

Memorandum of Understanding

Between Sydney Water Corporation and the
Water Administration Ministerial Corporation

June 2011

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Introduction

This Memorandum of Understanding (MoU) provides the foundation for a co-operative relationship between the Water Administration Ministerial Corporation (WAMC), represented by the NSW Office of Water¹ and Sydney Water Corporation (Sydney Water), within the context of each organisation's statutory and other responsibilities.

The NSW Office of Water is the NSW Government's lead agency for managing and protecting the State's water resources. It reports to the Minister for Primary Industries on water policy and the administration of key water management legislation, including the Water Management Act 2000, the Water Act 1912, and the Hawkesbury-Nepean River Act 2009. The NSW Office of Water's approach to the allocation of water is designed to provide water for economic growth, while at the same time improving the condition of rivers, wetlands and aquifers.

The Sydney Catchment Authority is responsible for the health of the water sources in the catchment and the supply of bulk water, while Sydney Water is responsible for treating and distributing that bulk water as drinking water to the Sydney, Blue Mountains and Illawarra communities. Sydney Water also provides wastewater services and some stormwater and recycled water services to these communities.

The NSW Office of Water regulates Sydney Water's access to specific elements of the water supply through a Water Management Licence issued under the *Water Act 1912*. The term of this licence is 20 years, and it is reviewed every five years. The licence:

- regulates Sydney Water's extractions from the Hawkesbury-Nepean River at North Richmond; and
- authorises structures at Botany Wetlands, Manly Dam and Busby's Bore for specified water management purposes.

The application of the *Water Act 1912* to Sydney Water's operations will be replaced by the *Water Management Act 2000* once the Greater Metropolitan Region Water Sharing Plans (GMR-WSP) commences.

The *Water Management Act 2000* defines how water shall be shared between the environment, domestic, stock and native title requirements, and licensed extraction. It separates the entitlement to water from the land on which the water may be used. Once the GMR-WSP comes into effect, Sydney Water's Water Management Licence will be replaced by one or more Water Access Licences and Water Management Work Approvals.

¹. Section 372(3) of the *Water Management Act 2000* provides that the WAMC may exercise its functions, and otherwise act, in the name of the Department of Water and Energy. This Department has been replaced by the NSW Office of Water, which is a separate Office within the NSW Department of Primary Industries.

1. Purpose

This MoU establishes principles and processes to guide the relationship between Sydney Water and the WAMC/NSW Office of Water. The aim is to facilitate a co-operative relationship under which Sydney Water meets the requirements of its water licences, and the NSW Office of Water regulates Sydney Water in a manner consistent with its regulation of other organisations. In practice, the MoU means that:

- a) the chief executive officers (CEOs) of Sydney Water and the NSW Office of Water, or their representatives, may liaise as appropriate on matters of mutual interest or concern;
- b) both organisations may consult and keep each other informed of water management issues of mutual concern, including, but not limited to:
 - i) development and implementation of the GMR-WSP;
 - ii) operation of the Western Sydney Recycled Water Initiative; and
 - iii) licence management issues;
- c) the two organisations will share data and information, where relevant, to enhance water management and regulatory requirements; and
- d) each organisation will make every effort to resolve disputes through a mutually agreed process.

2. Parties to this Memorandum

This MoU is entered into by Sydney Water Corporation and the Water Administration Ministerial Corporation (represented by the NSW Office of Water) in accordance with section 35 of the *Sydney Water Act 1994*.

3. Functions and Objectives of the Parties

3.1 Functions of Sydney Water

- 3.1.1 Within its area of operations (refer to map in Schedule 1), the principal functions of Sydney Water are to provide, construct, operate, manage or maintain systems or services for:

- storing or supplying water; or
- providing sewerage services; or
- providing stormwater drainage services; or
- disposing of wastewater.

Sydney Water also provides recycled water services in some areas.

