



## Draft Revised Regulatory Reporting Guideline

Consultation Paper

22 November 2021

Printed 22 November 2021  
Office of the Tasmanian Economic Regulator  
Level 3, 21 Murray Street, Hobart TAS 7000  
GPO Box 770, Hobart TAS 7001  
Phone: (03) 6145 5899  
Email: [office@economicregulator.tas.gov.au](mailto:office@economicregulator.tas.gov.au)

ISBN: 978-1-922379-57-3  
Copyright  
© Office of the Tasmanian Economic Regulator

# TABLE OF CONTENTS

- 1 INVITATION FOR SUBMISSIONS.....1
- 2 OVERVIEW.....2
- 3 AMENDMENTS.....2
- 4 PROPOSED VERSION 5 OF THE GUIDELINE.....Attachment 1
- 5 PROPOSED CHANGES TO VERSION 4 OF THE GUIDELINE.....Attachment 2

# 1 Invitation for submissions

This Consultation Paper provides background information about proposed amendments to the *Regulator's Regulatory Reporting Guideline – Version 4, February 2021* (the Guideline).

This Consultation Paper is issued in accordance with the *Consultation Policy and Procedures of the Regulator – Version 7, February 2021*. The Consultation Paper has been prepared to assist licensees, interested persons and stakeholders to make submissions regarding the proposed amendments to Version 4 of the Guideline. Attachment 1 to this Consultation Paper is the proposed Version 5 of the Guideline. Attachment 2 outlines the proposed amendments to Version 4 of the Guideline in marked-up format.

It is the Regulator's policy to publish all submissions on the Office of the Tasmanian Economic Regulator's (OTTER) website unless the author of the submission requests confidentiality in relation to the submission (or any part of the submission). Those parts of a submission that are requested to be confidential should be submitted as an attachment to that part suitable for publication.

The Regulator will not publish submissions which contain material that the Regulator believes is, or could be, derogatory or defamatory.

Submissions must be received by no later than 13 December 2021.

To facilitate publication on OTTER's website, submissions by email are preferred. Submissions and enquires may be made to:

office@economicregulator.tas.gov.au

or to

Tristan Patterson, Manager  
Office of the Tasmanian Economic Regulator  
GPO Box 770  
HOBART TAS 7000

A copy of this Consultation Paper is also available on the Regulator's website: [www.economicregulator.tas.gov.au](http://www.economicregulator.tas.gov.au).

## 2 Overview

Most gas, electricity, and water and sewerage entities in Tasmania require a licence from the Regulator. These licences require licensees to develop and submit to the Regulator a compliance plan and various management plans (for example, asset management, vegetation management, emergency management).

The Guideline provides the basis for regular independent reviews<sup>1</sup> of a licensee's compliance plan and management plans. The Guideline specifies how the Regulator approves a suitably qualified person to undertake a review, and the scope and conduct of reviews.

The Regulator has reviewed the Guideline with the objective of reducing regulatory costs on entities, based on an analysis of the practices of other economic regulators in Australia, while ensuring that appropriate oversight is maintained of licensees' compliance and management plans.

The Regulator has included several draft amendments to the Guideline. These amendments aim to set out more clearly the regulatory obligations of licensees.

## 3 Amendments

The Regulator's proposed amendments to the Guideline are detailed in marked-up format in Attachment 2 of this document, and include the following:

- A revised structure and wording to simplify the Guideline and increase clarity;
- inclusion of a provision to expand a review's scope if, during the review, the Reporter identifies an issue outside the review's terms of reference that, in the Reporter's or Regulator's opinion, poses a high risk;
- reducing the administrative burden that reviews place on licensees. For example:
  - Clause 2.3 (previously clause 2.4) is amended to state that the frequency of reviews is at the Regulator's discretion (rather than per-set, such as every three years);
  - Clause 2.4 (previously clause 2.5) now includes guidance that the Terms of Reference may direct the Reporter to review aspects of several plans, an operational area in more detail, or Annual Performance Report information. Currently, the Guideline requires each plan to be separately reviewed.

---

<sup>1</sup> Reviews are also referred to as appraisals. The terms have the same meaning.

Attachment 1:

Proposed Version 5 of the Guideline



Regulatory Reporting

**GUIDELINE**

Version 5

22 November 2021



## TABLE OF CONTENTS

<b>1</b>	<b>VERSION AND EFFECTIVE DATE .....</b>	<b>5</b>
<b>2</b>	<b>BACKGROUND .....</b>	<b>6</b>
2.1	Scope of this Guideline.....	6
2.2	Purpose of this Guideline .....	6
2.3	Frequency of reporting.....	7
2.4	Scope of reporting.....	7
<b>3</b>	<b>APPOINTING THE REPORTER.....</b>	<b>9</b>
3.1	Regulator’s approval .....	9
3.2	Skill and experience.....	9
3.3	Independence.....	10
3.4	Duty of care .....	10
<b>4</b>	<b>TERMS OF REFERENCE.....</b>	<b>11</b>
4.1	Licence obligations .....	11
4.2	Obligations to be reported on.....	11
4.3	Time frame .....	11
4.4	Approval of Terms of Reference.....	12
4.5	Matters outside the Terms of Reference .....	12
<b>5</b>	<b>THE REPORTING PROCESS.....</b>	<b>13</b>
5.1	Methodology .....	13
5.2	Regulatory information reviews .....	14
5.3	Licence obligations .....	15
<b>6</b>	<b>THE REPORT .....</b>	<b>16</b>
6.1	Content of reports.....	16
6.2	Signed statement .....	16
6.3	Finalisation .....	17
<b>7</b>	<b>RESPONDING TO THE FINDINGS AND RECOMMENDATIONS .....</b>	<b>18</b>

## Regulatory Reporting Guideline

## 1 VERSION AND EFFECTIVE DATE

A version number and date of issue will identify every version of this Guideline. This version, Version 5 of 2021, takes effect on X X 2022 and replaces the previous *Regulatory Reporting Guideline - February 2021*.

The Tasmanian Economic Regulator established under the *Economic Regulator Act 2009* recognises that as the energy supply industry, water and sewerage sector and respective regulatory environments change over time, the requirements and procedures outlined in this Guideline may require updating.

The Regulator intends to review and revise the Guideline as appropriate and welcomes comment at any time on the content of this Guideline, or any other feedback on the independent reporting process.

