



**NSW Government
whole-of-government
response to the
recommendations of the
Joint Select Committee
on Protecting Local
Water Utilities from
Privatisation**

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Introduction

The NSW Government firmly believes that privatisation of public assets is not in the best interests of the people of this state.

In June 2023, in the first parliamentary session, we passed legislation to ensure continued public ownership of Sydney Water Corporation and Hunter Water Corporation.

In August 2023, the NSW Parliament's Joint Select Committee on Protecting Local Water Utilities from Privatisation (the "Joint Select Committee") was established to inquire into and report on how the NSW Government can prevent and stop privatisation of local water utilities.

In establishing the Joint Select Committee, the NSW Government wanted to ensure that regional communities were consulted. The Joint Select Committee received 34 submissions from a wide cross section of our regional communities and heard from 45 individual witnesses during public hearings held in Sydney, Wagga Wagga and Dubbo.

The Joint Select Committee found that privatisation of vital water related infrastructure would lead to poorer infrastructure investment, service levels might suffer, and customers could end up paying more for the services.

The NSW Government supports the Joint Select Committees' view that councils' local water utilities should remain in councils' hands. The NSW Government supports public ownership of water supply and sewerage assets in regional NSW and is committed to not privatising or selling-off councils' water supply and sewerage assets, or forcibly amalgamating councils' local water utilities. We also agree with the Joint Select Committee that the local water utilities sector must be consulted when considering protection from privatisation and forced amalgamations. This is to ensure protections are effective and appropriate, avoid unintended adverse consequences, and preserve local water utilities' ability to obtain services from the private sector.

The NSW Government will continue to support local water utilities in the delivery of safe, secure and affordable water supply and sewerage services in regional NSW. Under its \$1 billion Safe and Secure Water Program, the NSW Government helps local water utilities fund and implement solutions to resolve high priority risk to the delivery of water supply and sewerage services.

Since 2020, the NSW Government's Town Water Risk Reduction Program has supported local water utilities to reduce risks in town water systems in regional NSW. Currently, the program contributes to addressing critical skills shortages and boosting water operations training and

employment opportunities in regional NSW, helps local water utilities optimise the performance of high-risk water treatment infrastructure so that more regional towns have reliable, resilient, and safe water services, and enables local water utilities to accelerate responses to audits to improve local dam safety and address water quality risks, leveraging the systems and expertise of WaterNSW.

The NSW Government has a strong and proud history of supporting Indigenous Australians in accessing training and securing employment. We are fully dedicated to enhancing job opportunities for young Indigenous Australians in the sector. Additionally, the NSW Department of Climate Change, Energy, Environment, and Water has collaborated with the sector to develop and implement fit-for-purpose regulatory frameworks, streamline reporting procedures, and support the training and upskilling of water operators, with ongoing commitment to these efforts.

The NSW Government also prioritises trust and transparency in governance, which we consider essential.

We are committed to carefully considering and developing and publishing our response to the recommendations of the NSW Productivity and Equity Commission's *Review of Alternative Funding Models for Local Water Utilities* based on comprehensive engagement with the local water utilities sector.

The NSW Government thanks the Joint Select Committee and all participants to the Joint Select Committee's inquiry for their contribution to improving outcomes for communities in regional NSW.

Response to Recommendations

Recommendation 1

That the NSW Government develop new legislation to protect local water utilities from privatisation, forced amalgamations and sell-offs.

SUPPORT IN PRINCIPLE

The NSW Government supports public ownership of water supply and sewerage assets in regional NSW and is committed to not privatising or selling-off councils' water supply and sewerage assets, or forcibly amalgamating councils' local water utilities.

The NSW Government acknowledges that the inquiry participants overwhelmingly opposed privatisation of local water utilities and their assets. We also note the concern from participants to the inquiry that county councils that provide water supply and/or sewerage services may be more vulnerable to privatisation than local water utilities of general purpose councils.

The NSW Government also recognises the wide variety in size, scale, and operation of local water utilities serving our regional communities. We understand that consideration of these differences is important when developing strategies to protect them from privatisation, sell-offs and forced amalgamations.

The NSW Government is committed to working closely with local water utilities to better understand what safeguards, including legislative protections, would be appropriate and ensure that any safeguards are fit-for-purpose, avoid unintended consequences, and preserve the ability of local water utilities to procure services from the private sector.

The likely pathway for delivering legislative protections would be through the *Local Government Act 1993* and we will consult with the Office of Local Government and Minister for Local Government.

Recommendation 2

That the NSW Government ensure that any new legislation to protect local water utilities from privatisation and forced amalgamations preserve a public utility's ability to procure private sector services when needed and give regard to the varied governance models under which local water utilities operate.