- 3.1.2 Sydney Water may provide facilities or services that are necessary, ancillary or incidental to its principal functions, and conduct any business activity (whether or not related to its principal functions) that it considers will further its objectives.
- 3.1.3 Sydney Water's principal objectives under the *Sydney Water Act 1994* are:
- a) to be a successful business and, to this end,
 - i) operate at least as efficiently as any comparable business;
 - ii) maximise the net worth of the State's investment in Sydney Water; and
 - iii) exhibit a sense of social responsibility by having regard to the interests of the community in which it operates;
 - b) to protect the environment by conducting its operations in compliance with the principles of Ecologically Sustainable Development contained in the section 6(2) of the *Protection of the Environment Administration Act 1991*; and
 - c) 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.

3.2 Functions of the NSW Office of Water

- 3.2.1 The NSW Office of Water's role is to ensure that available surface and groundwater resources are shared equitably between communities, industry and the environment. This is achieved by issuing and managing licences and approvals, under the *Water Management Act 2000* or the *Water Act 1912*, for the holding of water entitlements and the taking of water. Sydney Water currently holds a Water Management Licence under the *Water Act 1912*.
- 3.2.2 The NSW Office of Water manages the State's water resources in accordance with the principles of the *Water Management Act 2000* and the *Water Act 1912*. The *Water Management Act 2000* recognises the importance of maintaining the environmental health of the State's water while encouraging the innovative and efficient use of water. A key provision of the *Water Management Act 2000* is the development of water management and water sharing plans, which establish the rules for water allocation in specific areas and protect the environmental health of water sources.
- 3.2.3 The NSW Office of Water is responsible for coordinating implementation in NSW of the 1994 COAG Water Reform Agreement and the National Water Initiative. A number of actions under these initiatives relate to urban water management and are therefore relevant to Sydney Water's operations.
- 3.2.4 The NSW Office of Water is also responsible for developing a water sharing plan that will cover most of Sydney Water's area of operations. The plan will have a ten-year life and will set rules for providing water to the environment and sharing the water available for extraction between different categories of water users. The plan will weigh up environmental and socio-economic considerations and embody decisions on resource-sharing based on

extensive consultation with local communities and stakeholders like Sydney Water.

- 3.2.5 Once the GMR-WSP commences, the NSW Office of Water will be responsible for ensuring that the GMR-WSP's water sharing rules are implemented and that achievements under the plan are monitored and reported on every two years as part of the National Water Initiative's process for implementation plans. This MoU will provide a key platform for consultations with Sydney Water on the water sharing plan.

4. Principles

- 4.1 There is significant alignment of objectives between Sydney Water and the NSW Office of Water, especially in relation to the principles of ecologically sustainable development and the prevention of environmental degradation. This provides a good basis for a co-operative relationship that will be facilitated by the processes established by this MoU.
- 4.2 The parties recognise the link between Sydney's demand for water and the health of rivers in the drinking water catchments, which is the responsibility of the Sydney Catchment Authority. This MoU will facilitate liaison on issues associated with Sydney Water's commitment to promoting the efficient use of water to help achieve environmental improvement in the Hawkesbury, Nepean, Shoalhaven and Woronora water sources.
- 4.3 The parties recognise the important role of the community and stakeholders such as the Sydney Catchment Authority, NSW Health, the Office of Environment and Heritage, the Office of the Hawkesbury-Nepean, and the catchment management authorities, in managing the urban water cycle and the drinking water catchments.
- 4.4 The parties recognise the need to foster innovation and integrate water services in the pursuit of ecologically sustainable development. Interaction between the parties will be founded on the need to maximise opportunities for innovation and achieve a coordinated approach to urban water cycle planning.

5. Term

This MoU commences on the date of endorsement by the respective parties and remains in force until amended or replaced.

6. Processes

6.1 Consultation processes

- 6.1.1 The CEOs of Sydney Water and the NSW Office of Water, or their representatives, shall liaise as appropriate on matters of mutual interest raised by either party, including long-term joint strategic issues and policies, such as future regulation and water cycle management.

