

13 September 2016

Review of the Operating Licence for WaterNSW
C/o Jessica Hanna
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240

Dear Ms Hanna,

Re: NSWIC Submission to the Review of the Operation Licence for WaterNSW

The NSW Irrigators' Council (NSWIC) appreciates the opportunity to comment on the Independent Pricing and Regulatory Tribunal's (IPART) review of WaterNSW's operating licence. As the NSW bulk water supplier has undergone significant operational changes over the last two years, NSWIC acknowledges that a review of WaterNSW's operating licences is necessary for the realisation of further operating efficiencies within WaterNSW. It is also important that WaterNSW is able to fulfill all of its licence obligations under the current two operating licences and is able to conduct its operation legally and to an equivalent service level as was the case prior to the amalgamation of the Sydney Catchment Authority and State Water Corporation.

Despite these arguments in support of a review of WaterNSW's operating licence, NSWIC holds the view that significant uncertainty and confusion remains as to which direction WaterNSW should take under the provisions of an updated future operating licence.

Reviewing WaterNSW's submission to IPART, it is evident that WaterNSW intends to fundamentally change the operation of its business, its interaction with customers, and its approach to future service delivery. While NSWIC supports customer choice and the intent of WaterNSW to transform into an efficient and customer-centric business, there is no clarity around the exact detail of what these proposed changes will mean for irrigator customers and Irrigation Infrastructure Operators, including an understanding of the necessary legislative amendments and executive actions that will be necessary to realise this transition. The lack of information and data about WaterNSW's proposed approach makes it difficult for NSWIC members to assess the likely outcomes and raises concerns amongst NSWIC and its membership, in particular around the future benefits and costs to customers.

It should be noted that WaterNSW has only started the conversation about tailored service delivery with its customers and as such, it might be premature to consider major amendments to the current operating licence until conversations have progressed further and stakeholders are clear about the consequences.

NSWIC believes that WaterNSW is embarking on a path that resembles the previous reform processes of the National Electricity Market, including the move to tailored contracts and individual customer service delivery. While the electricity reform process has resulted in some benefits to some customers, rural and regional communities have lost more than they have gained in the process and continue to pay a high price of the electricity reform process. For that reason, NSWIC urges caution embarking on a wide-scale reform in rural water delivery before all the issues have been discussed.

WaterNSW must present a detailed outline about their proposed changes, a list of their current legislative requirements, and a thorough assessment of the costs and benefits of the reform. In particular, NSWIC urges IPART to consider the implications of stripping back the more prescriptive functions of WaterNSW's operating licence and instead implementing 'minimum service standards'. NSWIC believes that this could - if incorrectly designed - lead to a reduction in service provision by WaterNSW and/or greater costs to customers.

Despite these preliminary concerns, NSWIC does welcome WaterNSW's efforts to provide greater choice to customers and better service delivery and we look forward to further engagement with WaterNSW and IPART on these issues.

Water Charge Review

In a related matter, it should be noted that WaterNSW is currently undergoing a review of its regulated water charges. NSWIC believes it is even more critical that extra care is taken when assessing any changes to WaterNSW's operating licence as it could lead to unintended or perverse consequences in the next or any following regulated determinations - including significant shifts in prices.

The interaction between the WaterNSW operating licence review and the regulated water charge review must be carefully assessed and further information must be provided to stakeholders to understand the implications of any change. Due diligence is therefore necessary to guard against potential price shifts for WaterNSW's customers, as well as to provide sufficient transparency around the process. The issue is further complicated by the transfer of functions from DPI Water to WaterNSW - the effective incorporation of these functions in WaterNSW is incomplete, with the WaterNSW Integration Team continuing to work on the transition.

Transparency

Transparency is important, as stakeholders currently have limited understanding of all of WaterNSW's legislative requirements, including how much of WaterNSW's services are negotiable and hence can be tailored. Previous conversations between NSWIC and WaterNSW suggested that the majority of WaterNSW operations are non-negotiable due to WaterNSW's complex legislative requirements. Should this be the case, NSWIC raises the question as to the benefits of WaterNSW's broader proposal. NSWIC and its members do not suggest that WaterNSW's proposal should be rejected outright, customers simply need to have a clearer understanding about which operational functions are negotiable and which are aspirational. In addition, NSWIC and its members want to understand how WaterNSW intends to offer such tailored contracts to customers.

NSWIC is looking to IPART through this process to provide clarity around the risk to WaterNSW's stakeholders resulting from the proposed changes by WaterNSW.

Metering

NSWIC also urges caution with regarding to WaterNSW's proposal that it should be authorised to operate, replace, repair, maintain, remove, connect, disconnect or modify any metering equipment it does not own. This should apply to government funded meters only, not customer-owned meters.

Planned Environmental Water

In addition, customers are seeking greater transparency around WaterNSW's time, effort and cost of delivering planned environmental water. This does not only include the physical storage and delivery of planned environmental water but also the additional time spent attending and participating in committees and calculating planned environmental deliveries. NSWIC and its members have for a long time been concerned that licence holders have paid more than their fair share of these costs. As the held environmental water portfolio increases the complexity of delivering this water for the environment and associated increased costs are becoming more apparent.