## 2 BACKGROUND

### 2.1 Scope of this Guideline

This Guideline applies to:

1. The *Regulator*, whose role is to define the scope and frequency of independent reporting to assess whether licensees are meeting the regulatory obligations detailed in their management plans;
2. *Licensees*, meaning the holder of a licence issued by the Regulator under the *Electricity Supply Industry Act 1995*, the *Gas Industry Act 2019* (including an operator appointed by the Regulator under section 88 of that Act), and the *Water and Sewerage Industry Act 2008*; and
3. Reporters, who are required to have relevant expertise and sufficient independence to provide high quality, reliable and credible reports.

This Guideline does not extend to the framework that the Regulator intends to use when dealing with contraventions of compliance obligations by electricity, gas and water and sewerage licensees. That framework is detailed in the Regulator's *Compliance Enforcement Policy*.

### 2.2 Purpose of this Guideline

It is a condition of a licence issued by the Regulator, or relevant industry code, that a licensee may be required to engage an independent Reporter to report to the Regulator on compliance with, and adequacy of, management<sup>1</sup> and compliance plans and/or the quality, reliability, or conformity of regulatory information. This Guideline sets out how the Regulator will exercise its powers to provide for independent reporting by suitably qualified Reporters.

The intended outcome of this reporting is to allow the Regulator to assess the performance of licensees in meeting the regulatory obligations outlined in their licence, relevant legislation or code, and that reported performance information is reliable. In doing so, the Regulator seeks assurance that licensees are appropriately managing their assets and operations to provide a safe, efficient, secure and reliable service<sup>2</sup>.

---

<sup>1</sup> The Regulator specifies the management plans a licensee is required to provide in the licence. The plans required may include customer service, vegetation management, asset management or emergency management plans.

<sup>2</sup> See sections 6(2) (b) and (c) of the *Electricity Supply Industry Act 1995*, and section 5 of the *Water and Sewerage Industry Act 2008*.

This Guideline aims to:

- ensure that reporting is conducted in an independent and rigorous manner by establishing minimum requirements for the independence and expertise of Reporters, and the conduct and process of reporting;
- ensure that the reports allow for comparisons with previous reports on the same areas;
- *foster a culture of continuous improvement* by minimising the probability that significant non-compliance will go undetected, and providing entities with an opportunity to rectify non-compliance before the Regulator considers enforcement action;
- *enhance* licensees' understanding of their compliance with key obligations and provide a basis for improving performance; and
- *maximise the cost-effectiveness of reporting* by taking a risk-based approach to defining the scope of reporting.

### 2.3 Frequency of reporting

The frequency and timing of a review is to be determined by the Regulator.

The Regulator will apply a risk-based approach in deciding on the frequency of regulatory reporting. The Regulator will have regard to the outcomes of previous reviews.

The Regulator may require more frequent reviews of higher risk aspects of a licensee's activities and less frequent reviews in relation to lower risk activities.

In most instances, a review will be requested after the Regulator has become aware of a potential non-compliance event that suggests there may be a problem with the relevant plan/s or a licensee's risk management processes.

### 2.4 Scope of reporting

The Regulator also applies a risk-based approach when determining the Terms of Reference for reporting. The Terms of Reference will be informed by a licensee's past performance, including its responses to non-compliance events, and the licensee's assessment of its relevant risks.

The risk-based approach recognises that there is a balance between the costs incurred in reporting and the benefits to be derived. The Regulator needs to be satisfied that the licensees have applied an appropriate risk assessment methodology that is likely to meet the public interest in this matter. A licensee may, however, adopt a high standard of reporting that exceeds the standard suggested by an appropriate risk assessment, at a higher cost to the licensee. ISO 31000:2018 *Risk Management - Guidelines* suggests a process for organisations to manage risks consistently and effectively.

When assessing risk, the Regulator expects licensees to consider a number of consequence factors including:

- cost to customers or the public;
- danger to public health or safety;
- damage to property;
- loss or reduction of services;
- environmental damage; and
- adverse public reaction arising from failure to meet community expectations.

Through the Terms of Reference, the Regulator may require the Reporter to concentrate on areas of higher risk relating to the licensee's activities. The Terms of Reference may direct the Reporter to analyse an operational area in more detail, aspects of the compliance and management plans, or selected annual performance report information.

## 3 APPOINTING THE REPORTER

### 3.1 Regulator's approval

The licensee must propose, for the Regulator's approval, an independent and suitably qualified Reporter to conduct the regulatory review and reporting.

To obtain approval of its nominated Reporter, licensees must provide the Regulator with details of:

- the proposed Reporter's field of work, core expertise and business structure;
- the skills and experience of the proposed Reporter's personnel and their proposed participation in the reporting exercise;
- work that has been done by the proposed Reporter for the licensee in the previous two years, and work that the proposed Reporter is currently doing for the licensee or has bid for; and
- the proposed Reporter's experience in undertaking similar assignments, including the details of at least two referees.

If the proposed Reporter meets the required skill, experience and independence criteria, the Regulator will provide the licensee with written approval for the Reporter's engagement.

If a licensee fails to nominate or gain approval for a Reporter, the Regulator may appoint a Reporter or conduct the review itself, without limiting or qualifying any liability of the licensee.

### 3.2 Skill and experience

The proposed Reporter must be able to demonstrate:

- skill and experience in, and detailed knowledge of, quality assurance, including operational or compliance auditing;
- skill and experience in, and detailed knowledge of, science, engineering, asset management, information systems and customer service to the extent that such knowledge is relevant to the report; and
- detailed knowledge of the relevant industry to the extent that such knowledge is relevant to the subject of the report.

### 3.3 Independence

The Reporter must not do, or have recently done, work for the licensee that would create a real or perceived conflict of interest in relation to the report.

The Reporter must demonstrate that it:

- does not hold any office or possess any property; and
- does not have any interest, obligation or duty (whether owed to the licensee or any other person),

as a direct or indirect result of which any of the Reporter's duties or interests are, or could reasonably be seen to be, in conflict with the Reporter's independence in regard to the subject matter of the report.

There may be efficiencies through licensees jointly engaging a Reporter on certain matters. The Regulator is open to submissions on this issue. However, the Regulator's preference is that licensees separately engage a Reporter. While there may be costs associated with this, the benefit is a diversity of views and experiences to inform all interested parties.

### 3.4 Duty of care

Reporters may find themselves in a position of conflict between their duty to the licensee and their duty to the Regulator. In such an event, the Reporter's primary duty is to the Regulator. This is consistent with the Regulator's role in maintaining the public interest to ensure the independence, comprehensiveness, quality and accuracy of the reports and the reporting process.

In conducting reporting, the Reporter must do so honestly, fairly, professionally, independently and objectively.

## 4 TERMS OF REFERENCE

### 4.1 Licence obligations

The Regulator, in consultation with each individual licensee, will determine which of a licensee's obligations will be reviewed.

