



Health



Memorandum of Understanding

between the NSW Ministry of Health
and Sydney Water Corporation

2021

1. Introduction and purpose

- 1.1 NSW Ministry of Health ABN 92 697 899 630 (**NSW Health**) and Sydney Water Corporation ABN 49 776 225 038 (**Sydney Water**) have entered into this Memorandum of Understanding (**Memorandum**) in accordance with section 35 of the *Sydney Water Act 1994* (NSW) (**SW Act**).
- 1.2 The purpose of this Memorandum is to form the basis for a co-operative relationship between the two parties and include arrangements for Sydney Water to report to NSW Health information on any events in relation to Sydney Water's systems or services which may pose a risk to public health.
- 1.3 This Memorandum recognises the role of NSW Health in providing advice on public health issues to the NSW Government in relation to:
 - (a) quality standards for drinking and recycled water;
 - (b) the supply of drinking water which is safe to drink; and
 - (c) wastewater and by-products of wastewater treatment.

2. Context

Sydney Water

- 2.1 Sydney Water is a statutory State owned corporation under the *State Owned Corporations Act 1989* (NSW). Its principal functions include providing, constructing, operating, managing or maintaining systems or services, in its area of operations, for:
 - (a) storing or supplying water;
 - (b) providing sewerage services;
 - (c) providing Stormwater Drainage Systems; and
 - (d) disposing of Wastewater,(together, the **Services**)
in accordance with the SW Act and the Sydney Water Operating Licence 2019–2023 (**Operating Licence**).
- 2.2 A principal objective of Sydney Water under the SW Act is to protect public health by supplying safe Drinking Water to its Customers and other members of the public in compliance with the requirements of its Operating Licence.

NSW Health

- 2.3 The Minister for Health and the Secretary of NSW Health have certain responsibilities in relation to the protection of public health, including in relation to drinking water, under the *Public Health Act 2010* (NSW) (**Public Health Act**) and other relevant legislation. NSW Health's roles and responsibilities as outlined in this Memorandum are in addition to any functions conferred upon NSW Health, the Chief Health Officer, the Secretary or the Minister for Health under the Public Health Act.

Requirement for this Memorandum

- 2.4 Subsections 35(1) and (2) of the SW Act provide that Sydney Water is to enter into a memorandum of understanding with each of its regulatory agencies, which includes the Director-General of the Department of Health (now known as the Secretary of NSW Health), as soon as practicable after it is granted an operating licence. Sydney Water is also regulated by other government authorities in the discharge of its functions, including the Independent Pricing and Regulatory Tribunal (**IPART**) and the NSW Environment Protection Authority (**EPA**). Clause 7.1 of the Operating Licence requires Sydney Water to maintain the memorandum of understanding with NSW Health.
- 2.5 Under the Operating Licence, Sydney Water has obligations to notify, consult with and comply with the requirements of NSW Health regarding Drinking Water and Recycled Water quality.
- 2.6 This Memorandum sets out the terms of a cooperative relationship between the parties and facilitates each party's role in relation to the protection of public health under the Public Health Act, the SW Act and the Operating Licence.

Application

- 2.7 Sydney Water's responsibilities under this Memorandum apply to Sydney Water's Services, including those performed on behalf of Sydney Water by a third party.
- 2.8 The parties acknowledge that Sydney Water is not responsible for infrastructure or an activity that is the subject of a network operator's licence or a retail supplier's licence under the *Water Industry Competition Act 2006* (NSW).

3. Interpretation

- 3.1 A defined term in this Memorandum has the meaning given to that term or, if not specified, has the same meaning as in the Operating Licence.
- 3.2 In this Memorandum:
- (a) a reference to a singular includes a reference to the plural and vice versa;
 - (b) a reference to a 'party' or 'parties' means a 'party' or 'parties' to this Memorandum;
 - (c) a reference to 'includes' or 'including' means 'includes' without limitation or 'including' without limitation;
 - (d) a reference to a clause is a reference to a clause in this Memorandum; and

- (e) a reference to a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it.

4. Term

This Memorandum will commence on the date of execution by both parties and expire six months after the commencement of a new Sydney Water Operating Licence, unless terminated earlier by written consent of both parties.