Customer Service Committees

NSWIC emphasises the importance of the Customer Service Committees as a vehicle for discussions and information distribution around bulk water delivery in NSW.

Given the increased functions and responsibilities WaterNSW has acquired since the WaterNSW Amendment (Staff Transfer) Bill 2016, these local forums are a cornerstone for discussions between the NSW bulk water operator and its customers. As such, NSWIC stresses the need to maintain these forums and to ensure that all types of WaterNSW's customers are adequately represented.

Broader Reform Process

NSWIC also notes that WaterNSW is highly likely to be subject to further operational changes through the implementation of the Murray-Darling Basin Plan and/or the development of NSW Water Resource Plans. Examples include implementation of the Pre-Requisite Policy measures and the Constraints Management Strategy in the southern Basin. These changes are far from resolved, as such IPART should consider whether the benefits of amending WaterNSW's operating licence at this stage are greater than the costs.

North Coast Pilot

In addition, NSWIC believes that its current North Coast Pilot is an ideal opportunity to gauge customer interest in changes to WaterNSW service delivery and to assess the feasibility around the proposed changes. As this pilot is still in its infancy, NSWIC urges IPART to consider shifting the final determination of WaterNSW operating licence review to a later date to enable this North Coast Pilot to be completed.

However, in the interim, and in view of the potentially significant impact that WaterNSW's proposals may have for many customers, NSWIC does believe IPART should consider only minimal changes to the operating licences.

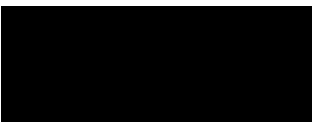
Finally, NSWIC makes the following specific recommendations to IPART:

- NSWIC supports the amalgamation of the two operations licences (i.e. the Sydney Catchment Authority and State Water Corporation) and emphasises the need to avoid duplication between the two licence obligations.
- NSWIC supports the continuation of State Water's operating licence obligation to deliver water to its customers - recognising the important role WaterNSW plays in supplying water for food and fibre production in NSW.
- NSWIC supports the removal of regulatory overlap between legislation, WaterNSW's operating licence and its work approvals.
- NSWIC believes there is a regulatory gap in the operating licence where the services required by the environment are not captured adequately in the operating licence and consequently the cost of these services are being paid by all licence holders. NSWIC believes this oversight should be addressed in the operating licence review.
- NSWIC highlights that WaterNSW's area of operations has significantly expanded with the transfer of functions from DPI Water to WaterNSW. As such, NSWIC urges IPART to ensure that WaterNSW is legally enabled to conduct these new functions.
- NSWIC seeks further clarification on the interaction between the WaterNSW's operating licence and the recently passed Dam Safety Bill 2015.

In conclusion, NSWIC is open to further conversations with WaterNSW and IPART on WaterNSW's proposal for a change in the WaterNSW operating framework - if the changes are feasible and likely lead to a positive impact on WaterNSW customers.

If you have any questions to the issues we have raised in this letter, please do not hesitate to contact us.

Sincerely,



Stefanie Schulte
Policy Manager
NSWIC Irrigators' Council

Appendix

Changes since last Operating Licence Review - 2013

Since the last review of State Water Corporation's operating licence review in 2013 the following events have occurred:

Amalgamation

In March 2014, the then Minister for Primary Industries Katrina Hodgkinson announced the amalgamation of State Water Corporation with the Sydney Catchment Authority to form WaterNSW. This has resulted in two operating licences for WaterNSW.

Transfer of Functions

On 31 May 2016, the *Water NSW Amendment (Staff Transfer) Bill 2016* passed through the NSW Parliament and reallocated functions between DPI Water and WaterNSW. This has increased the area of operations for WaterNSW - incorporating unregulated and groundwater sources.

In addition, the following functions have been transferred from DPI Water to WaterNSW:

- Customer transactions (excluding corporate customers);
- Compliance investigations for customers (excluding compliance activities such as compliance relating to local water utilities, water corporations, major utilities, mining companies and state significant developments);
- Licence administration and billing (excluding licencing activities such as licencing of major utilities and mining projects);
- Water quality monitoring;
- Hydrometric assessment;
- Metering operations.

Price Determination

The Australian Competition and Consumer Commission issued its final decision to accredit the Independent Pricing and Regulatory Tribunal of NSW as the regulator of WaterNSW infrastructure charges in the NSW Murray-Darling Basin. The decision took effect on 1 June 2016 for a period of 10 years.

ACCC Review of Water Charge Rules

On 17 December 2014, the Parliamentary Secretary to the Minister for the Environment requested the ACCC to review:

- Water Charge (Infrastructure) Rules 2010
- Water Charge (Planning and Management Information) Rules 2010, and
- Water Charge (Termination Fees) Rules 2009.

The request for advice is in response to a recommendation of the Independent Review of the *Water Act 2007*, which was tabled in Federal Parliament in December 2014.

Any changes to the Water Charge Rules may have an impact on WaterNSW's operating licence and the upcoming regulated water charge review.