'Obligation' means anything the licensee must include in its management plans or compliance plan in accordance with its licence, and includes compliance with performance and information reporting requirements.

Obligations will vary between licensees because the terms and conditions of each licence reflect the activities, key assets and circumstances of each licensee.

For regulated entities licensed under the *Water and Sewerage Industry Act 2008*, the Regulator will consult with the Director of Public Health and the Director, Environment Protection Authority to determine the practicality of a joint report being conducted with the aim of reducing costs and streamlining the reporting process. Where joint reporting is considered appropriate, the Regulator will seek input from the relevant Director in developing the Terms of Reference for the report.

### 4.2 Obligations to be reported on

Priority will be given to reporting on obligations identified as high risk. The Regulator may specify less intensive or less frequent reporting requirements for low and medium risk obligations.

The Regulator may also identify specific compliance issues for inclusion that relate to:

- the likely or known extent of any non-compliance; and
- complaints made or issues raised by other stakeholders.

Licensees are responsible for ensuring that any obligations they identify as high risk, and which are eligible for inclusion in the report, are included in the scope.

### 4.3 Time frame

For some obligations, the Reporter will need to assess compliance over a particular period, as well as at the time of the reporting. The Regulator will specify the period over which compliance with each obligation is to be reviewed.

After consultation with the licensee, the Regulator will also specify the relevant timeline for conducting the review and submitting the final report.

#### **4.4 Approval of Terms of Reference**

Following consultation with licensees, the Regulator will issue draft Terms of Reference for the report. Licensees will have the opportunity to review and comment on the draft Terms of Reference and are expected to add any obligations they have identified as high risk that have not been included in the draft Terms of Reference. The Regulator will review these comments and then issue the final Terms of Reference.

#### **4.5 Matters outside the Terms of Reference**

During the review, the Reporter may identify an issue that poses a high risk, but which falls outside the Terms of Reference. In these instances, the Reporter is required to notify the Regulator which will decide, in consultation with the Reporter and licensee, whether to adjust the Terms of Reference to include the identified issue.

## 5 THE REPORTING PROCESS

### 5.1 Methodology

To ensure that reports are comparable over time, where relevant, the methodology employed by the Reporter must, as a **minimum**:

- *assess* the effectiveness of the licensee's responses to previously identified non-compliance or recommended opportunities for improvement by previous Reporters;
- *analyse documented procedures* to assess whether they are consistent with the management plans and/or compliance plan, and any other regulatory obligation;
- *interview responsible staff* to assess their level of understanding and compliance with the documented procedures;
- *analyse a sample of cases or data* to assess adherence to documented policies and procedures. This may include a sample of job orders to maintenance crews and a sample of customer complaints about supply interruptions and an assessment of how they correspond to interruption events recorded in the relevant information systems;
- *analyse quality controls*, such as internal audit reports, to ascertain whether they are systematically identifying and correcting non-compliance and information defects;
- *analyse information systems* to assess the extent to which they produce information that complies with regulatory obligations. This will require an examination of:
  - the design and security of systems and the processes used to generate data; and
  - the design of queries and calculation formulae used to generate, estimate or extrapolate regulatory information; and
- *analyse relevant data* in the licensee's information system to:
  - ensure that the data in the system matches any data previously reported to the Regulator; and
  - identify any missing data or unusual figures or trends that might suggest errors in data entry or manipulation.

- *Identify changes in systems and documented procedures* that may indicate that data accuracy or reliability has changed significantly over the reporting period. If changes have occurred in documented procedures during the reporting period, the data from before and after the changes is to be reviewed to assess the effect on accuracy and reliability.
- *Review the complaint feedback process* to ascertain:
  - the accuracy in identifying complaints that relate to non-compliance with a regulatory obligation;
  - the speed and reliability with which complaints reach the responsible person, and the impartiality of the complaints analysis process; and
  - the extent and success of resolving justified complaints, both in providing redress to the complainant and minimising the risk of recurrence.
- *Analyse the mechanisms for detecting non-compliance* and investigate the possible causes of identified non-compliance, critically appraising the licensee's compliance plan to ascertain if the plan is adequate to prevent the recurrence of the non-compliance.
- *Investigate any other matter specified* in the Terms of Reference.

In performing the review, the Reporter is to apply the relevant Standards produced by the Australian Government Auditing and Assurance Standards Board. The Reporter is also to apply the guidance in International Standard ISO 31000:2018 *Risk Management - Guidelines*.

The Reporter must also undertake an examination of the possible causes of non-compliance, if relevant, in co-operation with the licensee. The Reporter is to test licensees' assumptions in such cases.

Reporters may review internal audit assessments in arriving at their findings. The extent to which they rely on such assessments is a matter for the Reporter, taking into account professional standards and the appropriate confidence level.

## 5.2 Regulatory information reviews

In reporting on the quality, reliability or conformity of regulatory information, the Reporter is required to address the following issues:

- Does information generation occur in accordance with documented policies, practices and procedures?
- For relevant staff, what is the level of understanding and implementation of the policies, practices and procedures?
- Does the reported information come from sound information systems and records?

- Do these procedures and the reported information accurately reflect the Regulator's regulatory information requirements?

If previous reviews have shown that licensees meet the required standards, future reviews of these generic compliance issues may not be reviewed unless an instance of known, likely, or alleged non-compliance arises (see clause 4.3).

### 5.3 Licence obligations

For other licence obligations not mentioned above, the Reporter is required to assess the following issues:

- Are there documented procedures that reflect the obligation?
- What is the level of staff understanding of the obligation?
- Is the obligation the subject of effective compliance monitoring (e.g. records of service delivery) and quality control (e.g. complaints feedback, internal audit reports)?
- Does the licensee's culture appear to support compliant behaviour?
- Do the licensee's organisational structure and governance arrangements support compliant behaviour and outcomes?
- Has the licensee fulfilled the obligation as specified?

## 6 THE REPORT

### 6.1 Content of reports

The Reporter's report is to contain, as a **minimum**:

- *An executive summary* identifying the report's key findings.
- *A description of the reporting scope and methodology*, which is to include any matters specified by the Regulator.
- *A description of the systems and procedures* established to comply with each obligation, including:
  - relevant documentation and responsible staff; and
  - data collection systems, data reporting methods and data management.
- *A discussion of compliance* identifying the reasons for any non-compliance and action taken to rectify non-compliance. This is to include recommendations by the Reporter for remedial action, and an assessment of the effectiveness of the responses by the licensee to non-compliance identified by the previous Reporter where applicable. Where significant non-compliance has been identified, the report is to detail:
  - the nature and extent of the non-compliance;
  - the impact of the non-compliance on people, property and the environment;
  - the reason for the non-compliance;
  - any action the licensee has taken to address the non-compliance;
  - any action taken to prevent the non-compliance recurring;
  - the final date the licensee expects to comply again with the obligation; and
  - a critical review of the relevant management or compliance plan.