- 6.1.2 The parties may liaise and keep each other informed about water management issues, including but not limited to:
- a) the development and implementation of the GMR-WSP;
 - b) the conversion of Sydney Water's Water Management Licence to licences and approvals under the *Water Management Act 2000*;
 - c) the management agreement between Sydney Water, Warringah Council, Manly Hydraulics Laboratory and the University of NSW regarding Manly Dam;
 - d) any future licence requirements for the Botany Wetlands and Busby's Bore;
 - e) drought or low flow triggers for North Richmond extractions²;
 - f) the Western Sydney Recycled Water Initiative: an operating protocol, *Rules and administrative arrangements for the release of recycled water to South Creek and Eastern Creek* (Attachment A), will detail the roles and responsibilities of WAMC and Sydney Water and will form part of the MoU when agreed between the parties;
 - g) stormwater harvesting and recovery; and
 - h) continual improvement in licence conditions and the licence management cycle.
- 6.1.3 Consultation will occur through the licence-management working group, meetings on specific issues, or other appropriate forums such as the Metropolitan Water CEOs Committee.
- 6.1.4 Both organisations may invite each other to participate in forums, programs and initiatives they undertake or sponsor on issues of common interest in Sydney Water's area of operations. This may include convening joint forums with other authorities, agencies or peak community groups on integrated urban water-cycle management issues in Sydney Water's area of operations.

6.2 Exchange of Information and Data

- 6.2.1 In the spirit of co-operation embodied in this MoU, each party will share relevant data (updated as necessary) to enable both parties to carry out their statutory functions outlined in section 3 of this MoU. The data (with any accompanying qualifications) may be made public, if agreed by both parties.
- 6.2.2 Information and data held by either party shall be generally available to the other party if requested, subject to relevant statutes and policy. As far as possible, information will be supplied in the form requested and in a reasonable time, depending on its complexity.
- 6.2.3 The parties agree to work together to establish a regime for daily reporting of releases to the Hawkesbury-Nepean system under the Western Sydney Recycled Water Initiative, in order to meet the daily water access regime management requirements in the GMR-WSP. Monthly reports of daily

² This clause will be superseded by the GMR-WSP when it commences as the GMR-WSP will contain rules on drought or low flow triggers for North Richmond extractions.

releases will be provided initially, but daily reports of flows will be provided on commencement of the GMR-WSP.

7. Dispute Resolution

- 7.1 Any dispute arising between the parties under this MoU will be addressed at officer level in the first instance. If issues cannot be resolved at officer level, either party can refer the issue to more senior officers for resolution. If still unresolved, the issue can be referred to the CEOs of the two parties.

8. Amendments to this Memorandum

- 8.1 If either party notifies the other that it wishes the MoU to be reviewed, amended or replaced, the MoU must be reviewed, amended or replaced accordingly. Both parties must agree to the timetable for any review, amendment, or replacement of the MoU.
- 8.2 Any amendment, or replacement of this MoU shall be exhibited in accordance with section 36 of the *Sydney Water Act 1994*.

This Memorandum of Understanding is made between the Water Administration Ministerial Corporation (represented by the NSW Office of Water) and Sydney Water Corporation on the 1 day of June 2011.

SIGNED for and on behalf of the
Water Administration Ministerial
Corporation (represented by the
NSW Office of Water)


.....
Mr David Harriss, Commissioner

SIGNED for and on behalf of the
Sydney Water Corporation


.....
Dr Kerry Schott, Managing Director



Attachment A

The Western Sydney Recycled Water Initiative: Operating Protocol

Rules and administrative arrangements for the release of recycled water to South Creek and Eastern Creek

Parties

This is an Operating Protocol between the NSW Office of Water and Sydney Water Corporation (Sydney Water).

Date: May 2011

1. Background

- 1.1 Sydney Water is licensed to discharge treated recycled water to Boundary, South and Eastern Creeks from the Penrith, St Marys and Quakers Hill Water Recycling Plants (WRPs) respectively. These three existing WRPs, along with the new advanced WRP at St Marys, comprise the treatment facilities in the Western Sydney Recycled Water Initiative: Operating Protocol.
- 1.2 As part of the operation of the Western Sydney Recycled Water Initiative: Operating Protocol the NSW Government has requested that Sydney Water shall, in negotiation with NSW Office of Water, continue to release available recycled water to South Creek and Eastern Creek to provide for irrigation demands.
- 1.3 This Operating Protocol documents the release rules and administrative arrangements between Sydney Water and NSW Office of Water that shall apply during the ongoing operation and maintenance of the Western Sydney Recycled Water Initiative: Operating Protocol.
- 1.4 The release rules for recycled water discharge from St Marys WRP (StMWRP) to South Creek and Quakers Hill WRP (QHWRP) to Eastern Creek have been developed through negotiations between Sydney Water and NSW Office of Water.

