



1 March 2024

Ms Carmel Donnelly  
Chair  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop NSW 1240

Dear Carmel

## **2023-24 Review of the WaterNSW Operating Licence – Discussion Paper**

Thank you for the opportunity to comment on this discussion paper.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers, including WaterNSW. Our comments are informed by our investigations into these complaints, and through our community outreach and stakeholder engagement activities.

EWON investigates and resolves complaints from customers of WaterNSW about matters including:

- billing, fees and charges
- metering
- payment difficulties and affordability
- debt management
- processing and administration of water access licences
- access to private land e.g., asset maintenance and vegetation management.
- customer service e.g., provision of incorrect information.

EWON is generally limited to providing independent information/advice and suitable referrals for complaints about other matters, including:

- water access licence approvals and terms and conditions
- catchment, infrastructure and/or facilities issues
- dam management/water releases.
- water quality/safety
- water theft
- price setting.

We have only responded to points in the discussion paper and draft licence that align with issues customers raise with EWON, or with our organisation's operations as they relate to this review.

### **Consultation with customers and the community**

EWON supports retaining a requirement for WaterNSW to engage with its customers, including an explicit requirement to engage with different customer groups. We also support reducing prescription of how that engagement should be conducted and allowing for a more outcomes-focused approach.

We support retaining a non-exhaustive list as outlined in Clause 25 (2) as it captures the broad range of customer groups and stake holders that WaterNSW deals with in its operations.

We encourage consistency across water providers and support the approach of applying equivalent provisions from the wording in Clause 29 of the 2022-27 Hunter Water Operating Licence, including the requirement to develop a consultation policy.

We acknowledge the basis for IPART recommending removing the requirement for Customer Advisory Groups, however we recommend that WaterNSW consider maintaining a group of a similar nature as part of its consultation policy. EWON has gained extensive experience and provided value through Ombudsman / Senior Officer participation, as an observer, on Electricity and Gas Network's Customer Reference Groups that contribute to the Australian Energy Regulator's regulatory process. The knowledge and insight that customer advocacy groups provide to energy and water entities via these forums is often the foundation of highlighting concerns or issues that may arise from new regulation when applied in practice. These forums provide a voice for consumer groups that may not be uncovered through businesses direct customer engagement. Customer Reference Groups that consist of industry stakeholders and consumer representatives are generally well positioned to contribute to better customer outcomes and promote collaboration and engagement.

We would welcome the opportunity to work with WaterNSW as they work through the process of redeveloping their consultation policy.

### Family Violence policy

EWON strongly supports the inclusion of a new requirement for WaterNSW to maintain, comply with, publish and notify customers of a family violence policy. There is recognition across all sectors that special protections are vital for people who are experiencing, or have experienced, this form of vulnerability.

We acknowledge that there are additional challenges associated with the development and implementation of a family violence policy including cost, however, the risks to customers who are experiencing family violence outweigh these issues. Further, there will be benefits for WaterNSW as development of a company family violence policy provides support for employees who are, or may in the future, experience family violence.

For consistency across the water sector, we recommend that IPART consider:

- including an additional provision, similar to that proposed in Sydney Water's draft Operating Licence which requires processes for customers experiencing Family Violence to nominate their preferred method of communication and when they can be contacted.
- further broadening the scope of the definition of family violence within the operating licence.

IPART has recommended that family violence be defined in the operating licence to align with the definition in the *Family Law Act 1975 (Cth)*<sup>1</sup> which defines family violence to be violent, threatening or other behaviour by a person that coerces or controls a member of the person's family or causes the family member to be fearful.

Family violence can occur in any type of familial relationship including current or former partners (spousal or de-facto), siblings, grandparents or grandchildren, and close extended family. It also occurs in relationships that have a high level of trust and are often considered to be family like, such

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<sup>1</sup> *Family Law Act 1975 (Cth)* s 4AB (1)

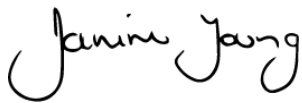
as between a person with a disability and their unrelated carer. In its 2022 rule change<sup>2</sup> to the National Energy Consumer Framework the Australian Energy Market Commission (AEMC) mirrored the definition in the *South Australian Intervention Orders (Prevention of Abuse) Act 2009*<sup>3</sup> which provides broad coverage of the types of relationships within which abuse may occur, including where one person is a carer of another, or where the relationship is established under Aboriginal and Torres Strait Islander kinship rules.

We acknowledge that IPART has made the recommendation to only prescribe the minimum necessary protections and to not attempt to prescribe best practice to avoid excessive burden and costs to customers.<sup>4</sup> However, to ensure that there is clear and transparent information available to customers, we recommend clarifying the coverage of the provision within the rules, or a non-exhaustive list of types of abuse, to be detailed within the family violence policy. The current definition does not provide protection to affected customers who experience abuse in a family like relationship.

The water sector is positioned to lead the provision of additional protections and assistance to this group by extending the definition of family violence.

If you would like to discuss this matter further, please contact Rory Campbell, Manager Policy & Systemic Issues, on (02) 8218 5266.

Yours sincerely



**Janine Young**  
**Ombudsman**  
**Energy & Water Ombudsman NSW**

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<sup>2</sup> National Energy Retail Amendment (Protecting customers affected by family violence) Rule 2022

<sup>3</sup> *Intervention Orders (Prevention of Abuse) Act 2009 (SA)*, s. 8(8).

<sup>4</sup> Sydney Water Operating Licence Review 2023-24 Discussion Paper, page 100