

Memorandum of Understanding

between the NSW Ministry of Health
and Sydney Water Corporation

July 2016

1. Introduction and purpose

- 1.1 This Memorandum of Understanding (**Memorandum**) between NSW Ministry of Health (**NSW Health**) and Sydney Water Corporation ABN 49 776 225 038 (**Sydney Water**) has been entered into 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

- 2.1 Sydney Water is a statutory State owned corporation under the *State Owned Corporations Act 1989*. Its principal functions include providing, constructing, operating, managing or maintaining systems or services for storing or supplying water, sewerage, stormwater drainage and wastewater disposal in accordance with the SW Act and the Sydney Water Operating Licence 2015 -2020 (**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.
- 2.3 Section 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**).
- 2.4 Clause 9.5 of the Operating Licence requires Sydney Water to maintain the memorandum of understanding with NSW Health. Under clauses 2.1 and 2.2 of the Operating Licence, Sydney Water is required to comply with certain obligations and implement systems to maintain drinking and recycling water quality, including notifying, consulting with or obtaining approval from NSW Health in certain circumstances.
- 2.5 NSW Health has a role in providing advice to the NSW Government on standards in relation to drinking water and recycled water quality and to commit Sydney Water to

supplying water which is safe to use for appropriate purposes having regard to public health.

- 2.6 The Minister for Health and the Secretary of NSW Health also have certain responsibilities in relation to the protection of public health under the *Public Health Act 2010* (NSW) 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 2010*.
- 2.7 The objective of this Memorandum is to set out the terms of a cooperative relationship between the parties and facilitate fulfilment of each party's role in relation to the protection of public health, fulfilling the requirements of section 35 of the SW Act and clause 9 of the Operating Licence.
- 2.8 Sydney Water's responsibilities under this Memorandum apply to the whole of Sydney Water's operations, including those performed on behalf of Sydney Water by a third party.

3. Interpretation

- 3.1 A defined term in this Memorandum has the meaning given to that term or, if not specified, it shall have the same meaning as in the Operating Licence.
- 3.2 In this Memorandum:
 - (a) 'Water Supply System' includes all infrastructure for the supply of drinking water existing in Sydney Water's area of operations from the extraction point or point of handover to Sydney Water from a third party (for example WaterNSW or Sydney desalination plant delivery points) to the Customer's point of connection.
 - (b) 'Recycled Water Supply System' includes all infrastructure from Sydney Water's treatment facilities to the Customer's point of recycled water connection supplied by Sydney Water, and includes any associated stormwater infrastructure used for water recycling managed by Sydney Water;
 - (c) a reference to a singular includes a reference to the plural and vice versa;
 - (d) a reference to a "party" or "parties" means a "party" or "parties" to this Memorandum;
 - (e) a reference to "includes" or "including" means "includes" without limitation or "including" without limitation;
 - (f) a reference to a clause is a reference to a clause in this Memorandum; and
 - (g) 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

- 4.1 This Memorandum shall commence on the date of execution by both parties and expire on 31 December 2020, unless terminated earlier by written consent of both parties.

5. Liaison between Sydney Water and NSW Health

- 5.1 The parties shall 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 shall 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 and public health; and
 - (c) consider recommendations made by the Joint Operational Group.
- 5.3 The parties shall 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 shall meet regularly to:
- (a) coordinate implementation of this Memorandum;
 - (b) establish relevant information and data sharing programs;
 - (c) 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);
 - (d) make recommendations to the Strategic Liaison Group, including any proposed amendment of the Memorandum; and
 - (e) facilitate coordination of the collection of data on water and recycled water quality for use by relevant government organisations.

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

- Water and recycled water operations representatives
- Water and recycled water product strategy representatives
- Corporate 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 persons 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 shall endeavour to maintain and share a list of key liaison officers.

6. Dispute resolution

6.1 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 Where Sydney Water's Operating Licence is amended then the parties shall meet to discuss the implications of the amendments and, acting reasonably, revise the Memorandum as required.

8. Sydney Water's roles and responsibilities

8.1 Sydney Water shall ensure that all drinking water, recycled water and any other grades of water it supplies is safe for their intended use having regard to the health of the public and that it is supplied in accordance with its Operating Licence.

