
- (d) a Water Supply Authority;

subject to State Water obtaining the written agreement of the relevant body.

Note: the Area of Operations for State Water and the capacity for the Licence to authorise the exercise of Functions within, and outside of, that Area of Operations is prescribed by section 15 of the Act.

10.5 Non-exclusive licence

The Licence does not prohibit a person from supplying water (whether Bulk Water or otherwise) to a person (including a person that is a Customer) in the Area of Operations, if it is lawful to do so.

11 Operational Audits of the Licence

11.1 Commission of audits

- 11.1.1 IPART must initiate an audit of State Water's operations as soon as practicable after 30 June, each year covering the immediately preceding financial year (an **Annual Audit**) as required by this clause 11.
- 11.1.2 Each Annual Audit must be conducted by IPART or by a person appointed by IPART whom IPART considers is suitably qualified to perform the Annual Audit. Neither State Water nor any of its Subsidiaries may conduct the Annual Audit.
- 11.1.3 As part of an Annual Audit, IPART must invite members of the public to make submissions to it. IPART may also undertake any other public consultation it considers appropriate.
- 11.1.4 IPART may include in its Annual Audit any or all of the matters referred to in clauses 3.3 or 11.2 and where in any Annual Audit a matter is not made the subject of that Annual Audit, IPART may require State Water to provide IPART with a report on the matter not included in the Annual Audit.

11.2 What the audit is to report on

- 11.2.1 IPART or the person undertaking the Annual Audit must investigate and prepare a report (an **Annual Audit Report**) on any or all of the following:
- (a) compliance by State Water with its obligations in each of clauses 2, 3, 4, 5, 6, 7, 8 and 9 (and any Schedules referred to in those clauses) of the Licence; and
 - (b) any other matter required by the Licence, the Act or administrative direction assessed and considered as part of the Annual Audit.
- 11.2.2 IPART must ensure each Annual Audit Report addresses the matters in clause 11.2.1 (and the matters in clause 3 if the audit referred to in clause 3.3 is conducted as part of that Annual Audit) and must advise the Minister of the following matters:
- (a) any failure by State Water to meet operational standards or any other requirements imposed on State Water under the Licence;
 - (b) areas in which State Water's performance under the Licence may be improved;
 - (c) any changes to the Licence that IPART considers necessary;

- (d) any penalties or remedial action required as a result of State Water's performance under the Licence;
- (e) whether the Minister should recommend that State Water's Licence be cancelled by the Governor under section 19 of the Act for reasons identified in the report; and
- (f) any other matter relating to the Annual Audit or State Water's Functions that it considers appropriate.

11.2.3 In any year during the term of the Licence in which IPART does not undertake an Annual Audit for the purposes of this clause, IPART is to report to the Minister on State Water's compliance with the Licence.

11.3 Reporting of Audit

11.3.1 Unless otherwise directed by the Minister, IPART must make the Annual Audit Report available to the public within 1 month after its receipt by the Minister.

11.3.2 If the Annual Audit Report has identified areas of non-compliance with the Licence, State Water must, when requested by the Minister in writing, and within any timeframe specified in the request, furnish a document to the Minister which:

- (a) sets out the reasons for the non-compliance;
- (b) identifies the measures that State Water will take to address the non-compliance; and
- (c) provides such other advice or information concerning the non-compliance as is requested by the Minister.

11.3.3 If the Annual Audit Report has identified areas of non-compliance with the Licence, in addition to any other action that is taken or required to be taken, the Minister may require State Water to promptly advertise and notify Customers of the areas in which its performance has not complied, the reasons why and the measures that will be taken to address the non-compliance. Such advertisements and notices are to be in a form reasonably acceptable to IPART.

Note: See clause 1.6 (Contravention of Licence).

11.4 Additional Audits

11.4.1 IPART must initiate a further audit of State Water in addition to the Annual Audit (an **Additional Audit**) if required by the Minister.

11.4.2 An Additional Audit may address one or more of the matters in clauses 3 or 11.2.1 of the Licence or any other matter required by the Minister.