SUPPORT IN PRINCIPLE

The NSW Government understands and supports the need for flexibility so local water utilities can access the skills and expertise provided by the private sector to deliver value for money and improve customer outcomes. We support local water utilities having the flexibility to procure private sector service as they see fit, including for designing, constructing, maintaining and operating urban water infrastructure and service. Also see response to Recommendation 1 above.

Recommendation 3

That the NSW Government consult extensively with local governments on any new legislation to protect local water utilities from privatisation and forced amalgamations, to ensure that the legislation is fit-for-purpose and does not result in unintended, adverse consequences.

SUPPORT IN PRINCIPLE

The NSW Government is committed to engaging with local water utilities and other sector stakeholders on designing safeguards to protect local water utilities from privatisation, sell offs and forced amalgamation. The NSW Government believes that we will deliver the best outcomes when the sector is consulted and listened to. This will ensure that the outcomes serve our regional communities in the years to come.

The NSW Government is committed to undertaking extensive consultation with the local water utility sector to understand the implications and consequences of any legislative measures, ensure protections from privatisation and forced amalgamations are fit for purpose and avoid unintended consequences, and allow local water utilities the flexibility to procure services from the private sector as and when needed.

The likely pathway for delivering legislative protections would be through the *Local Government Act 1993* and we will consult with the Office of Local Government and Minister for Local Government.

Recommendation 4

That the NSW Government fund the Town Water Risk Reduction Program beyond Phase 2, with the Department of Climate Change, Energy, the Environment and Water to determine the next phase of workstreams in consultation with the local water utilities sector.

SUPPORT

Since 2020, the *Town Water Risk Reduction Program* has supported local water utilities to reduce risks in town water systems in regional NSW.

Phase 1 of the *Town Water Risk Reduction Program* was successfully completed in December 2022, including with the design of the new *Regulatory and Assurance Framework for Local Water Utilities*.

Phase 2 commenced in December 2022 with the key objectives of:

- Addressing critical skills shortages and boosting water operations training and employment opportunities in regional NSW for school leavers, Aboriginal and First Nations students and existing water operators, in partnership with Training Services NSW.
- Delivering a new program in partnership with NSW Health to help optimise the performance of high-risk water treatment infrastructure so that more regional towns have reliable, resilient, and safe water services.
- Enabling local water utilities to accelerate responses to audits to improve local dam safety and address water quality risks, leveraging the systems and expertise of WaterNSW.

After the release of the Joint Select Committee's Report, the NSW Government extended phase 2 of the *Town Water Risk Reduction Program* by 6 months to 30 June 2025. This extension will ensure phase 2 program objectives are achieved and additional outcome opportunities in the delivery of key program activities can be captured, including delivery of:

- The highly successful *Advanced Operational Support Program*, which leads the optimisation of water treatment plant systems and the provision incident and emergency response planning and support. The 6 month extension allows the program to increase support to implement operational improvement opportunities and expand the program to six additional local water utilities.
- The skills and training program, which delivers the program's skills and training sector action plan and establishes a workforce development strategy. The 6 month extension enables additional stakeholder engagement on, and design of, a water operations competency and training benchmark.
- The WaterNSW support program, which supports local water utilities in meeting dam safety requirements and source water quality management.

The NSW Government is committed to further extending the *Town Water Risk Reduction Program* beyond phase 2 to continue to address risks in the local water utilities sector. The Department of Climate Change, Energy, the Environment and Water (the department) will

continue to work closely with the local water utilities sector to understand how best to continue to support local water utilities in regional NSW and identify the areas that need to be prioritised.

An extension beyond phase 2 would include continued investment into prioritised programs such as:

- The skills and training program for local water utility operators and professionals to put in place the settings needed for professional capability to be available in the sector, such as establishing a mature training market with well-targeted funding and appropriate training material and moving towards competency standards for water operators.
- The successful *Advanced Operational Support Program* to continue to support and build capability in operating local water utilities treatment works and optimise the ongoing delivery of safe drinking water in a resource challenged environment.
- The NSW Government's focus on improving policy and regulatory settings for local water utilities with a particular focus on Western NSW, including addressing regulatory gaps previously identified and addressing findings and recommendations of the NSW Productivity and Equity Commission's *Review of Alternative Funding Models for Local Water Utilities* (see also below response to recommendations 7 to 9).

Recommendation 5

That the Department of Climate Change, Energy, the Environment and Water continue to work closely with councils in implementing the new Regulatory and Assurance Framework for Local Water Utilities and streamlining overly cumbersome reporting and compliance obligations.

SUPPORT

The NSW Government is proud of the ongoing close collaboration between the department and councils and their local water utilities in implementing the *Regulatory and Assurance Framework for Local Water Utilities*. This close cooperation has been acknowledged by the Joint Select Committee. It will continue into the future.