### 6.2 Signed statement

The report must include a statement signed by the Reporter that:

- the Reporter has complied with this Guideline and the Terms of Reference in making its findings and preparing its report; and
- the report reflects the professional opinion of the Reporter.

### 6.3 Finalisation

The Reporter must complete the report in accordance with the timeline specified by the Regulator in the Terms of Reference.

The Reporter must provide the licensee with a draft copy of the report and allow the licensee sufficient time to review the report, identify any factual inaccuracies for correction and, where appropriate, provide further information.

The licensee's directors may wish to review the final report prior to its submission to the Regulator. This will allow the licensee to:

- assess whether the report accurately reflects the licensee's performance; and
- begin taking corrective action where non-compliance has been identified.

The Reporter must provide the final report to the Regulator, keep all draft reports and all records used in arriving at its findings, and supply them to the Regulator on request.

If the report covers matters of relevance to the Director of Public Health and/or the Director, Environment Protection Authority, then the Reporter must also provide a copy of the report to the respective Director.

The Regulator may request a briefing from the Reporter on the report's findings and recommendations.

## 7 RESPONDING TO THE FINDINGS AND RECOMMENDATIONS

In responding to the findings and recommendations in the report, the Regulator may (without limiting its powers under the relevant industry regulatory framework):

- require further reporting at the licensee's expense where the report is deemed unsatisfactory, for example where the Regulator:
  - has independent information inconsistent with the assessment made by the Reporter, or
  - is not satisfied that the report provides adequate assurance that the licensee is meeting its obligations (for example, reporting regulatory information) in an appropriate manner;
- obtain and analyse draft reports and any information used by the Reporter to form the basis for the final report;
- require additional information to assess whether compliance action is necessary;
- require a licensee to take action addressing any non-compliance or mitigating the risk or consequences of future non-compliance;
- issue directions to comply under the powers specified in the respective Acts; and/or
- review any obligations which appear ambiguous, inadequate, excessive or trivial.

The Regulator may publish any report, and/or comment(s) on the results of the Reporter's report, subject to the applicable legislative confidentiality requirements.

Attachment 2:

Proposed changes to Version 4 of the  
Guideline (in marked-up format)



Regulatory Reporting

GUIDELINE

Version 45

February 22 November 2021



# TABLE OF CONTENTS

<b>1</b>	<b>VERSION AND EFFECTIVE DATE</b>	<b>1</b>
<b>2</b>	<b>BACKGROUND</b>	<b>2</b>
2.1	Purpose of the Guideline	2
2.2	Licences and reporting	2
2.3	Licence obligations	3
2.4	Frequency of reporting	3
2.5	Scope of reporting	3
<b>3</b>	<b>APPOINTING THE REPORTER</b>	<b>4</b>
3.1	Regulator approval	4
3.2	Skill and experience	4
3.3	Independence and duty of care	5
<b>4</b>	<b>DETERMINING THE REPORTING TERMS OF REFERENCE</b>	<b>6</b>
4.1	Identifying obligations	6
4.2	Assessing risk	6
4.3	Specifying the minimum reporting scope	8
4.4	Approval of Terms of Reference	9
<b>5</b>	<b>THE REPORTING PROCESS</b>	<b>10</b>
5.1	Reporting methodology	10
5.2	The reporting approach	11
5.3	Generic compliance issues	11
<b>6</b>	<b>THE REPORT</b>	<b>13</b>
6.1	Content of reports	13
6.2	Signed statement	13
6.3	Reporting procedures	14
<b>7</b>	<b>RESPONDING TO THE REPORT</b>	<b>15</b>

<b>1</b>	<b>VERSION AND EFFECTIVE DATE .....</b>	<b>1</b>
<b>2</b>	<b>BACKGROUND .....</b>	<b>2</b>
2.1	Scope of this Guideline.....	2
2.2	Purpose of this Guideline .....	2
2.3	Frequency of reporting.....	4
2.4	Scope of reporting.....	4
<b>3</b>	<b>APPOINTING THE REPORTER.....</b>	<b>6</b>
3.1	Regulator’s approval .....	6
3.2	Skill and experience.....	6
3.3	Independence.....	8
3.4	Duty of care .....	8
<b>4</b>	<b>TERMS OF REFERENCE.....</b>	<b>9</b>
4.1	Licence obligations .....	9
4.2	Obligations to be reported on.....	11
4.3	Time frame .....	12
4.4	Approval of Terms of Reference.....	13
4.5	Matters outside the Terms of Reference .....	13
<b>5</b>	<b>THE REPORTING PROCESS.....</b>	<b>14</b>
5.1	Methodology.....	14
5.2	Regulatory information reviews .....	16
5.3	Licence obligations .....	17
<b>6</b>	<b>THE REPORT.....</b>	<b>18</b>
6.1	Content of reports.....	18
6.2	Signed statement .....	18
6.3	Finalisation .....	19
<b>7</b>	<b>RESPONDING TO THE FINDINGS AND RECOMMENDATIONS .....</b>	<b>20</b>

## Regulatory Reporting Guideline

## 1 VERSION AND EFFECTIVE DATE

A version number and date of issue will identify every version of this Guideline. This version, Version ~~4.5~~ of 2021, ~~became effective~~takes effect on ~~26 February 2021~~X X 2022 and replaces the previous *Regulatory Reporting Guideline - ~~July 2014~~February 2021*.

The Tasmanian Economic Regulator<sup>1</sup> established under the Economic Regulator Act 2009 recognises that as the energy supply industry, water and sewerage sector and respective regulatory environments change over time, the requirements and procedures outlined in this Guideline may require updating.

The Regulator intends to review and revise the Guideline as appropriate and welcomes comment at any time regarding its content on the content of this Guideline, or any other feedback on the independent reporting process.

---

<sup>1</sup>~~The Regulator for the purposes of this Guideline is the Tasmanian Economic Regulator established under the Economic Regulator Act 2009.~~

## BACKGROUND

### 1.1 ~~Purpose~~Scope of ~~the~~this Guideline

This Guideline applies to:

1. The *Regulator*, whose role is to define the scope and frequency of independent reporting to assess whether licensees are meeting the regulatory obligations detailed in their management plans;
2. *Licensees*, meaning the holder of a licence issued by the Regulator under the *Electricity Supply Industry Act 1995*, the *Gas Industry Act 2019* (including an operator appointed by the Regulator under section 88 of that Act), and the *Water and Sewerage Industry Act 2008*; and
3. Reporters, who are required to have relevant expertise and sufficient independence to provide high quality, reliable and credible reports.