- 11.4.3 The provisions of this clause 11 applying to an Annual Audit will apply equally to any Additional Audits or any audit conducted under clause 3 to the extent those provisions are relevant.

11.5 Provision of information

- 11.5.1 State Water must provide IPART, and the person appointed by IPART under clauses 3 or 11, with all information within its possession or under its control necessary to the conduct of any audit or any Additional Audit, including whatever information is requested by IPART or the person appointed by IPART.
- 11.5.2 The information sought under clause 11.5.1 must be made available within a reasonable time of it being requested.
- 11.5.3 For the purposes of any audit (including any Annual Audit or any Additional Audit or any audit under clause 3.3) on being required by IPART, State Water must, within a reasonable time, permit IPART or its appointee to:
- (a) have access to any works, premises or offices occupied by State Water;
 - (b) carry out inspections, measurements and tests on, or in relation to, any such works, premises or offices;
 - (c) take on to or into any such premises, works or offices any other persons or equipment as necessary for the purposes of performing the audit or verifying the report;
 - (d) inspect and make copies of, and take extracts from, any books and records of State Water that are maintained in relation to the performance of State Water's obligations in accordance with the Licence; and
 - (e) discuss matters relevant to the audit with State Water's employees.
- 11.5.4 If State Water contracts out any of its activities to third parties (including a Subsidiary) it must take all reasonable steps to ensure that, if required by IPART, any such third parties do things specified in this clause 11 that extend to State Water as if that third party were State Water.
- 11.5.5 For the purpose of an audit, or a report to IPART under clause 11.1.4, State Water or a Subsidiary must provide information required by IPART to IPART or the person appointed by IPART notwithstanding any claim of confidentiality or privilege in respect of that information. If such claim of confidentiality or privilege is made, IPART or the person appointed by IPART may enter into reasonable arrangements with State Water or a

Subsidiary to ensure that the confidential or privileged information remains confidential or privileged.

12 Notices

Any notice or other communication under the Licence between IPART and State Water must be made in writing and addressed as follows:

State Water
The Chief Executive Officer
State Water Corporation
PO Box 1018
DUBBO NSW 2830

IPART
The Chief Executive Officer
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

13 Definitions and Interpretation

13.1 Definitions

In the Licence:

Act means the *State Water Corporation Act 2004*.

Additional Audit has the meaning given to it in clause 11.4.

Annual Audit has the meaning given to it in clause 11.1.

Annual Audit Report has the meaning given to it in clause 11.2.

Area of Operations means the area of operations of State Water within the meaning of section 15 of the Act, a description of which is set out in Schedule 2.

Asset includes any structure, plant, equipment, corporate and business system of State Water which causes, allows or assists the performance of its Functions and objectives under the Act and the Licence.

Authorised Users means the holders of basic rights and access licences under the *Water Management Act 2000* and *Water Act 1912*.

Border Rivers means "Carrier Rivers" within the meaning of the Schedule to the *New South Wales- Queensland Border Rivers Act 1947*.

Border Rivers Commission means the body of that name constituted under the *New South Wales- Queensland Border Rivers Act 1947*.

Bulk Water means water delivered to meet the needs of the environment and Authorised Users.

Catchment Management Authority means those authorities listed in Schedule 1 of the *Catchment Management Authorities Act 2003*.

Commencement Date is the date specified by the Governor and published in the Gazette as the date of commencement of the Licence.

Complaint means a contact between any person and State Water in which the person expresses dissatisfaction with State Water's products, services, infrastructure, policy, actions or proposed actions or failure by State Water, its employees or contractors to act.

Customer means any person authorised under the *Water Management Act 2000* or the *Water Act 1912* to take and use water and to whom State Water makes available water by the operation of any of its works or to whom State Water provides a service and includes Fish River Customers.

Customer Contract means any agreement entered into between State Water (or its predecessor) and a Fish River Customer.

Dams Safety Committee means the committee constituted under section 7 of the *Dams Safety Act 1978*.

DECC means the Department of Environment and Climate Change.