5. Liaison between Sydney Water and NSW Health

- 5.1 The parties will continue to liaise via the established strategic liaison group comprised of the Chief Health Officer of NSW Health and the Managing Director of Sydney Water and senior officers nominated by them (the **Strategic Liaison Group**).
- 5.2 The Strategic Liaison Group will meet regularly to discuss the broad principles, arrangements, roles and responsibilities of the parties under this Memorandum, and to:
 - (a) monitor progress on the implementation of this Memorandum;
 - (b) consider long term strategic issues and implement processes for the exchange of strategic planning information relevant to water quality, the safe supply of Drinking Water, Recycled Water and public health; and
 - (c) consider recommendations made by the Joint Operational Group.
- 5.3 The parties will continue to liaise via the established joint operational group comprised of representatives described under clause 5.5 (the **Joint Operational Group**).
- 5.4 The Joint Operational Group described in clause 5.5 will meet regularly to:
 - (a) coordinate the implementation of this Memorandum;
 - (b) update NSW Health on the implementation of the Drinking Water and Recycled Water Quality Management Systems including actions in the improvement registers;
 - (c) establish relevant information and data sharing programs;
 - (d) establish programs of investigations and/or feasibility studies to be undertaken by Sydney Water to meet public health objectives in relation to drinking and recycled water, or wastewater by-products management (such as effluent and biosolids);
 - (e) make recommendations to the Strategic Liaison Group, including any proposed amendment of the Memorandum; and
 - (f) facilitate the coordination of the collection of data on Drinking Water and Recycled Water quality, or other relevant data, for use by NSW Health.

The Joint Operational Group may establish joint working parties to investigate and formulate recommendations on specific and technical issues, as required.

- 5.5 The Membership of the Joint Operational Group (unless otherwise agreed between the parties) may be as follows:

Sydney Water

- Drinking Water and Recycled Water operations representatives
- Drinking Water and Recycled water product strategy representatives

NSW Health

- Manager, Water Unit
- Policy Advisers and Project Officers, Water Unit

- 5.6 Sydney Water and NSW Health may invite other officers or people to attend meetings of the Strategic Liaison Group, Joint Operational Group or joint working parties to assist or advise on specific issues.

- 5.7 Both parties will endeavour to maintain and share a list of key liaison officers.

6. Dispute resolution

Where a dispute between the parties cannot be resolved by the Joint Operational Group or the Strategic Liaison Group, it should be referred to the Chief Executive Officers of each party for resolution. In the event that the Chief Executive Officers cannot resolve the dispute on an issue that has the potential to impact public health, the view of NSW Health shall prevail.

7. Public exhibition and amendment of Memorandum

- 7.1 Each party agrees that it will comply with section 36 of the SW Act, including giving notice of the preparation and execution of this Memorandum or any amended memorandum of understanding, and considering representations made by any person about the Memorandum or any amended memorandum of understanding.
- 7.2 If Sydney Water's Operating Licence is amended, then the parties will meet to discuss the implications of the amendments and, acting reasonably, revise the Memorandum as required.

8. Sydney Water's roles and responsibilities

Operating Licence

- 8.1 Sydney Water acknowledges its following obligations under the Operating Licence relating to Drinking Water and Recycled Water:
- (a) maintaining and implementing a Drinking Water Quality Management System that is consistent with:

- i. the *Australian Drinking Water Guidelines*, except to the extent that NSW Health specifies otherwise; and
 - ii. any requirements relating to Drinking Water specified by NSW Health;
- (b) carrying out activities in accordance with the Drinking Water Quality Management System and to the satisfaction of NSW Health;
- (c) maintaining and implementing a Recycled Water Quality Management System that is consistent with:
 - i. the *Australian Guidelines for Water Recycling*, except to the extent that NSW Health specifies otherwise; and
 - ii. any requirements relating to water recycling specified by NSW Health;
- (d) carrying out activities in accordance with the Recycled Water Quality Management System and to the satisfaction of NSW Health;
- (e) complying with the Fluoridation Code (as that term is defined in the *Fluoridation of Public Water Supplies Regulation 2017* (NSW)) and any requirements for fluoridation specified by NSW Health;
- (f) complying with its reporting obligations set out in the *Sydney Water Reporting Manual* published by IPART (as updated from time to time) (**Reporting Manual**);
- (g) providing NSW Health with information relating to water quality in the manner and form reasonably specified by NSW Health within a reasonable time of receiving NSW Health's request.

8.2 Sydney Water acknowledges its obligation under the Operating Licence to maintain a procedure for receiving, responding to and resolving Complaints.

Sydney Water Reporting Manual

- 8.3 Sydney Water acknowledges its obligation under part 3.1 of the Reporting Manual to prepare:
- (a) for each quarter, a report (the Quarterly Water Quality Monitoring Report) on Sydney Water's performance against all health and aesthetic water characteristics and Raw Water operational characteristics identified in the reporting schedule under the Drinking Water Quality Management System;
 - (b) for each quarter, a report on Sydney Water's monitoring of Drinking Water and Recycled Water, which Sydney Water must submit to NSW Health within six weeks following the end of the relevant quarter;
 - (c) for each month, a report containing fluoride monitoring information required by the Fluoridation Code or specified by NSW Health, which Sydney Water must submit to NSW Health within two weeks following the end of the relevant month;
 - (d) for each financial year, a compliance and performance report on its management of the quality of Drinking Water and Recycled Water, which Sydney Water must submit to IPART and NSW Health by 1 September following the end of the relevant financial year (or another date approved in writing by IPART).