This Guideline does not extend to the framework that the Regulator intends to use when dealing with contraventions of compliance obligations by electricity, gas and water and sewerage licensees. That framework is detailed in the *Regulator's Compliance Enforcement Policy*.

### 1.2 Purpose of this Guideline

It is a condition of a licence issued by the Regulator, or relevant industry code, that a licensee may be required to engage an independent Reporter to report to the Regulator on compliance with, and adequacy of, management<sup>2</sup> and compliance plans and/or the quality, reliability, or conformity of regulatory information. This Guideline sets out how the Regulator will exercise its ~~regulatory~~ powers to provide for independent reporting by suitably qualified Reporters<sup>3</sup>, ~~the scope of reporting, and how.~~

The intended outcome of this reporting is to ~~be conducted~~ allow the Regulator to assess the performance of licensees in meeting the regulatory obligations outlined in their licence, relevant legislation or code, and that reported performance information is reliable. In doing so, the Regulator seeks assurance that licensees are appropriately managing their assets and operations to provide a safe, efficient, secure and reliable service<sup>4</sup>.

---

<sup>2</sup> The Regulator specifies the management plans a licensee is required to provide in the licence. The plans required may include customer service, vegetation management, asset management or emergency management plans.

<sup>3</sup> The terms 'Reporter' and 'Appraiser' are interchangeable for the purposes of this guideline.

<sup>4</sup> See sections 6(2) (b) and (c) of the *Electricity Supply Industry Act 1995*, and section 5 of the *Water and Sewerage Industry Act 2008*.

This Guideline ~~is designed~~aims to:

- ~~■~~ ensure that reporting is conducted in an independent, ~~and~~ rigorous ~~and comparable~~ manner by establishing minimum requirements for the independence and expertise of Reporters, and the conduct and process of reporting;
- ensure that the reports allow for comparisons with previous reports on the same areas;
- ~~■~~ foster a culture of continuous improvement by minimising the probability that significant non-compliance will go undetected, and providing entities with an opportunity to rectify non-compliance before the Regulator considers enforcement action; ~~and~~
- ~~—~~ maximise the cost-effectiveness of reporting by taking a risk-based approach to defining their scope.

~~This Guideline sets out a staged approach to approving and conducting independent reporting.~~

## ~~1.2~~ Licences and reporting

~~The regulatory regimes established by the *Electricity Supply Industry Act 1995*, the *Gas Industry Act 2019* and the *Water and Sewerage Industry Act 2008*, provide for the Regulator to issue licences to electricity, gas and water and sewerage entities to engage in certain operations in their respective industries.<sup>5</sup>~~

~~A licence requires the licensee to:~~

- ~~provide relevant management plans and a compliance plan to the Regulator;~~
- ~~comply with relevant codes and guidelines;~~
- ~~pay fees and charges; and~~
- ~~meet certain reporting obligations.~~

~~Independent reporting ensures that all stakeholders are provided with sufficient information to properly assess the performance of licensees in meeting their regulatory obligations and provides a reliable basis for on-going performance assessment.~~

---

<sup>5</sup> ~~Until 30 June 2011, water and sewerage service providers were subject to interim licences issued under section 89 of the *Water and Sewerage Industry Act 2008*.~~

- ~~Reporting is also designed to enhance~~ licensees' understanding of their compliance with key obligations and provide a basis for improving performance. ~~Reporters must have relevant expertise and sufficient independence to ensure that the quality and credibility of audit findings are not compromised;~~ and

### 1.3 Licence obligations

~~This Guideline applies to licensees that are required under their licence or relevant industry code to engage an independent "reporter" or "appraiser" to report to the Regulator on compliance with, and adequacy of, management and compliance plans and/or the quality, reliability or conformity of regulatory information.~~

Management plans may include the following:

- ~~customer service plan;~~
- ~~service plan;~~
- ~~vegetation management plan;~~
- ~~asset management plan;~~
- ~~emergency management plan; or~~
- ~~any other plan as specified by the Regulator as a condition of a licensee's licence.~~
- maximise the cost-effectiveness of reporting by taking a risk-based approach to defining the scope of reporting.

#### 1.41.3 Frequency of reporting

~~Frequency~~The frequency and timing of reporting ~~a review~~ is to be ~~at least triennially, unless otherwise required~~determined by the Regulator.

~~In deciding on the frequency of reporting, the~~The Regulator will ~~also~~ apply a risk-based approach ~~and, having~~in deciding on the frequency of regulatory reporting. The Regulator will have regard to the outcomes of previous reviews;

~~The Regulator may require more frequent reviews to be conducted more often in respect of higher risk aspects of a regulated entity's~~licensee's activities and less ~~often (or not at all)~~frequent reviews in relation to ~~certain~~ lower risk activities.

In most instances, a review will be requested after the Regulator has become aware of a potential non-compliance event that suggests there may be a problem with the relevant plan/s or a licensee's risk management processes.

#### 1.51.4 Scope of reporting

~~As to~~The Regulator also applies a risk-based approach when determining the scopeTerms of Reference for reporting. The Terms of Reference will be informed by a licensee's past performance, including its responses to non-compliance events, and the licensee's assessment of its relevant risks.

The risk-based approach recognises that there is a balance between the costs incurred in reporting and the benefits to be derived. The Regulator needs to be satisfied that the licensees have applied an appropriate risk assessment methodology that is likely to meet the public interest in this matter. A licensee may, however, adopt a high standard of reporting that exceeds the standard suggested by an appropriate risk assessment, at a higher cost to the licensee. ISO 31000:2018 *Risk Management - Guidelines* suggests a process for organisations to manage risks consistently and effectively.

When assessing risk, the Regulator expects licensees to consider a number of consequence factors including:

- cost to customers or the public;
- danger to public health or safety;
- damage to property;
- loss or reduction of services;
- environmental damage; and
- adverse public reaction arising from failure to meet community expectations.

~~undertaken~~Through the Terms of Reference, the Regulator ~~will, through the terms of reference,~~may require the ~~independent appraiser~~Reporter to concentrate on ~~higher risk~~ areas of ~~a regulated entity's~~higher risk relating to the licensee's activities. The Terms of Reference may direct the Reporter to analyse an operational area in more detail, aspects of the compliance and management plans, or selected annual performance report information.

## APPOINTING THE REPORTER

### 1.61.5 ~~Regulator~~ Regulator's approval

The licensee must propose, for the Regulator's approval, an independent and suitably qualified Reporter to ~~undertake~~ conduct the ~~specified~~ regulatory review and reporting.