2 Responsibilities

- 2.1 Contact persons and their associated roles are listed in Appendix A. Each party is to notify the other of changes in relevant personnel and/or contact details when they occur.
- 2.2 The roles and responsibilities of NSW Office of Water in relation to the release of recycled water at St Marys & Quakers Hill WRPs are to:
 - a. Manage all enquiries and customer complaints that relate to releases required under this Operating Protocol,
 - b. Provide advice to Sydney Water of volumes of conditional daily recycled water releases as set out in sections 3 and 5,
 - c. Periodically assess release requirements and initiate negotiations with Sydney Water where NSW Office of Water considers that the requirements are not being met,
 - d. Liaise with licensed irrigators and others with regard to any water sharing plans that relate to South and Eastern Creeks, fielding all inquiries relating to the water sharing plans from irrigators or any other water users on South Creek and Eastern Creek and relevant regulators,
 - e. Provide data to Sydney Water in accordance with section 6,
 - f. Co-operate with Sydney Water in any review of this Operating Protocol and the release rules established by this Operating Protocol.
- 2.3 The roles and responsibilities of Sydney Water in relation to the release of recycled water at St Marys & Quakers Hill WRPs are to:
 - a. Refer all enquiries and customer complaints that relate to releases required under this Operating Protocol to NSW Office of Water,
 - b. Release the daily volume of recycled water to South Creek and Eastern Creek as required by section 4,
 - c. When required, release the conditional daily volume of recycled water to South Creek in accordance with sections 3 and 5,
 - d. Provide data to NSW Office of Water in accordance with section 6,
 - e. Co-operate with NSW Office of Water in any review of this Operating Protocol and the release rules established by this Operating Protocol.

3 Normal daily and conditional recycled water release volumes

- 3.1 The normal daily release volume and conditional daily release volume of recycled water to be made from StMWRP to South Creek and from QHWRP to Eastern Creek for agricultural purposes are set out in Table 1.

Table 1 – Normal & conditional daily recycled water release volumes

Months	St Marys WRP to South Creek		Quakers Hill WRP to Eastern Creek
	Normal Daily Volume (ML/day)	Conditional Volume (ML/day)	Normal Daily Volume (ML/day)
January February March April September October November December	8	up to 19	1
May June July August	4	up to 10	1

Notes to Table 1:

1. ML/day = Megalitres per day
 2. Conditional daily release volumes in Table 1 are inclusive of normal daily release volumes.
 3. NSW Office of Water has advised that normal daily release volumes to Eastern Creek are sufficient. No additional volumes are required through conditional releases.
- 3.2 Sydney Water shall use its best endeavours to release the normal and conditional daily release volumes within a 24-hour period commencing at or as soon as possible after 1 pm each day.
- 3.3 The parties acknowledge that the availability of these flows on an hourly and daily basis is subject to change due to the variability of inflows and operations and maintenance requirements at each WRP.
- 3.4 Sydney Water and NSW Office of Water further acknowledge that:
- a. Recycled water is most likely to be available for release from St Marys & Quakers Hill WRPs from midday through to 10pm. Routinely scheduling a recycled water release outside this period or when recycled water is not immediately available may result in the Western Sydney Recycled Water Initiative: Operating Protocol not achieving the design release of 50ML/day of recycled water to the Nepean River at Penrith.
 - b. It is not possible for Sydney Water to release the volumes at a consistent flow rate over a 24-hour period from St Marys and Quakers Hill WRPs.

- 3.5 Following the completion of each standard 24 hour release period (1pm to 1pm), Sydney Water shall notify NSW Office of Water within 6 hours if the specified normal or conditional release volume was not achieved as intended. Sydney Water and NSW Office of Water will discuss the reason/s and any remedial measures to be undertaken.