The department works closely with individual local water utilities, supporting them in understanding and achieving the objectives and expectations, and navigate the regulatory processes, set out in the *Regulatory and Assurance Framework for Local Water Utilities*.

As part of the department's commitment to continuous improvement, the department regularly seeks feedback on improvement opportunities from local water utilities and sector stakeholders, such as Local Government NSW, the NSW Water Directorate and Joint Organisations of Councils.

As required by the *Regulatory and Assurance Framework for Local Water Utilities*, the department will conduct a performance review of the implementation of the framework within 2 years from its coming into effect on 1 July 2022. The first performance review of the *Regulatory and Assurance Framework for Local Water Utilities* has been postponed avoiding stakeholder engagement during the period of the *Local Government Election 2024*, which will be held on 14 September 2024. The review is scheduled to commence in February 2025.

There will also be regular periodic reviews of the framework and supplementary guidance issued by the department under the framework, which will happen at least every 5 years.

Under section 2 of the *Regulatory and Assurance Framework for Local Water Utilities*, the department has a series of guiding principles that influence the way it makes decisions, engages with local water utilities, and performs its regulatory and oversight functions. These principles govern the department's relationship with local water utilities and give a clear standard for how the department will conduct its regulatory, assurance, and oversight functions.

These guiding principles include that:

- The department will work in partnership with the local water utility sector to ensure that its approach to regulation, oversight, and advice is relevant and targeted.
- The department will seek information and input from local water utilities before making key decisions and explain its decisions once it makes them. The department will be answerable for its decisions, including providing mechanisms for its decisions to be reviewed.
- The department will set clear timelines for its processes and keep local water utilities updated on how their matters with it are progressing. The department will publicly report on how we are meeting our timelines.
- The department will publish its policies, priorities and expectations and give information that explains what local water utilities can expect from its processes.
- The department works continuously on making reporting and compliance requirement more efficient.

As it committed to under the *Town Water Risk Reduction Program* and following extensive review and stakeholder engagement, the department, in June 2024, delivered a streamlined annual performance reporting framework for local water utilities that will apply from the 2024/25 reporting year. This revised indicator set for annual performance reporting removes duplication with other regulator's or government agencies' reporting requirements and aligns performance reporting with the reporting requirements set by the Bureau of Meteorology's *National Performance Reporting: Water and Wastewater Service Providers* and the Australian Bureau of Statistics' *Water Supply and Sewerage Services Collection*.

In addition, considering any relevant findings and recommendations made by the NSW Productivity Commission's *Review of Alternative Funding Models for Local Water Utilities*, the department will lead further policy work to improve the effectiveness of regulatory settings for local water utilities.

Recommendation 6

That, as part of its periodic performance review of the implementation of the Regulatory and Assurance Framework for Local Water Utilities, the Department of Climate Change, Energy, the Environment and Water develop and report against key metrics, both to maintain transparency and to help to ensure ongoing improvement.

SUPPORT

The department is implementing its internal quality assurance framework to ensure its regulatory approach improves outcomes for utilities and communities and allow the department to demonstrate that it is achieving the vision and objectives defined in the *Regulatory and Assurance Framework for Local Water Utilities*.

The department will monitor the performance of its internal regulatory and assurance functions to provide assurance to itself and stakeholders that it is adequately delivering on the objectives outlined in the *Regulatory and Assurance Framework for Local Water Utilities*. The department will assess performance using a variety of metrics that draw on evidence from within, as well as from stakeholders. This will help the department measure accountability processes that foster a culture of continuous improvement and reflection, such as holding rigorous ex-post reviews of regulatory actions to identify learnings and explore opportunities for improvement, and regular reviews of operating procedures.

The department will measure the impact of its work by considering a variety of externally focused factors. Monitoring these external factors allows the department to assess whether its work is achieving intended outcomes, and utilities are receiving the support they require. Insights collected as part of tracking these external quality assurance measures will be used to inform the continuous improvement of the department's internal- and external-facing work to implement the *Regulatory and Assurance Framework for Local Water Utilities*.

Recommendation 7

That the NSW Government publish its response to the recommendations made in the NSW Productivity Commission's report into the financial sustainability of local water utilities (due June 2024).

SUPPORT

The NSW Productivity and Equity Commission's Final Report of its *Review of Alternative Funding Models for Local Water Utilities* was provided to the NSW Government on 19 July 2024 and was released by the NSW Government on 24 July 2024.

The NSW Government will carefully consider findings and recommendations of the review and will publish its response.

Recommendation 8

That the NSW Government consult extensively with the local water utility sector about any proposed changes to funding models or pathways arising from the NSW Productivity Commission's recommendations.