8.2 Sydney Water shall ensure it complies with all relevant conditions relating to drinking and recycled water as outlined in its Operating Licence 2015-20. This includes:

- (a) managing drinking water quality in accordance with a Drinking Water Quality Management System that is consistent with the Framework for Management of Drinking Water Quality of the *Australian Drinking Water Guidelines* except to the extent that NSW Health specifies otherwise;
- (b) managing recycled water quality in accordance with a Recycled Water Quality Management System that is consistent with the Framework for Management of Recycled Water Quality and Use and the *Australian Guidelines for Water Recycling* except to the extent that NSW Health specifies otherwise;
- (c) complying with the fluoridation plant operating targets set out in the most recent *New South Wales Code of Practice for Fluoridation of Public Water Supplies* (as at the date of the Memorandum, March 2011);
- (d) notifying NSW Health on drinking water quality monitoring in the manner and form outlined in the *Sydney Water Reporting Manual* published by IPART (as updated from time to time);

- (e) notifying NSW Health on recycled water quality monitoring in the manner and form outlined in the *Sydney Water Reporting Manual* published by IPART (as updated from time to time); and
 - (f) notifying NSW Health of any proposed changes to its processes for (1) managing or (2) reporting to NSW Health in relation to drinking water quality, recycled water quality or any other grades of water where such changes may have a material impact on public health.
- 8.3 Sydney Water shall maintain an internal complaints handling procedure for receiving, responding to, investigating and resolving consumer complaints about water and recycled water quality.
- 8.4 Sydney Water shall perform drinking water health and aesthetic monitoring in accordance with Appendix F of the *Sydney Water Reporting Manual* published by IPART (as updated from time to time). Drinking Water monitoring shall:
- (a) include all parameters outlined in Appendix F of IPART's *Sydney Water Reporting Manual*;
 - (b) be based on a statistically valid sampling program which meets the intention of the current *Australian Drinking Water Guidelines*;
 - (c) include monitoring locations such that the sampling results are representative of water supplied to consumers;
 - (d) 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
 - (e) 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.
- 8.5 Sydney Water shall perform recycled water monitoring in accordance with the Recycled Water Quality Management System and the specific Recycled Water Quality Management Plans (**RWQMPs**) for each individual recycled water scheme, which are consistent with the *Australian Guidelines for Water Recycling (phase 1)*.
- 8.6 Sydney Water shall, in consultation with NSW Health, maintain an effective system of quality assurance for monitoring, sampling, testing, reporting and other processes in relation to the Water Supply Systems and Recycled Water Supply Systems.
- 8.7 Sydney Water shall submit to NSW Health:
- (a) Sydney Water's annual report on compliance and performance of the drinking water and recycled water systems in the manner and form outlined in the *Sydney Water Reporting Manual* published by IPART (as updated from time to time); and

- (b) additional information on monitoring of water quality as requested by NSW Health. The content, timeframe and provision of this information shall be mutually agreed between the parties.
- 8.8 Sydney Water shall maintain a system to provide online access to relevant information including test results for NSW Health about public health related incidents.
- 8.9 Sydney Water shall fluoridate, monitor and report on all drinking water supplies as required by the *Fluoridation of Public Water Supplies Act 1957*.
- 8.10 Sydney Water shall consult with NSW Health on its management systems related to public health issues no less frequently than every five years, or whenever changes occur that substantially alter the basis of the existing strategies as required by the Operating Licence. Relevant management systems include the Drinking Water Quality Management System, Recycled Water Quality Management System and other relevant management systems relating to protection of public health. Sydney Water should ensure that all relevant management systems, plans and protocols are kept current and that the most recent copies are provided to NSW Health.
- 8.11 Sydney Water shall 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.
- 8.12 Sydney Water shall, 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.
- 8.13 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 (EPA) and other government organisations for the protection of both public health and the environment.
- 8.14 Sydney Water shall seek endorsement from NSW Health of any proposed public communication which references NSW Health. Sydney Water shall make changes to the proposed public communication requested by NSW Health prior to publishing any such proposed communication.
- 8.15 Sydney Water shall refrain from making public statements containing public health advice, unless such a statement is aligned with public health guidelines, NSW Health public health advice or endorsed or directed by NSW Health.