To obtain approval of ~~its~~ nominated Reporter, licensees ~~should make a written submission to~~ must provide the Regulator ~~which provides with~~ details of:

- the proposed Reporter's field of work, core expertise and business structure;
- the skills and experience of the proposed Reporter's personnel and their proposed participation in the reporting exercise;
- work ~~which~~ that has been done by the proposed Reporter for the licensee in the previous two years, and work ~~which~~ that the proposed Reporter is currently doing for the licensee or has bid for; and
- the proposed Reporter's experience in undertaking similar assignments, including the details of at least two referees.

If the proposed Reporter meets the ~~above~~ required skill, experience and independence criteria, the Regulator will provide the licensee with written approval for the Reporter's engagement.

If a licensee fails to nominate or gain approval for a Reporter, the Regulator may, ~~but without being obliged to do so, either~~ appoint a Reporter, or conduct the review itself, without limiting or qualifying any liability of the licensee.

### 1.71.6 Skill and experience

The proposed Reporter must be able to demonstrate:

- skill and experience in, and detailed knowledge of, quality assurance, including operational or compliance auditing;
- skill and experience in, and ~~where relevant,~~ detailed knowledge of, science ~~or,~~ engineering, asset management, information systems and customer service to the extent that such knowledge is relevant to the report; and
- detailed knowledge of the relevant industry to the extent that such knowledge is ~~pertinent~~ relevant to the subject of the report.

~~1.8 Independence and duty of care~~

## 1.7 Independence

The Reporter must not do, ~~and must not~~ have recently done, work for the licensee ~~which that~~ would create, ~~or could be seen to create~~, a real or perceived conflict of interest in ~~the subject matter of~~ relation to the report.

The Reporter must demonstrate that it:

- does not hold any office or possess any property; and
- does not have any interest, obligation or duty (whether owed to the licensee or any other person),

as a direct or indirect result of which any of the Reporter's duties or interests are, or could reasonably be seen to be, in conflict with the Reporter's independence in regard to the subject matter of the report.

There may be efficiencies ~~to be gained, and no apparent conflicts, from~~ through licensees jointly engaging a Reporter on certain matters. ~~The~~ The Regulator is open to submissions on this issue. However, the Regulator's preference is that licensees separately engage a Reporter. While there may be costs associated with this, the benefit ~~would be~~ is a diversity of views and experiences to ~~better~~ inform all interested parties. ~~Nevertheless, the Regulator is open to submission on this issue.~~

## 1.8 Duty of care

Reporters may ~~be placed~~ find themselves in a position of conflict between their duty to the licensee and their duty to the Regulator. In such an event, the Reporter's primary duty ~~must be~~ is to the Regulator. This is consistent with the Regulator's role in maintaining the public interest to ensure the independence, comprehensiveness, quality and accuracy of the reports and the reporting process.

In conducting reporting, the Reporter must do so honestly, fairly, professionally, independently and objectively.

## ~~DETERMINING THE REPORTING~~ TERMS OF REFERENCE

### 1.9 ~~Identifying~~ Licence obligations

The Regulator, in consultation with each individual licensee, will determine which of a licensee's obligations ~~are to be included in the report. 'Obligation' means anything the licensee is required to include in its management plans or compliance plan pursuant to its licence, and includes compliance with performance and information reporting requirements. Obligations may vary between licensees as terms and conditions of each licence have been developed through a process of consultation with individual licensees and interested parties.~~ will be reviewed.

~~With regards to licensees~~ 'Obligation' means anything the licensee must include in its management plans or compliance plan in accordance with its licence, and includes compliance with performance and information reporting requirements.

~~Obligations will vary between licensees because the terms and conditions of each licence reflect the activities, key assets and circumstances of each licensee.~~

~~For regulated entities licensed~~ under the *Water and Sewerage Industry Act 2008*, the Regulator will consult with the Director of Public Health and the Director, Environment Protection Authority to determine the practicality of ~~a joint reporting report being conducted~~ with the aim of reducing costs and streamlining the reporting process. Where joint reporting is considered appropriate, the Regulator will seek input from the relevant Director in developing the ~~terms~~ Terms of ~~reference~~ Reference for the report.

### ~~1.10~~ Assessing risk

~~The Regulator requires that a risk assessment approach be adopted for reporting. This recognises that there is a balance between the investment made in reporting and the benefits to be derived. Whilst the affected entity may adopt a higher standard of reporting, at higher cost, the Regulator is satisfied that application of an appropriately disciplined risk assessment methodology is likely to meet the public interest in this matter.~~

~~Licensees are to conduct an initial risk assessment. The licensee should use critical judgement to determine the level of analysis that is required based on what is appropriate and reasonable. The Regulator will then review the risk assessment to ensure that all significant risk obligations have been identified.~~

~~The risk associated with non-compliance is a product of the likelihood of non-compliance and its consequences. The risk assessment should be undertaken according to the principles outlined in the Australian Standard AS/NZS-ISO 31000:2018. That is, the level of risk associated with a given activity is to be assessed by evaluating the consequences of an adverse development (consequence being the impact of an instance of non-compliance on stakeholders) and also the likelihood of this adverse development (likelihood being the probability of an instance of non-compliance occurring).~~

~~A number of generic consequence factors must be considered in assessing risk, these include:~~

- ~~• cost to customers or the public;~~
- ~~• danger to public health or safety;~~
- ~~• damage to property;~~
- ~~• loss or reduction of services;~~
- ~~• environmental damage; and~~
- ~~• adverse public reaction arising from failure to meet community expectations.~~

~~In order to evaluate the level of risk, descriptors for both consequence and likelihood, based on AS/NZS ISO 31000:2018, are listed below:~~

~~Consequence of non-compliance~~

<del><i>Insignificant</i></del>	<del>Very low impact with unimportant consequences</del>
<del><i>Minor</i></del>	<del>Minor impact with some consequences</del>
<del><i>Moderate</i></del>	<del>Noticeable impacts with clearly visible consequences</del>
<del><i>Severe</i></del>	<del>Material impact with major consequences</del>
<del><i>Catastrophic</i></del>	<del>Very high impact with catastrophic consequences</del>

~~Likelihood of non-compliance~~

<del><i>Very unlikely</i></del>	<del>Non-compliance unlikely to occur within an given period</del>
<del><i>Unlikely</i></del>	<del>Non-compliance might occur</del>
<del><i>Likely</i></del>	<del>Non-compliance will probably occur within an given period</del>
<del><i>Very likely</i></del>	<del>Strong probability of non-compliance</del>

~~A risk matrix then combines the likelihood of the risk occurring and the consequence should such a risk occur, to result in a risk rating which can be used to guide the treatment and/or monitoring of the risk:~~

