



public interest
ADVOCACY CENTRE

Submission to IPART's Review of the Sydney Water Corporation Operating Licence

19 February 2019

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- St Vincent de Paul Society of NSW;
- Good Shepherd Microfinance;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- Solar Citizens; and
- The Sydney Alliance.

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1. Overview

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to participate in IPART's 2018 *Review of the Sydney Water Corporation Operating Licence*. PIAC discloses that it is a member of the Sydney Water Customer Council. In addition to participation in this Council, our comments are informed by observing a number of deliberative forums held by Sydney Water as part of the review of this Operating Licence and its 2019-20 pricing review, direct engagement between PIAC and IPART staff and executives, and PIAC's own research into consumer experience with energy and water.

PIAC is broadly supportive of the Draft Sydney Water Operating licence, and welcomes the incorporation of feedback from Sydney Water and stakeholder submissions to the Issues Paper.

The remainder of this submission will respond in more detail to key elements of the draft licence.

2. Licence context and authorisation

PIAC supports the restoration of a licence objective that recognises the wider social and community objectives that are key to the role of an urban water utility.

PIAC notes the terminology used in 1.1.1a)iv¹ and 2.1.1c)² in relation to the 'disposing' of wastewater, and questions whether this is appropriate. Increasingly water is being understood not as an input or output, but more holistically as a (limited) resource with significant value. While a more fundamental change from regarding water as 'wastewater' is likely to occur beyond the period of the current licence, PIAC considers it appropriate that the language contained within the current authorisation facilitate a move to a more adaptable and efficient treatment of all water.

Accordingly, PIAC recommends that the objective and authorisation relating to wastewater be reframed to authorise Sydney Water for the appropriate use or disposal of wastewater, subject to licence conditions relating to conservation, planning, health and performance standards.

Recommendation 1

That the objectives and authorisation refer to the 'use or disposal of wastewater according to conditions and standards set by the operating licence'.

3. Water conservation and planning

Economic approach to water conservation

PIAC supports the requirement for Sydney Water to undertake water conservation informed by the Economic Level of Water Conservation (ELWC) method, or a similar IPART approved method. Further, PIAC supports the requirement for Sydney Water to review the ELWC within this licence period.

¹ IPART, [Sydney Water draft operating licence 2019-2023](#), 1.

² Ibid.

Water Planning

The Metropolitan Water plan plays a crucial role in providing a long-term framework that underpins all aspects of Sydney Waters operations. For example, the current Metropolitan Water Plan stipulates that the trigger point for activation of desalination will be reached before the trigger point for the imposition of water restriction measures. This has wide ranging implications for conservation, water pricing, and other consumer impacts. Accordingly, it is not merely beneficial, but necessary, that Sydney Water participate in the ongoing review and development of Metropolitan Water Planning. We are pleased to see that the draft Operating Licence goes some way to recognising this.

To better reflect the importance and responsibility of Sydney Waters' role in these processes, it would be more appropriate for clause 3.2.3 to include stronger language than 'best endeavours' with respect to their participation in implementation and review of the Metropolitan Water Plan.

While PIAC supports the inclusion of clauses 3.2.1 and 3.2.2, requiring capital, operational and drought planning to be undertaken and submitted to the Minister during the period of this Licence, we are concerned that a similar requirement to address and plan to respond to the impacts of climate change has not also been included. Increasingly common instances of extreme temperatures, extended periods of hot and dry weather, more frequent extreme rainfall events and altered patterns of rainfall distribution are just some of the significant challenges that already significantly impact Sydney Waters' operation and planning, now and increasingly into the future.

PIAC recommends that, as current experience, research and information updates understanding of the current and future impacts of climate change, Sydney Water should be required to produce, and regularly update Climate Change Adaptation plans, that can link directly into (and influence) wider metropolitan, conservation and capital and operational planning. With the ELWC, Metropolitan Water plan, capital and operational plan, and drought plan all required within the period of this licence, PIAC considers a similar timeframe appropriate for an updated Climate Change Adaptation plan requirement.

Recommendation 2

That Sydney Water be required to produce the first Climate Change Adaptation Plan alongside other planning processes, and update the Climate Change Adaptation Plan at similar intervals to other plans.

4. Supply services and performance standards

PIAC is broadly supportive of the approach taken to water quality and service interruptions performance standards in the Draft Operating Licence. In the context of rapid metropolitan growth within the area covered by Sydney Water's operations, PIAC supports the adoption of proportional performance standards as a more meaningful measure. Over the course of this Licence period, as Sydney Water continues to undertake and improve their detailed, deliberative research on consumer experiences and preferences there will be further opportunities to assess the effectiveness of the existing targets and performance standards.

