

memorandum of understanding

Between NSW Health
and Sydney Water Corporation



**Memorandum of Understanding between
NSW Health and Sydney Water Corporation**

NSW DEPARTMENT OF HEALTH

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15 February 2006

Introduction

This is the Memorandum of Understanding which was executed by the NSW Department of Health and the Sydney Water Corporation on 11 November 1997, incorporating the amendments made to that Memorandum by agreement between those agencies signed 15 February 2006.

Memorandum of Understanding

Memorandum of Understanding between the NSW Department of Health (the Department) of the one part and the Sydney Water Corporation (the Corporation) of the other part.

This Memorandum was entered into on 21 November 1997, and incorporates amendments made to that Memorandum by agreement between the NSW Department of Health and the Sydney Water Corporation dated 15 February 2006.

Context

- A. The Corporation is a statutory state owned corporation under the *State Owned Corporations Act 1989*. The Corporation has a responsibility to supply safe drinking water to its consumers in accordance with its *Operating Licence (2005-2010)* granted under the *Sydney Water Act 1994 (the Act)*.
- B. The Department has a role in providing advice to the Government on standards in relation to drinking water quality and to commit the Corporation to supplying water which is safe to drink having regard to public health.
- C. The Minister for Health and the Director-General of the Department have certain responsibilities in relation to the protection of public health under the *Public Health Act 1991* and other relevant legislation. The Department's roles and responsibilities as outlined in this Memorandum are in addition to any functions conferred upon the Department, the Director-General, the Chief Health Officer or the Minister for Health under the *Public Health Act 1991*.
- D. The objective of this Memorandum is to formally set out the terms of a cooperative relationship between the parties, establish their respective roles, facilitate fulfilment of each party's function in relation to the protection of public health, and to fulfil the requirements of section 35 of the Act and the Corporation's Operating Licence.
- E. It is recognised that the Independent Pricing and Regulatory Tribunal (IPART) has a role as the Operating Licence regulator for Sydney Water and in setting the Corporation's prices for services which takes into account community preferences including their willingness to pay or accept risk.

1. Interpretation

- 1.1 Unless otherwise specified, terms in this Memorandum shall have the same meaning as provided by the Act or the Operating Licence.
- 1.2 'the Act' means the *Sydney Water Act 1994*.
- 1.3 'Water supply system' includes all infrastructure from the Sydney Catchment Authority's delivery point to the Corporation to the consumer's point of connection and utilised by the Corporation to supply drinking water in the Licence Area.
- 1.4 'Guideline exceedances' means water quality monitoring results which exceed the *Australian Drinking Water Guidelines 2004* (2004 Guidelines), published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council, or any amendments, updates or supplements (Updated Guidelines), relating to health guideline values specified by NSW Health.
- 1.5 'Significant and major incidents' means those incidents which are required to be reported to the Department through the Corporation's incident management plans.
- 1.6 Headings and numbering are for convenience only and do not affect the interpretation of this Memorandum.

2. Regulatory agency

- 2.1 The Director-General of the Department is specified as a regulatory agency under section 34 of the Act. The Corporation's Act and Operating Licence require it to enter into a Memorandum of Understanding with the Department. For clarification, it is agreed that the Department will fulfil the Director-General's responsibilities under the Act and the Department shall act as the regulatory agency in accordance with this Memorandum.
- 2.2 The Department's public water supply regulatory program for the Corporation will consist of the requirements contained within this Memorandum.

3. Term

- 3.1 The term of this Memorandum shall be for the period commencing on the date of execution hereof and remaining in force for the term of the Corporation's Operating Licence.

4. Liaison between the Corporation and the Department

4.1 A Strategic Liaison Group consisting of the Chief Health Officer of the Department and the Managing Director of the Corporation and senior officers nominated by them shall meet regularly to discuss the broad principles, directions and policies underlying the roles and responsibilities of the parties under this Memorandum and to:

- annually review progress on the implementation of this Memorandum.
- consider long term strategic issues and policies and to define and implement processes for the interchange of strategic planning information.

4.2 A Joint Operational Group shall meet regularly to:

- coordinate implementation of this Memorandum.
- establish information and data sharing programs.
- establish programs of investigations, feasibility studies and economic analyses to be undertaken by the Corporation to meet public health objectives in relation to drinking water, effluent management and reuse.
- make recommendations to the Strategic Liaison Group regarding the updating of this Memorandum.
- facilitate coordination of the collection of data on water quality for use by all relevant agencies.

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

4.3 The Membership of the Joint Operational Group (unless otherwise agreed between the parties) will be as follows:

Corporation

- Strategic Operations representative
- Water quality management representative
- Treatment Operations representative

Department

- Manager, Water Unit
- Policy Advisers, Water Unit

The Corporation and Department may invite other officers to attend in support of specific issues.

5. Dispute resolution

5.1 Where a dispute between the parties cannot be resolved by the Joint Operational Group, or the Strategic Liaison Group, then it should be referred to the Chief Executive Officers for resolution. In the event that the dispute cannot be resolved by the Chief Executive Officers, the view of the Department shall prevail.

6. Amendment

6.1 This Memorandum can be amended at any time upon agreement between the parties and in accordance with section 36 of the Act. Where agreement is not reached, the view of the Department is to prevail in accordance with section 35(3) of the Act.