Dispute Resolution Body means a reputable person possessing qualifications and experience in dispute resolution by way of mediation or otherwise and includes a person who carries out investigative functions in the nature of an ombudsman.

DPI means the Department of Primary Industries.

DWE means the Department of Water and Energy.

End of Term Review means the review described by clause 1.4.

Ecologically Sustainable Development has the same meaning given to that expression in the *Protection of the Environment Administration Act 1991*.

Fish River Customer means any person to whom State Water makes available water by the operation of the Fish River Scheme.

Fish River Scheme means the Fish River water supply scheme as defined in the Act.

Functions include a power, authority or duty.

Gazette means the New South Wales Government Gazette.

Government means the Government of the State.

Ground Water means water accessed from an aquifer or other below-ground water source.

Hunter Water Corporation has the meaning given to it under the *Hunter Water Act 1991*.

IPART means the Independent Pricing and Regulatory Tribunal of NSW constituted by the *Independent Pricing and Regulatory Tribunal Act 1992*.

Licence means this operating licence granted under Section 11 of the Act to State Water or any renewal of it, as in force for the time being.

Lowbidgee Area means the floodplain of the Murrumbidgee River located between the towns of Maude and Balranald.

Mid Term Review means the review described by clause 1.3

Minister means the Minister for Water.

Ministerial Corporation means the Water Administration Ministerial Corporation constituted by the *Water Management Act 2000*.

National Water Initiative means the national water policy reform initiative as embodied in the *Intergovernmental Agreement on a National*

Water Initiative made between the Commonwealth of Australia and the States and Territories of Australia.

Previous Licence means the operating licence for State Water that commenced on 24 June 2005.

Public Consultation has the meaning given to it in clause 13.2.4.

State means the State of New South Wales.

State Water means the State Water Corporation constituted by the Act.

State Water Management Outcomes Plan means the State Water Management Outcomes Plan established under section 6(1) of the *Water Management Act 2000*.

Subsidiary means a company under the control of State Water that meets the definition of a “subsidiary” under section 46 of the *Corporations Act 2001*.

Sydney Catchment Authority has the meaning given to it under the *Sydney Water Catchment Management Act 1998*.

Sydney Water Corporation has the meaning given to it under the *Sydney Water Act 1994*.

Temporary Water Transfer means a temporary assignment of a water allocation under sections 71T and 71V of the *Water Management Act 2000*.

Unregulated River has the meaning given to that term under the *Water Management Act 2000*.

Valley means a river valley.

Water Allocation Account has the meaning given to it under the *Water Management Act 2000* or means an account for a water access licence set up under the administrative procedures implemented under the *Water Act 1912*.

Water Delivery means the water management service provided by State Water, which involves the operation of State Water’s Water Management Works and its internal procedures, including the management of Water Allocation Accounts, to enable State Water to satisfy Water Orders, Customer Contracts and environmental requirements.

Water Licence means a licence issued under the *Water Management Act 2000* or the *Water Act 1912*.

Water Management Plan has the meaning given to it under the *Water Management Act 2000*.

Water Management Work has the meaning given to it under the *Water Management Act 2000*.

Water Management Work Approval has the meaning given to it under the *Water Management Act 2000*.

Water Order means a request by a State Water customer, made in accordance with the relevant mandatory conditions imposed on the relevant water access licence, to take water under the *Water Management Act 2000* or under section 20AF of the *Water Act 1912*.

Water Sharing Plan means a plan devised by the Department of Water and Energy under the *Water Management Act 2000* establishing rules for the allocation of water between the environmental needs of the river or aquifer and water users, and between different types of water users.

Water Supply Authority means a body listed under Schedule 3 of the *Water Management Act 2000*.