Level of risk matrix

	Likelihood				
		<i>Very unlikely</i>	<i>Unlikely</i>	<i>Likely</i>	<i>Very likely</i>
Consequence	<i>Insignificant</i>	Very Low	Low	Low	Moderate
	<i>Minor</i>	Low	Low	Moderate	Moderate
	<i>Moderate</i>	Moderate	Moderate	Moderate	High
	<i>Severe</i>	Moderate	High	High	High
	<i>Catastrophic</i>	High	High	High	Very High

Once a licensee's risks have been identified and analysed, a table such as the following can be used as a basis for summarising and reporting the risks to the Regulator:

Risk	Assessment				
	<i>Very Low</i>	<i>Low</i>	<i>Moderate</i>	<i>High</i>	<i>Very High</i>
<del>1.</del>					
<del>2.</del>					
<del>3.</del>					
<del>4.</del>					
<del>5.</del>					

~~1.11 Specifying the minimum reporting scope~~1.10 Obligations to be reported on

Priority will be given to reporting on obligations identified as high risk. ~~Less~~ The Regulator may specify less intensive or less frequent reporting requirements ~~may be specified~~ for low and medium risk obligations.

~~Specific~~ The Regulator may also identify specific compliance issues ~~may also be identified by the Regulator~~ for inclusion that relate to:

- the likely or known extent of any non-compliance; and
- complaints made or issues raised by other stakeholders.

Licensees are responsible for ensuring that any obligations ~~which~~ they identify as high risk, and which are eligible for inclusion in the report, are included in the ~~minimum reporting~~ scope.

### 1.11 Time frame

For some obligations, the Reporter will ~~be required~~need to assess compliance over a ~~particular~~ period ~~of time~~, as well as at the time of the reporting. The Regulator will specify the ~~time~~ period over which compliance with each obligation is to be reviewed. ~~In addition, the Regulator will, after~~

~~After~~ consultation with the licensee, the Regulator will also specify the relevant timeline for ~~undertaking~~conducting the review and ~~providing~~submitting the final report.

## 1.12 Approval of Terms of Reference

Following consultation with licensees, the Regulator will issue draft Terms of Reference for the report. Licensees will ~~be given~~have the opportunity to review and comment on the draft Terms of Reference and ~~should~~are expected to add any obligations ~~which the Reporter has~~they have identified as high risk ~~but are~~that have not been included in the draft Terms of Reference. The Regulator will review these comments and then issue the final Terms of Reference.

## 1.13 Matters outside the Terms of Reference

During the review, the Reporter may identify an issue that poses a high risk, but which falls outside the Terms of Reference. In these instances, the Reporter is required to notify the Regulator which will decide, in consultation with the Reporter and licensee, whether to adjust the Terms of Reference to include the identified issue.

## THE REPORTING PROCESS

### ~~1.13 Reporting methodology~~

#### 1.14 Methodology

To ensure that reports ~~prepared by Reporters~~ are comparable ~~either over time or against other entities~~, where relevant, the methodology employed ~~should comply with generic minimum requirements, as outlined below.~~

~~As a minimum, Reporters should:~~

~~Analyse~~by the ~~response to recommendations of the previous~~ Reporter ~~to~~ must, as a minimum:

- ~~assess the effectiveness of the licensee's responses~~ to previously identified non-compliance ~~or recommended opportunities for improvement by previous Reporters;~~
- ~~Analyse~~ analyse documented procedures to assess whether they are consistent with the management plans and/or compliance plan ~~or, and~~ any other regulatory obligation;
- ~~interview~~ interview responsible staff to assess ~~whether they understand their level of understanding and~~ compliance with the documented procedures;
- ~~Analyse~~ analyse a sample of cases or data to assess adherence to documented policies and procedures. This may include a sample of job orders to maintenance crews and a sample of customer complaints about supply interruptions and an assessment of how they correspond to interruption events recorded in the relevant information systems;
- analyse quality controls, such as internal audit reports, to ascertain whether they are systematically identifying and correcting non-compliance and information defects;
- analyse information systems to assess the extent to which they produce information ~~which that~~ complies with regulatory obligations. This will require an examination of:
  - the design and security of systems and the processes used to generate ~~the~~ data; and
  - ~~the~~ design of queries and calculation formulae ~~which are~~ used to generate, estimate or extrapolate regulatory information.
  - ~~Analyse quality controls, such as internal audit reports, to ascertain whether non-compliance, and information defects are systematically identified and corrected.~~
  - ~~Review the complaint feedback process to ascertain:~~
    - ~~the accuracy with which complaints of non-compliance with an obligation are identified;~~

- ~~— the speed and reliability with which complaints are passed to the responsible person, and the impartiality with which the complaints are analysed; and~~
- ~~— the extent to which justified complaints are acted on, both in providing redress to the complainant and minimising the risk of recurrence.~~
- ~~▪ Identify changes in systems and documented procedures which may indicate that data accuracy or reliability has varied significantly over the reporting time frame. If changes have occurred in documented procedures during the reporting period, data should be reviewed from before and after the changes to gauge if accuracy or reliability has significantly altered.~~
- Analyse ~~analyse~~ relevant data in the licensee's information system to:
  - ensure that the data in the system matches the any data previously reported to the Regulator; and
  - identify any missing data or unusual figures or trends which that might suggest errors in data entry or manipulation.

~~Analyse a sample of cases or data to determine the extent to which documented policies and procedures are being followed. For example, obtain a sample of job orders to maintenance crews and a sample of customer complaints about supply interruptions and assess whether they correspond to interruption events recorded in the relevant information systems.~~

- Identify changes in systems and documented procedures that may indicate that data accuracy or reliability has changed significantly over the reporting period. If changes have occurred in documented procedures during the reporting period, the data from before and after the changes is to be reviewed to assess the effect on accuracy and reliability.
- Review the complaint feedback process to ascertain:
  - the accuracy in identifying complaints that relate to non-compliance with a regulatory obligation;
  - the speed and reliability with which complaints reach the responsible person, and the impartiality of the complaints analysis process; and
  - the extent and success of resolving justified complaints, both in providing redress to the complainant and minimising the risk of recurrence.
- *Analyse the mechanisms for detecting non-compliance* and investigate the possible causes of identified non-compliance, critically appraising the licensee's compliance plan to ascertain if the plan is adequate ~~and will to~~ prevent the recurrence of the non-compliance.
- *Investigate any other matter ~~identified~~specified* in the Terms of Reference.