- 8.4 Sydney Water acknowledges its obligation under part 3.2 of the Reporting Manual to immediately report to NSW Health any incident in the delivery of its Services which may adversely affect public health.
- 8.5 Sydney Water acknowledges its obligation under part 3.2 of the Reporting Manual to notify IPART and NSW Health of any significant changes that it proposes to make to a Water Quality Management System prior to implementing the changes.
- 8.6 Where:
- (a) any Drinking Water or Recycled Water supplied by Sydney Water fails to comply with the requirements for Drinking Water or Recycled Water under:
 - i. the *Australian Drinking Water Guidelines*; or
 - ii. the *Australian Guidelines for Water Recycling (phase 1 and phase 2)*; or
 - iii. or to the extent that NSW Health specifies otherwise
 - (b) the provision of Drinking Water, Recycled Water, or the disposal or treatment of Wastewater, takes place in such a manner that a risk to public health may arise,

Sydney Water will be responsible for assessing the problem and proposing rectification action.

- 8.7 If NSW Health is of the opinion that it is appropriate to do so, it may provide advice on rectification action that may be taken by Sydney Water under clause 8.6. Where NSW Health gives any advice to Sydney Water under this clause 8.7, Sydney Water will be responsible for taking appropriate rectification action meet the requirements of the Operating Licence

Monitoring

- 8.8 Sydney Water acknowledges its obligation under the Reporting Manual to report on its monitoring of Drinking Water and Recycled Water. Sydney Water will monitor Drinking Water and Recycled Water in accordance with Sydney Water's monitoring plan the Drinking Water Quality Management System, and Recycled Water Quality Management Systems which will:
- (a) include all parameters outlined in the Reporting Manual;
 - (b) require that samples be tested in accordance with the testing requirements of the latest edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association or other appropriate established methods; and
 - (c) require that the laboratory has National Association of Testing Authorities (**NATA**) accreditation, where available, for the analysis to be performed. The laboratory should demonstrate satisfactory performance in NATA inter-laboratory proficiency testing.

Fluoridation

8.9 Sydney Water acknowledges its obligations under the *Fluoridation of Public Water Supplies Act 1957* (NSW) to fluoridate, monitor and report on all drinking water supplies.

Consultation and provision of information

- 8.10 Sydney Water has a role in ensuring both public health and environmental protection. Accordingly, Sydney Water may need to liaise with NSW Health, NSW Environment Protection Authority and other government organisations for the protection of both public health and the environment.
- 8.11 Without limiting its obligation in clause 8.5 of this Memorandum, in relation to the Drinking Water Quality Management System and the Recycled Water Quality Management System, Sydney Water will consult with NSW Health:
- (a) in relation to its system of internal review;
 - (b) in relation to its system of quality assurance for monitoring, sampling, testing and reporting;
 - (c) on significant changes proposed to these systems or changes that may have a material impact on public health.; and
 - (d) in any event, no less frequently than every five years.
- 8.12 In consulting with NSW Health under clause 8.11, NSW Health is to respond to Sydney Water within 14 days of receiving correspondence from Sydney Water, unless a different timeframe is agreed between the Parties.
- 8.13 Sydney Water will provide the most recent copies of relevant management systems, plans and protocols to NSW Health.
- 8.14 Sydney Water will invite NSW Health to participate in public health-related risk assessments related to Sydney Water's Drinking Water and Recycled Water Quality Management Systems (whether operated by Sydney Water or not).
- 8.15 Sydney Water will maintain a system to provide online access to relevant information, including test results, for NSW Health about public health related incidents.
- 8.16 Sydney Water will provide additional information on Sydney Water's monitoring of water quality as requested by NSW Health. The content, timeframe and provision of this information will be mutually agreed between the parties.
- 8.17 Sydney Water will provide NSW Health with data and information on the planning, design, maintenance, operation and administration of Sydney Water's activities that NSW Health reasonably requires to make informed judgements regarding matters relating to the protection of public health.
- 8.18 Sydney Water will, on reasonable request, allow officers of NSW Health to enter any premises under its care and control, including facilities performing water supply, Wastewater reticulation, treatment and disposal systems and Wastewater

reclamation and reuse systems, for the purposes of carrying out any inspections or viewing any records which NSW Health reasonably requires to make informed decisions regarding matters relating to the protection of public health. NSW Health will comply with any work, health and safety and other reasonable requirements of Sydney Water when entering the premises of Sydney Water.

