

Report to the Minister for Primary Industries and Water - Review of TasWater's licence under the *Water and Sewerage Industry Act 2008*

Introduction

This report summarises the Tasmanian Economic Regulator's review of the licence issued to Tasmanian Water and Sewerage Corporation Pty Ltd (TasWater) under the *Water and Sewerage Industry Act 2008*.

Background

TasWater's water and sewerage licence was issued on 22 April 2013, effective 1 July 2013. The licence remains in force until cancelled.

Section 46 of the Act requires the Regulator to review the licence at intervals of not more than five years. A report in respect of such a review is required to be given to the Minister administering the *Water and Sewerage Industry Act 2008* (the Minister for Primary Industries and Water) and published on the Regulator's website.

Section 40 of the Act provides that the Regulator may vary the conditions of a licence by written notice to the entity. Before varying the conditions of a licence the Regulator must invite submissions on the proposed changes from:

- the Minister administering the *Water and Sewerage Industry Act 2008*;
- the Minister administering the *Public Health Act 1997*;
- the Minister administering the *Water Management Act 1999*;
- the Minister administering the *Environmental Management and Pollution Control Act 1994*; and
- such other persons as are prescribed by the regulations.

There are no other persons prescribed by the regulations.

Before varying the conditions of a licence in a material way, the Regulator must publish a notice of the variation in daily newspapers published and circulating in Tasmania that invites submissions on the proposed variation from the public.

Review process

The Regulator reviewed TasWater's licence instrument and identified a small number of minor corrections and amendments to improve its consistency with contemporary licenses issued by the Regulator under the *Electricity Supply Industry Act 1995* and the *Gas Industry Act 2019*.

The Regulator sought feedback from industry regulators and TasWater on the identified amendments. TasWater supported the amendments identified by the Regulator and proposed several additional amendments, which have been considered and incorporated into the proposed amendments as appropriate.

The Director of Public Health, Director of Environment Protection Authority Tasmania and the Department of Natural Resources and Environment Tasmania reviewed the amendments and did not raise any concerns. They did not have any additional comments or propose additional amendments.

Proposed amendments

Based on the Regulator's review and the outcome of consultation with industry regulators and TasWater, the Regulator proposes to amend the licence to:

- Include a requirement that TasWater must pay, as directed by the Regulator, an annual licence fee in accordance with section 39 of the Act, and the Regulator's costs in accordance with section 108 of the Act. This amendment does not impose any additional costs on TasWater, it simply makes payment of the Regulator's costs under the Act a condition of the licence, consistent with licences issued by the Regulator under the *Electricity Supply Industry Act 1995* and the *Gas Industry Act 2019*.
- Require TasWater to comply with the Act and all applicable regulations, codes and guidelines. The licence currently only requires TasWater to comply with applicable guidelines. This amendment improves consistency with other licences issued by the Regulator and does not impose any obligations on TasWater that do not already apply.
- Revise the clause requiring TasWater to notify the Regulator if it becomes aware of any material breach of, or non-compliance with the Act, codes, regulations, guidelines or the licence. This amendment improves consistency with other licences issued by the Regulator.
- Replace the clause requiring TasWater to hold contract works insurance and public liability insurance with a less prescriptive clause that requires TasWater to maintain appropriate arrangements in respect of insurance. The current requirement that TasWater holds contract works insurance does not accord with its procurement practices and may result in a duplication of insurance with that held by contractors, resulting in TasWater customers ultimately having to pay the duplicated cost. Further, the narrow scope of the current insurance condition does not reflect the range of insurance coverage that a business of this nature should maintain.
- Revise the description of when a communication by email is taken to have been given by the sender and received by the recipient. This amendment improves consistency with other licences issued by the Regulator.
- Re-order several clauses to improve consistency with other licences issued by the Regulator.
- Define several terms to facilitate the above amendments.

None of these amendments are considered material, and therefore the Regulator does not intend to publish a notice of variation in daily newspapers or conduct public consultation.

Next steps

Concurrent with the provision of this report to the Minister and its publication on the Regulator's website, the Regulator has written to the relevant Ministers, as required by section 40 of the Act, inviting submissions on the proposed changes. After considering any submissions received from the Ministers, the Regulator is required to give written notice to TasWater and publish any variations (which will be in the form of an amended licence) on the Regulator's website.