SUPPORT

The NSW Government is carefully considering the findings and recommendations of the NSW Productivity and Equity Commission's *Review of Alternative Funding Models for Local Water Utilities*. The NSW Government is committed to consulting extensively with the local water utilities sector on the implementation of the commission's recommendations, including any proposed changes to funding models or pathways for local water utilities.

Recommendation 9

That the NSW Government consider developing a community service obligation (CSO) funding model for certain local water utilities with low economies of scale.

SUPPORT IN PRINCIPLE

The NSW Government is carefully considering the findings and recommendations of the NSW Productivity and Equity Commission's *Review of Alternative Funding Models for Local Water Utilities*, including any recommendations on a community service obligation (CSO) funding mechanism for local water utilities.

Recommendation 10

That, in consultation with the local water utility and vocational education and training (VET) sectors, the NSW Government develop and introduce minimum training requirements and/or competency standards for water operators, in recognition of the critical role they play in safeguarding human health.

SUPPORT

The department is working on developing an industry-wide competency and training benchmark for water operators by the end of 2024 as part of phase 2 of the *Town Water Risk Reduction Program*. The benchmark will define a standard training program for all local water utilities, supporting the delivery of consistent, relevant and high-quality training, and provide clarity to operators, utilities, regulators and training providers about the training needed to become a competent operator.

The department is adopting a gradual approach to considering and implementing mandatory competency standards in the future that involves introducing a benchmark while working closely with the sector to improve training provider capacity. The department is working closely with the local water utility and vocational education and training sectors to ensure the training programs and benchmarks are relevant, supported by the sector, and serve the needs of regional utilities and communities. Simultaneously, the department is taking steps to increase workforce and water operator capability in the sector, which includes a framework for supporting improved training, and supporting local water utilities to attract and retain staff.

Once these issues have been addressed and adequate workforce training systems are in place to support local water utilities access appropriate training, the department will consider working with the sector to mandate water operator competency and training standards.

Recommendation 11

That the Department of Climate Change, Energy, the Environment and Water consult with First Nations communities in relation to its Water operations skills and training action plan and find ways to promote uptake of training and create further employment opportunities for Aboriginal people in the water utility sector.

SUPPORT

The department is dedicated to promoting training and employment opportunities for Aboriginal people in the local water utility sector, including as part of the implementation of the *Town Water Risk Reduction Program's* Water operations skills and training action plan. As part of this plan, the department has sought to specifically consider Aboriginal people in workforce development actions, including through the *Elsa Dixon Aboriginal Employment Program* and the *Barranggirra Skilling for Employment Initiative*.

The department will continue to consult with Aboriginal people, communities and representative organisation to ensure that its policies and program promote and support Aboriginal people's participation in local water utility sector workforce.

By engaging with Aboriginal people, we aim to ensure that their perspectives and needs are effectively integrated into our strategies, fostering greater inclusion and economic opportunities for Aboriginal people in the sector.

Recommendation 12

That the NSW Government consider establishing regional water industry training facilities at suitable locations across the State to boost supply of trained operators to service regional and remote utilities.

SUPPORT IN PRINCIPLE

The department has been consulting with the sector on the delivery of regional water training and development of regional training facilities for local water utility workforce training.

The NSW Government is committed to exploring funding opportunities for such facilities, including extending eligibility of existing funding programs.

Regional training facilities would support delivery of training in regions, reducing the major barriers to participation of travel time and cost. They would support regional collaboration in training delivery and increased uptake of traineeship programs, boosting the supply of skilled operators to those parts of the state that are most in need.

Recommendation 13

That the NSW Government consider how it can better target funding and simplify bureaucracy in order to strengthen existing alliances and encourage the formation of new alliances.

SUPPORT IN PRINCIPLE

The NSW Government supports local water utilities to collaborate and form alliances, including by using joint organisations of councils under the *Local Government Act 1993*.

Local water utility alliances represent an effective mechanism for utilities to share resource, tap into economies of scale, and coordinate town water strategic planning on a regional scale.

The NSW Government encourages and enables regional approaches to strategic planning for water supply and sewerage services, including under section 3.6 of the *Regulatory and Assurance Framework for Local Water Utilities*. Regional approaches to town water strategic

planning can help address broader issues across local water utility boundaries, such as providing urban water security, water supply services or sewage management services across a region. Similarly, there may be efficiencies that groups of utilities could obtain by taking a regional approach to strategic planning (for example, combined scoping or procurement of data modelling services). Importantly, the NSW Government recognises that such an approach could help better integrate strategic planning by local water utilities with relevant NSW Government regional water strategies and improve coordination of the delivery of regional water strategy outcomes at both the regional and local level.

The NSW Government will consider any funding incentives to promote regional collaboration and alliance when considering, and working with the local water utilities sector on, how to address the findings and recommendations of the NSW Productivity and Equity Commission's *Review of Alternative Funding Models for Local Water Utilities*.