13.2 Interpretation

13.2.1 In the Licence, unless the contrary intention appears:

- (a) the word person includes an individual, a body corporate, an unincorporated body or other entity and one or more of each of them;
- (b) headings are for convenience only and do not affect the interpretation of the Licence;
- (c) notes do not form part of the Licence but may be used to assist in the interpretation if there is an ambiguity;
- (d) words importing the singular include the plural and vice versa;
- (e) a reference to a law or legislation (including the Act) includes regulations made under the law or legislation;
- (f) a reference to regulations includes ordinances, codes, licences, orders, permits and directions;
- (g) a reference to a law or regulations in the Licence includes consolidations, amendments, variations, re-enactments, or replacements of any of them;
- (h) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation), replacements and assigns;
- (i) a reference to an officer includes a reference to the officer which replaces it or which substantially succeeds to its powers or functions;
- (j) a reference to a body, whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (k) a reference to a year means a calendar year that ends on 31 December. "Yearly" has a corresponding meaning;
- (l) a reference to a financial year means a period of 12 months commencing on 1 July and ending on the next following 30 June; and
- (m) a reference to a clause or Schedule is to a clause or Schedule to the Licence.

- 13.2.2 Terms defined in the Act, *Water Act 1912*, *Water Management Act 2000* and *New South Wales – Queensland Border Rivers Act 1947* have the same meaning in the Licence, unless a contrary definition is specified in the Licence.
- 13.2.3 Whenever the Licence requires State Water to make something “available to the public”, State Water must:
- (a) publish the document on its Internet website and make it available to download free of charge;
 - (b) make the document available at its offices for viewing by any person, free of charge; and
 - (c) make the document available at its offices for collection by any person, for which State Water may charge a reasonable cost;
- 13.2.4 If the Licence requires that something undergo Public Consultation, it requires as a minimum that:
- (a) notice of that thing and the nature and timing of the consultation be:
 - (i) advertised in a major daily newspaper circulating in the Area of Operations;
 - (ii) communicated to government agencies, organisations and persons to whom it would reasonably be expected notice should be given;
 - (iii) displayed on State Water’s website;
 - (iv) given to the Customer or community committees or councils referred to in clause 4;
 - (v) given to IPART; and
 - (b) submissions be sought from the public and that these submissions be considered by the person conducting the review.
- 13.2.5 If any part of the Licence is prohibited, void, voidable, illegal or unenforceable, then that part is severed from the Licence but without affecting the continued operation of the remainder of the Licence.
- 13.2.6 A reference in the Licence to any organisation, association, society, group or body shall, in the event of it ceasing to exist or being reconstituted, renamed or replaced or if its Functions are transferred to any other entity, body or group, refer respectively to any such entity, body or group, established or constituted in lieu thereof or succeeding to similar Functions.

- 13.2.7 A reference in the Licence to a document is a reference to the document as amended, revised or replaced.
- 13.2.8 Except where a contrary intention appears in the Licence, where there is disagreement between State Water and IPART as to the proper interpretation of any term of the Licence, the matter must be referred to the Minister for resolution by the Minister.

SCHEDULE 1

Performance Indicators

Part A – State Water performance indicators (excluding Fish River Scheme Indicators)

1. Water Delivery

- (a) percentage of Customers contacted within one working day of a non-complying water order being placed;

Note: A “non-complying water order” is an order which does not comply with licence conditions or which contains insufficient information for State Water to supply water.

- (b) percentage of complying water orders identified as being delivered outside of ± 1 day of the scheduled day of delivery, as measured by customer complaints;

Note: A “complying water order” is an order which complies with the conditions of a water licence and which contains sufficient information for State Water to supply water and “scheduled day of delivery” is per period of the required notice specified in works approvals, licences or entitlements.

- (c) percentage of water orders rescheduled in consultation with Customers within one working day of a known shortage or delivery delay;

Note: This indicator should be calculated as a percentage of the total number of water orders rescheduled due to a known shortage or delivery delay.

- (d) percentage of time that daily minimum flow targets are met;

Note: “Daily minimum flow targets” are those specified in relevant Water Management Plans or by the Minister for Natural Resources or by the Ministerial Corporation; and

- (e) percentage of complying intra-valley transfers processed within four working days of State Water’s receipt of correctly completed application form and fee;

Note: “intra-valley transfer” means the transfer of allocated

water from one licence to another licence within a Valley and includes transfers under the Water Management Act 2000 and the Water Act 1912.

