



Our reference: DOC14/166367-01
Contact: Frank Garofalow (02) 9995 6804

Mr Hugo Harmstorf
Chief Executive Officer
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

Dear Mr Harmstorf

I refer to the current Independent Pricing and Regulatory Tribunal (IPART) end of term review of Sydney Water Corporation's Operating Licence and the call for submissions on the IPART Issues Paper for the review.

I am pleased to provide the Environment Protection Authority's (EPA) submission to the review. The matters dealt with in the submission attached address questions raised by IPART in its Issues Paper as well as components of the Sydney Water Corporation submission where they are relevant to the EPA.

If you have any queries regarding this matter, please do not hesitate to contact me or have your officers contact Mr Frank Garofalow, Manager Metropolitan Infrastructure, on (02) 9995 6804.

Yours sincerely

Giselle Howard
Director Metropolitan
Environment Protection Authority

Enclosure

**Environment Protection Authority's Submission to IPART's
2014 Review of the Operating Licence for Sydney Water Corporation**

This submission addresses the issues raised in IPART's Water Licensing Issues Paper (June 2014) where relevant to the EPA (shown boxed in bold). In developing this submission reference has also been made to Sydney Water's July 2014 submission to the review.

Issue: Infrastructure - Asset Management (IPART Question Nos. 8-13)

The EPA notes that there is consideration by IPART to introduce an operating licence requirement for an asset management system to replace current requirements relating to the Asset management Framework. The EPA does not have a view on this issue. Environment protection licences (EPLs) administered by the EPA for Sydney Water's sewage treatment systems and some water treatment plants, contain outcome-focused licence conditions in relation to asset management which require all plant and equipment installed at the premises or used in connection with the licensed activity to be maintained and operated in a proper and efficient condition and manner.

Issue: Infrastructure – System performance standards - sewage overflow (IPART Question 15)

The EPLs for Sydney Water's sewage treatment systems set overflow requirements for its sewerage systems, however, these requirements do not cover the parts of the system on private land.

The EPA would support a change to the definition for sewer overflows where it provides improved clarity on regulatory responsibility and ensures that overflows impacting on private property are regulated in a transparent manner. The EPA notes that the current intention is to ensure that sewer overflows impacting private property are properly managed to ensure impacts on customers are minimised. The EPA has no in-principle objections to a changed definition and would appreciate the opportunity to discuss any proposed changes.

Sydney Water's submission includes reference to not proposing any changes to targets or measures for sewage overflows. EPA suggests that these performance standards should be periodically reviewed in line with best practice regulation.

Issue: Infrastructure – IPART notification of significant asset failure (IPART Question 17)

The EPA considers the proposal for IPART notification of significant asset failure to be a decision for IPART and Sydney Water. IPART may wish to consider the purpose of notification, the response that IPART can make to a notification and the timeframes and information that would be appropriate for notification. IPART might also wish to be aware that Sydney Water has obligations to report pollution incidents threatening or causing material harm to the EPA promptly and without delay under existing environmental requirements. Information on the EPA notification requirements and why notification is required is available on the EPA web site.

Issue: Infrastructure – Priority Sewerage Program (IPART Questions 20-21)

Decisions on the appropriate mechanism for the Priority Sewerage Program (PSP) and obligations under the program will need to take into account the full range of health, amenity, engineering and operational feasibility, economic and environmental factors.

The EPA notes that Sydney Water's submission makes reference to the PSP scheme areas as being identified as 'environmentally sensitive'. The EPA understands that decisions on the current program requirements took a wider range of issues into account and were not solely based on environmental matters.

Issue: Environment – Environment Management System (IPART Question 29)

Under the EPA's new risk-based licensing system, as part of the risk assessment the EPA will take into account a licensee's environmental management performance, including any environmental management systems and practices the licensee has in place to control and mitigate environmental risks.

It is worth noting that having an environmental management system (EMS) is not a licensing or legislative requirement of the EPA. The EPA considers the implementation and maintenance of an EMS to be a business decision of the licensee and the EPA does not have a role in endorsing or approving EMS's.

Issue: Environment – Environment Management Plan (IPART Question 30)

The EPA in-principle supports IPART's proposal to remove the requirement from Sydney Water's Operating Licence to prepare and annually review the five-year Environmental Management Plan providing:

- it has no impact on Sydney Water's obligation to prepare an annual Special Objectives report for EPA review, an existing requirement under the *Sydney Water Act*; and
- Sydney Water continues to publicly report on its environmental performance.

The EPA notes that Sydney Water's submission states that this proposed change to the Operating Licence will have no impact on Sydney Water's other environmental public reporting requirements, such as its Special Objectives report and environmental performance indicator report.

Issue: Other areas for consideration – Memorandum of Understanding (IPART Question 38)

The EPA considers that the requirement for the Memorandum of Understanding (MoU) with the EPA should be retained due to the existing legislative requirement within section 34 of the *Sydney Water Act 1994* which refers to "the memorandum of understanding referred to in the operating licence".

In its submission, Sydney Water has proposed some amendments to the wording of the MoU. The EPA would appreciate the opportunity to discuss any proposed changes to the Operating Licence requirement regarding Sydney Water's MoU with the EPA.