Public communications

- 8.19 Sydney Water will seek endorsement from NSW Health of any proposed public communication which references NSW Health. Sydney Water will make changes to the proposed public communication requested by NSW Health prior to publishing any such proposed communication.
- 8.20 Sydney Water will not make public statements containing public health advice, unless such a statement:
- (a) is aligned with public health guidelines, NSW Health public health advice; or
 - (b) endorsed or directed by NSW Health.

9. NSW Health's role and responsibilities

Advice

- 9.1 NSW Health is responsible for supplying public health advice to Sydney Water and the public where it relates to Drinking Water, Recycled Water, Wastewater and stormwater in accordance with the Public Health Act.
- 9.2 NSW Health will make independent decisions on public health matters related to Sydney Water's activities in the exercise of its powers and functions under the Public Health Act.
- 9.3 NSW Health will, at its discretion, participate in public health-related risk assessments related to Sydney Water's Drinking Water and Recycled Water Quality Management Systems (whether operated by Sydney Water or not).
- 9.4 NSW Health will advise Sydney Water as soon as practicable if it is not satisfied with the implementation of all relevant activities by Sydney Water in accordance with the Drinking Water Quality Management System or Recycled Water Quality Management System.
- 9.5 NSW Health will use the relevant *Australian Drinking Water Guidelines* or *Australian Guidelines for Water Recycling* and other relevant information in providing any such advice in relation to Drinking Water and Recycled Water.

Consultation

- 9.6 NSW Health is to consult with Sydney Water in respect of a third party's proposed drinking water quality management system (or proposed changes to that system) or

prior to granting an exemption to a third party under the Public Health Act, where it is foreseeable that such system, change or exemption may have an impact on Sydney Water's operations or systems. NSW Health is to allow adequate time for consultation with Sydney Water.

Reporting

- 9.7 NSW Health will report to IPART on Sydney Water's compliance with the provisions of this Memorandum and upon any public health matters related to Sydney Water's operations, as required by IPART or as considered appropriate by NSW Health, to enable IPART to carry out its functions under the SW Act.

10. Information exchange

- 10.1 NSW Health will provide Sydney Water with reports and studies it undertakes which are relevant to those activities of Sydney Water which impact on public health.
- 10.2 Sydney Water will provide NSW Health with reports and studies undertaken by Sydney Water as part of its business, which are relevant to public health.
- 10.3 The parties will cooperatively exchange information and Sydney Water shall participate in appropriate research and development related to emerging public health issues related to Drinking Water and Recycled Water so as to enable the parties to make well informed decisions in relation to Sydney Water's Services to protect public health.
- 10.4 The parties will independently provide input to public consultation and discussion on revisions of the *Australian Drinking Water Guidelines* and the *Australian Guidelines for Water Recycling*.
- 10.5 The parties will discuss proposed changes to the *Australian Drinking Water Guidelines* and *Australian Guidelines for Water Recycling* in the context of Sydney Water's planned responses to these changes.

11. Events of public health significance

- 11.1 Sydney Water acknowledges its obligation under the Reporting Manual to immediately report to NSW Health any incident in the delivery of its Services (as defined in the Operating Licence) which may adversely affect public health.
- 11.2 A report under clause 11.1 will include information depicting geographical locations and systems in addition to relevant tables or text, if reasonably required by NSW Health.
- 11.3 Sydney Water will, in consultation with NSW Health and other government organisations where appropriate:

- (a) maintain and update the Sydney Water Drinking Water Quality Event Management Plan and the Sydney Water Recycled Water Quality Event Management Plan;
- (b) develop and implement incident management protocols covering Sydney Water's activities relating to wastewater management.

11.4 The incident management plans referred to in clause 11.3(b) may contain procedures and protocols for the coordinated management of incidents including media and stakeholder liaison and any notification of public health advice from NSW Health.

11.5 The parties will nominate a 24-hour incident management contact point for the coordination of responses to any event of public health significance. That contact point will be an officer of each organisation who has been trained in the relevant incident management plans, protocols and procedures. The parties will ensure that all relevant personnel in their respective organisations are trained to respond to and execute the incident management plans prepared under clause 11.3.

11.6 The parties will jointly develop and conduct appropriate training exercises in relation to incidents that may adversely affect public health.

12. Public education and information

12.1 NSW Health and Sydney Water will jointly undertake public education relating to the health aspects of drinking and recycled water where necessary and agreed to by both parties.

12.2 The parties acknowledge that the Reporting Manual requires certain information to be made publicly available.

This Memorandum of Understanding is made between the NSW Ministry of Health and the Sydney Water Corporation on the
day of 2021

SIGNED for and on behalf of NSW Ministry of Health

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Elizabeth Koff, Secretary

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Witness Signature
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(Print Name)
.....
(Address)

SIGNED for and on behalf of Sydney Water Corporation

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Roch Cheroux,
Managing Director

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Witness Signature
.....
(Print Name)
.....
(Address)