2. Policing Functions

- (a) liaise with DWE to determine the volume of water taken in excess of access licence conditions under the *Water Management Act 2000* (in mega litres (**ML**)) and number of licences and licence breaches involved; and report to IPART the data so determined;
- (b) value of penalties imposed by State Water for taking of water in excess of licence conditions under the *Water Management Act 2000* or the *Water Act 1912*;
- (c) volume of penalties imposed by State Water for taking water in excess of access licence conditions under the *Water Management Act 2000* (in ML);
- (d) number of water supply works audited for compliance with metering conditions and the proportion of those works that comply with metering conditions;
- (e) number of “alleged breach reports” forwarded to the Department of Water and Energy;
- (f) number of licences and entitlements suspended under the *Water Management Act 2000* or the *Water Act 1912*; and
- (g) number of approvals suspended under the *Water Management Act 2000*.

Part B - Fish River Scheme Indicators

1. Asset Management

- (a) the average response time for unplanned supply interruptions;
- (b) number of planned water supply interruptions;
- (c) number of unplanned water supply interruptions;
- (d) average duration of planned water supply interruptions;
- (e) average duration of unplanned water supply interruptions.

Note: An “unplanned water supply interruption” is an interruption to water supply to a Customer where the Customer has not received at least 24 hours notice of the interruption from State Water. It also includes situations where the duration of a planned interruption exceeds that which was originally notified to the Customer – in which circumstances, the length of the entire interruption is counted as an unplanned supply interruption. A “planned water supply interruption” is an interruption to water supply where the Customer has received at least 24 hours notice of the interruption and the duration of the interruption does not exceed that which was originally notified to the Customer.

2. Water Delivery

Percentage of time that daily minimum flow targets are met.

Note: “Daily minimum flow targets” are those specified in relevant Water Management Plans or by the Minister or by the Ministerial Corporation or as advised in writing by DWE.

3. Water Quality

Percentage of treated water samples that comply with Australian Drinking Water Guidelines (2004) at the Fish River Scheme’s water sampling locations for e-coli, colour, turbidity, iron, manganese, aluminium and pH.

Note: The guideline value for turbidity is to be the value for public health rather than the aesthetic value (ie % of samples above 1 Nephelometric Turbidity Unit) and the “Fish River Scheme’s water sampling locations” are those identified in the letter from State Water to IPART dated 29 April 2005.

SCHEDULE 2

Area of Operations

Area of Operations of State Water means the area of operations of State Water within the meaning of section 15 of the Act.

As at the Commencement Date, section 15 of the Act provides:

- “(1) The area of operations of the Corporation is the whole of the State, other than the following areas:
- (a) the area of operations of Sydney Water Corporation within the meaning of the *Sydney Water Act 1994*,
 - (b) the area of operations of Sydney Catchment Authority within the meaning of the *Sydney Water Catchment Management Act 1998*,
 - (c) the area of operations of Hunter Water Corporation within the meaning of the *Hunter Water Act 1991*,
 - (d) the area of operations of a water supply authority.
- (2) Despite subsection (1) (b) and (d), the area of operations of the Corporation includes the area of operations of the Corporation in its capacity as a water supply authority in relation to the Fish River water supply scheme.
- (3) Despite subsection (1), the operating licence may authorise the Corporation to carry out any of its Functions:
- (a) outside the State, or
 - (b) in any of the areas referred to in subsection (1) (a)–(d) with the agreement of Sydney Water Corporation, Sydney Catchment Authority, Hunter Water Corporation or the water supply authority, respectively (the **relevant body**).
- (4) If, under subsection (3) (b), the Corporation is to carry out its Functions in more than one of the areas referred to in subsection (1) (a)–(d), the Corporation is to obtain the agreement of each relevant body in relation to the exercise of those Functions.
- (5) Nothing in this Act affects the area of operations of Sydney Water Corporation, Sydney Catchment Authority or Hunter Water Corporation.
- (6) In this section, a reference to the **area of operations** of a water supply authority means the area of operations prescribed for that water supply authority by regulations made under section 289 (1) of the *Water Management Act 2000*”