4 Normal daily release volumes

- 4.1 The normal daily release volume as determined in Table 1 shall be released each day of the month, except where NSW Office of Water notifies Sydney Water that a conditional daily release is required.

5 Conditional daily release volumes

- 5.1 NSW Office of Water will determine when a conditional daily release of recycled water is required to South Creek.
- 5.2 The volume of any conditional daily release of recycled water will be determined by NSW Office of Water in accordance with Table 1.
- 5.3 Sydney Water will only be required to make a conditional daily release of recycled water when advised by NSW Office of Water that such a release is necessary.
- 5.4 The volume of a conditional daily release includes the normal daily release volume for that day as determined in Table 1.
- 5.5 In the event that a conditional daily release of recycled water is necessary:
- a. By 6pm of the day prior to the need for a conditional release, NSW Office of Water shall notify Sydney Water's System Operations Centre (SOC) of the requirements of the conditional release, using the conditional release notification form in Appendix B.
 - b. SOC will schedule the conditional release volume to commence as soon as possible after 1:00 pm of the nominated day, as specified in the conditional release notification form.
 - c. NSW Office of Water will contact SOC to confirm that the request has been received and actioned for the day/s specified in the conditional release notification form.

6 Data Exchange

- 6.1 Sydney Water shall provide to NSW Office of Water a monthly report containing the volume of recycled water discharged to South Creek & Eastern Creek over each 24 hour period (1pm to 1pm).
- 6.2 The monthly report shall highlight the instances and provide details of the circumstances where there has been a shortfall between specified release volumes (including normal and conditional releases) and the actual recycled water discharges.
- 6.3 The monthly report is to be posted to NSW Office of Water's representative for the Operating Protocol as shown in Appendix A.
- 6.4 To assist Sydney Water in developing controls to effect releases and plan future water recycling schemes, NSW Office of Water shall provide data from South Creek flow monitoring points and any available South Creek and Eastern Creek irrigation abstractions upon request to Sydney Water's representative for the Operating Protocol (as shown in Appendix A).

7 Resolution of disputes

- 7.1 In the event of a dispute between Sydney Water and NSW Office of Water, the Office of Water and Sydney Water shall resolve the dispute by negotiation.
- 7.2 In the event that a dispute between Sydney Water and NSW Office of Water cannot be resolved by negotiation, the dispute shall be resolved by a third party qualified in dispute resolution. The third party shall be appointed with the consent of both parties.

8 Confidentiality

- 8.1 The management and operation of recycled water releases to South and Eastern Creeks for the purposes of this Operating Protocol may require disclosure of confidential information between NSW Office of Water, Sydney Water and other parties. No disclosures of confidential information to any person shall be made by either party without the written consent of both parties.
- 8.2 All documentation and information connected with the management and operation of recycled water releases to South and Eastern Creeks for the purposes of this Operating Protocol must not be used, published or released without the consent of NSW Office of Water and Sydney Water.
- 8.3 Both parties must take reasonable steps to ensure that the confidential information in its possession is kept confidential and protected against unauthorised use and access.
- 8.4 Both parties must only use the confidential information solely for the purpose of complying with its obligations under this Operating Protocol and not for any other purpose unless specifically agreed to by the parties in writing.
- 8.5 Both parties may disclose confidential information to its officers and employees where such disclosure is essential to carrying out their obligations under this Operating Protocol provided they are aware of the confidentiality requirements of this Operating Protocol.

8.6 For the purposes of this section, confidential information means any information disclosed by either party which:

- a. is by its nature confidential;
- b. is designated, or marked, or stipulated as confidential;
- c. the parties know or ought to know is confidential

and includes but is not limited to any information arising out of the operation of this Operating Protocol.

9. Miscellaneous

9.1 This Operating Protocol may be amended at any time by agreement in writing between the parties.

9.2 The parties to this Operating Protocol are to review it at least annually.

9.3 This Operating Protocol may be executed in any number of counterparts. All counterparts together will be taken to constitute one document.

9.4 This Operating Protocol commences on the day that it is signed by the last party and ceases five years later.

9.5 This Operating Protocol may be terminated by either party giving three months' notice in writing to the other party.

EXECUTED as an Operating Protocol