In performing the review, the Reporter ~~should have regard is~~ to apply the relevant Standards produced by the Australian Standards for Audit, Government Auditing and Assurance Sampling and Compliance Standards Board. The Reporter ~~should is~~ also ~~have regard to the Australian~~ apply the guidance in International Standard for ISO 31000:2018 Risk Management, as outlined in detail in Section 4.2 above.

#### **1.14** ~~The reporting approach - Guidelines.~~

The Reporter must also undertake ~~a critical but cooperative~~an examination of the possible causes of non-compliance, if ~~required. Licensees' relevant, in co-operation with the licensee. The Reporter is to test licensees' assumptions should be tested. in such cases.~~

Reporters may review internal audit assessments in arriving at their findings. ~~The extent to which reliance may be placed they rely on such assessment assessments is a matter to be determined by for the Reporter, taking into account professional standards and the appropriate confidence level to which their findings are to be made.~~

#### **1.15** Generic compliance issues Regulatory information reviews

In reporting on the quality, reliability or conformity of regulatory information, the Reporter ~~should is required to~~ address the following ~~generic compliance~~ issues:

- ~~Is the~~Does information ~~generated~~generation occur in accordance with documented policies, practices and procedures?

- ~~Are~~For relevant staff, what is the level of understanding and implementation of the policies, practices and procedures ~~fully understood and implemented by relevant staff??~~
- ~~How accurately do~~Does the reported information come from sound information systems and records?
- Do these procedures and the reported information accurately reflect the Regulator's regulatory information requirements?
- ~~Is the reported information based on sound information systems and records?~~

If previous reviews have shown that licensees meet the required standards, future reviews of these generic compliance issues may not be reviewed unless an instance of known, likely, or alleged non-compliance arises (see clause 4.3).

### 1.16 Licence obligations

For other licence obligations, ~~the generic compliance not mentioned above, the Reporter is required to assess the following issues that the Reporter should address are as follows:~~

- ~~Is the obligation reflected in~~Are there documented procedures that reflect the obligation?
- ~~What is the level of staff understanding of~~ the obligation ~~fully understood by staff?~~
- ~~Has it been delivered as specified?~~
- Is the obligation the subject of effective compliance monitoring (e.g. records of service delivery) and quality control (e.g. complaints feedback, internal audit reports)?
- Does the licensee's culture appear to support compliant behaviour?
- DoesDo the licensee's organisational structure and governance arrangements support compliant behaviour and outcomes?

~~In addition to these generic issues, obligation specific compliance issues must also be addressed as described earlier.~~

- Has the licensee fulfilled the obligation as specified?

## THE REPORT

### 1.161.17 Content of reports

The Reporter's report ~~should~~is to contain, as a **minimum**:

- *An executive summary* identifying the report's key findings.
- *A description of the reporting scope and methodology*, which ~~should~~is to include any matters specified by the Regulator.
- *A description of the systems and procedures* ~~which have been~~ established to comply with each obligation, including:
  - ~~identifying~~ relevant documentation and responsible staff; and
  - data collection systems, data reporting methods and data management.
- *A discussion of compliance* identifying the reasons for any non-compliance and action taken to rectify non-compliance, ~~including. This is to include~~ recommendations by the Reporter for remedial action, and an assessment of the effectiveness of the responses by the licensee to non-compliance identified by the previous Reporter, where applicable. Where significant non-compliance has been identified, the report ~~should include~~is to detail:
  - the nature and extent of the non-compliance;
  - the impact of the non-compliance on people, property and the environment;
  - the reason for the non-compliance;
  - ~~the~~any action the licensee has taken to address the non-compliance;
  - ~~the~~any action taken to prevent the non-compliance recurring;
  - the final date the licensee ~~has, or~~ expects to comply again with the obligation; and
  - a critical appraisal~~review~~ of the relevant management or compliance plan.

### 1.171.18 Signed statement

The report must include a statement signed by the Reporter ~~which states~~ that:

- the Reporter has complied with this Guideline ~~has been complied with by and~~ the Reporter Terms of Reference in making its findings and preparing the report; and
- the report reflects the professional opinion of the Reporter.

### Reporting procedures

## 1.181.19 Finalisation

The Reporter must complete the report in accordance with the timeframe~~timeline~~ specified by the Regulator in the Terms of Reference.

The Reporter must provide the licensee with a draft copy of the ~~draft~~ report and enable~~allow~~ the licensee ~~an opportunity~~sufficient time to review the report, identify any factual inaccuracies for correction and, where appropriate, provide further information.

The ~~final report should be reviewed by the~~ licensee's directors may wish to review the final report prior to ~~being forwarded~~its submission to the Regulator. This ~~allows~~will allow the licensee to:

- assess whether the report accurately reflects the licensee's performance; and
- begin taking corrective action where non-compliance has been identified.

The Reporter must provide the final report ~~must be provided~~ to the Regulator ~~in both hard copy and electronic form and the Reporter must~~, keep all draft reports and all records used in arriving at ~~a review of~~its findings, and supply them to the Regulator on request.

If the report covers matters of relevance to the Director of Public Health and/or the Director, ~~Environmental~~Environment Protection Authority, then the Reporter must also provide a copy of the report ~~should also be provided~~ to the respective Director.

The ~~Reporter may be required to brief the~~ Regulator may request a briefing from the Reporter on the report's findings ~~and recommendations~~.

## RESPONDING TO THE ~~REPORT~~ FINDINGS AND RECOMMENDATIONS

In responding to the findings and recommendations in the report, the Regulator may (without limiting its powers ~~and rights~~ under the relevant industry regulatory framework):

- require further reporting at the licensee's expense where the report is deemed unsatisfactory, for example where the Regulator ~~has independent information contradicting an assessment made by the Reporter;~~
  - ~~the~~ obtain and analyse the draft reports and all has independent information obtained inconsistent with the assessment made by the Reporter ~~and used as the basis for the final report;~~ or
  - ~~conduct an audit of the report where:~~
    - ~~the Regulator~~ is not satisfied that the report provides adequate assurance that the licensee is meeting its obligations (for example, reporting regulatory information) in an appropriate manner; ~~or~~
- obtain and analyse draft reports and any information used by the Regulator ~~requires Reporter to form the basis for the final report;~~
- require additional information to assess whether compliance action ~~should be taken~~ is necessary;
- require ~~action to be taken by~~ a licensee to ~~address~~ take action addressing any non-compliance or ~~to mitigate~~ mitigating the risk or consequences of future non-compliance;
- issue directions to comply under the powers specified in the respective Acts; and/or
- review any obligations which appear ambiguous, inadequate, excessive or trivial.

The Regulator may publish any report, and/or comment(s) on the results of the Reporter's report, subject to the applicable legislative confidentiality requirements.