9. NSW Health's role and responsibilities

- 9.1 NSW Health shall provide advice to Sydney Water on matters regarding the supply of water which is safe to drink and on other public health issues which relate to Sydney Water's activities.

- 9.2 NSW Health shall provide advice to Sydney Water on matters regarding the safe reuse of water (including stormwater) and on other public health issues in regard to water recycling which relate to Sydney Water's activities.
- 9.3 NSW Health shall review and consider for approval any significant changes that Sydney Water proposes to make to the Drinking Water Quality Management System or Recycled Water Quality Management System. NSW Health shall provide advice to Sydney Water on any further changes required to obtain NSW Health's approval.
- 9.4 NSW Health shall 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 may provide advice to Sydney Water on wastewater management activities that impact on public health, where appropriate.
- 9.6 NSW Health shall 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 2010*.
- 9.7 NSW Health is responsible for supplying public health advice to the public where it relates to drinking water, recycled water, wastewater and stormwater in accordance with the *Public Health Act 2010*.
- 9.8 Where:
- (a) any drinking 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. *Australian Guidelines for Water Recycling* 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 shall be responsible for assessing the problem and proposing rectification action. 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.

Where NSW Health gives any advice to Sydney Water under this clause 9.8, it shall be the responsibility of Sydney Water to take appropriate rectification action to ensure that the drinking water and recycled water it supplies is safe for the intended use and meets the requirements of the Operating Licence and clause 8.2 of this Memorandum. 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.

- 9.9 NSW Health shall 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.
- 9.10 Where there may be foreseeable impacts on Sydney Water's operations or Sydney Water's own Drinking Water Quality Management System, NSW Health and Sydney Water shall consult about arrangements with third party raw water providers regarding relevant changes or exemptions to a third party's Drinking Water Quality Management System.

10. Emerging public health issues related to water or recycled water

- 10.1 The parties shall cooperatively exchange information and Sydney Water shall participate in appropriate research and development on emerging public health issues related to drinking and recycled water so as to enable the parties to make well informed decisions in relation to Sydney Water's Water Supply System to maintain the protection of public health.
- 10.2 The parties shall independently provide input to public consultation and discussion on revisions of the *Australian Drinking Water Guidelines* and the *Australian Guidelines for Water Recycling*.

11. Events of public health significance

- 11.1 Sydney Water shall immediately report to NSW Health any information or event within its area of operations including the Water Supply System, Recycled Water Supply System or wastewater reticulation, treatment and disposal operations which may adversely affect public health. The report shall include information depicting geographical locations and systems in addition to relevant tables or text, if reasonably required by NSW Health.
- 11.2 Sydney Water shall, in consultation with NSW Health and other government organisations where appropriate, maintain and update the Sydney Water Drinking Water Quality Event Management Plan and the Sydney Water Recycled Water Quality Event Management Plan.
- 11.3 Sydney Water shall, in consultation with NSW Health and other government organisations where appropriate, develop and implement incident management protocols covering Sydney Water's activities relating to wastewater management.
- 11.4 The parties shall 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 incident management plans 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 shall ensure that all relevant personnel in their respective organisations are trained to respond to and execute the incident management plans and that appropriate training exercises are jointly developed and conducted.

12. Data exchange

12.1 NSW Health shall provide Sydney Water with reports and studies it undertakes which are relevant to those activities of Sydney Water which impact on public health.

12.2 Sydney Water shall provide NSW Health with reports and studies undertaken by Sydney Water as part of its business, which are relevant to public health.

13. Public education and information

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

13.2 Sydney Water shall report to the public in accordance with the *Sydney Water Reporting Manual* published by IPART (as updated from time to time).

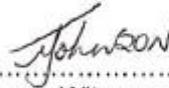
This Memorandum of Understanding is made between the **NSW Ministry of Health** and the **Sydney Water Corporation** on the

5th day of *August* 2016

SIGNED for and on behalf of NSW Ministry of Health



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Elizabeth Koff, Secretary



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Witness signature

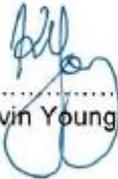
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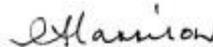
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SIGNED for and on behalf of Sydney Water Corporation



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Kevin Young, Managing Director



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Witness signature

CHRISTINE HARRISON

.....
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