PIAC reiterates our agreement with Sydney Water, that amending the performance standards to better reflect consumers' preferences and willingness to pay is a complicated process to do

properly and that it is necessary to do this fully, even if doing so limits the ability to comply with the current review's timetable.

5. Customers and consumers

Provision of information to customers

PIAC supports the information provisions that Sydney Water is required to make to its customers, though we question whether the specific reference to the requirement to prepare a 'pamphlet' is appropriate. This requirement has the potential to limit the accessibility of the information provided, particularly to consumers who are vulnerable or disadvantaged. Accordingly, PIAC recommends that clauses under 6.2 be amended to refer to Sydney Waters' requirement to provide 'accessible information provided in both electronic and hard-copy formats', where 'pamphlet' is currently used.

Recommendation 3

That clauses under 6.2 be amended to requirement to provide 'accessible information in electronic and hard-copy formats', in preference to 'a pamphlet'.

Consumers

PIAC supports the extension of obligations, under clause 5.1 of the customer contract, to private residential tenants. This is a crucial and welcome step in starting to address the significant disadvantage that private rental tenants experience in accessing services, supports and assistance in relation to their essential water needs. PIAC considers that Sydney Water can continue to contribute to develop more effective ways to adapt business systems and processes to provide appropriate service, protections and information to all residential customers, whether they are owner occupiers or private residential tenants.

Accordingly, we recommend that clauses under 6.3 be amended to include a specific direction for Sydney Water (in conjunction with appropriate consumer engagement) investigate how its systems and processes can better support more effective, direct relationships with residential tenants. This process should involve the development of a plan for identifying and connecting with residential tenant consumers, communicating with them, and ensuring that they receive services and protections equal to other residential water consumers. It should also involve identifying costs and other external factors that impede better formal relationships with tenants.

Recommendation 4

That Sydney Water be required to develop a plan to integrate communications, services and assistance to private residential tenants, into their wider operations and systems.

Assistance options for payment difficulties and actions for non-payment

Increasingly there is an understanding that consumers, even in circumstances of extreme financial distress, are unlikely to identify themselves as being 'in hardship'. PIAC's recent report on residential disconnections in energy and water³ as well as a recent report from NCOSS⁴ show that even those who are undertaking extreme rationing of their usage, borrowing (potentially from

³ PIAC & UMR. [Close to the Edge: A qualitative and quantitative study](#), November 2018.

⁴ NCOSS. [Turning off the lights: the cost of living in NSW](#), June 2017

expensive pay-day lenders) to pay bills, and worried about (and being threatened with) disconnection and restriction, are unlikely to identify as being a candidate for 'hardship assistance'. Even where they are aware of the existence of hardship support, shame, embarrassment, and self-blame are often cited as deterring people from seeking assistance/support from service providers.

Newly updated frameworks such as the Victorian Essential Services Commissions payment difficulty framework (PDF) avoid use of potentially subjective and limiting terminology like 'hardship', in favour of more objective, intuitive and neutral terminology such as 'payment difficulty'. This change is important in assisting consumers to understand that assistance is available and intended for them, and increasing the likelihood that they will access assistance and do so early enough to have the most significant impact (and greater likelihood of success). It also helps to better frame the purpose of assistance, and provides a clearer rationale for how customers needing assistance should be identified by Sydney Water. For instance, this approach could lead to processes where customers who have paid late on multiple occasions could automatically be given targeted information about controlling their use, how to access financial advice, and how to access Sydney Waters' payment assistance programs.

Recommendation 5

That the clauses under 6.4 (and in the customer contract) be amended to refer to 'customers experiencing payment difficulty', where 'financial hardship' is currently used.

Family Violence Policy

PIAC supports the requirement for Sydney Water to develop and implement a family violence policy by 1 July 2020. However, we recommend a minor amendment to clause 6.5.2c) so that the policy provides for '*processes that minimise reliance on customers to disclose their family violence*'.

As Sydney Water develops the policy and consults with stakeholders and experts who provide support and services to people experiencing family violence, PIAC considers it likely that it will identify a range of measures that more appropriately meet the needs of people experiencing family violence without requiring those people to actively identify themselves. Wherever possible, processes, policies and assistance measures should not rely on people actively disclosing their experience of violence at all, and PIAC considers that our recommended language provides more appropriate framing for this requirement.

Recommendation 6

That clause 6.5.2c) be amended to require a family violence policy that provides for 'processes that minimise reliance on customers to disclose their family violence'.

Information and services for competitors

PIAC supports the provisions in section 8 regarding the provision of information and services to WIC Act licensees, and agrees with the requirements to negotiate and act in good faith (and according to any WIC Act code of conduct) in dealing with WIC Act licensees.