6.2 Where the Corporation's Operating Licence is amended then the parties shall meet to discuss the implications of the amendments and revise the Memorandum as required.

7. Corporation's roles and responsibilities

7.1 The Corporation shall ensure that all drinking water it supplies is safe to drink having regard to the health of the public and that it is supplied in accordance with its Operating Licence.

7.2 The Corporation's Operating Licence requires it to:

- a) comply with the 1996 Guidelines relating to health guideline values and the aesthetic guideline values for pH, true colour, turbidity, aluminium, iron and zinc.
- b) comply with the fluoridation plant operating targets set out in the *Code of Practice for Fluoridation of Public Water Supplies*.
- c) develop and implement a five-year Drinking Water Quality Management Plan which has regard to the concepts of good practice set out in the 1996 Guidelines and apply these concepts in the manner, form and timeframes specified by NSW Health.

7.2.1 The NSW Government has endorsed the 2004 Guidelines as a model for best practice. The Corporation is to have regard for the 2004 Guidelines and any updated Guidelines when conducting its water supply system activities.

7.2.2 The Corporation's Operating Licence requires that other grades of water supplied by Sydney Water be supplied according to relevant guidelines and requirements prescribed by Department of Environment and Conservation (DEC), NSW Health, the Department of Natural Resources, and the Department of Primary Industries.

7.3 The Corporation shall maintain an internal complaints handling procedure for receiving, responding to, investigating and resolving consumer complaints regarding water quality.

- 7.4 The Corporation shall consult with the Department in relation to planning issues that arise from changes in the *Australian Drinking Water Guidelines* from time to time.
- 7.5 The Corporation shall prepare, to the satisfaction of the Department, a comprehensive Annual Drinking Water Quality Monitoring Plan for the water supply system by 31 March each year. The Corporation shall submit this Plan to the Department for review and approval no later than 28 February each year. The Department shall determine its approval no later than 31 March each year. The monitoring plan shall:
- a) include the health and aesthetic parameters for which compliance is required under clause 7.2 of this Memorandum.
 - b) be based on a statistically valid sampling program which meets the intent of the 2004 Guidelines and any updated 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 20th edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association or other established methods as appropriate.
 - e) Require that the laboratory has National Association of Testing Authorities (NATA) accreditation, where available, for the analyses to be performed. The laboratory should demonstrate satisfactory performance in NATA inter-laboratory proficiency testing.
- The Corporation shall carry out a monitoring program in accordance with the monitoring plan for each financial year.
- 7.6 The Corporation shall maintain an effective system of quality assurance for monitoring, sampling, testing, reporting and other processes in relation to the water supply system in consultation with the Department.
- 7.7 The Corporation shall submit to the Department:
- a) on a quarterly basis, monitoring results as agreed in the monitoring plan together with an evaluation of the results on an exception basis.
 - b) additional information on monitoring of water quality as requested. The provision of this information shall be mutually agreed to in content and timeframes, and is to conform to the manner and form specified by the Department.
 - c) by 1 October each year an annual report on the implementation of the Five Year Drinking Water Quality Management Plan as required by the Operating Licence and to the satisfaction of the Department. This report must include details of any proposed amendments to the Plan, any additional water quality improvement actions identified and steps taken to implement them.
- 7.8 The Corporation will maintain the system to provide online access to test results for the Department and other appropriate agencies during incidents.
- 7.9 The Corporation or its authorised agent(s) shall fluoridate, monitor and report on all drinking water supplies as required by the *Fluoridation of Public Water Supplies Act 1957*.
- 7.10 The Corporation shall review with the Department its strategies for the comprehensive management of public health issues no less frequently than every five years, or whenever changes occur that substantially alter the basis of the existing strategies. Strategies to be submitted for review include the Five-Year Drinking Water Quality Management Plan and other strategic plans relating to protection of public health as required by the Department.
- 7.11 The Corporation shall provide the Department with all data and all information on the planning, design, maintenance, operation and administration of the Corporation's activities that the Department reasonably requires to make informed judgements regarding matters relating to the protection of public health.
- 7.12 The Corporation's responsibilities under this Memorandum apply to the whole of the Corporation's operations (including the whole of its water supply system), including those operations which are performed on behalf of the Corporation by a third party. Protocols are to be established between the Corporation and third parties to ensure the effective operation of the requirements of this Memorandum. Such protocols are to include, but not be limited to, joint procedures and training for the identification and notification of information and events of public health significance and the responses described in Clause 10.
- 7.13 The Corporation shall allow officers of the Department 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 the Department reasonably requires to make informed judgements regarding matters relating to the protection of public health.
- 7.14 The Corporation, as a service provider, has a role in ensuring public health protection. This role must be recognised in any conflict or matters of mutual concern to both public health and environmental protection approaches, and will require consultation between the Corporation, the Department and the DEC. The Corporation must meet the environmental water quality requirements for any discharges or water releases required by licences issued to it by the DEC or the Department of Natural Resources.

8. Department's role and responsibilities

- 8.1 The Department shall provide advice to the Corporation on matters regarding the supply of water which is safe to drink and on other public health issues in regard to water which relate to the Corporation's activities.
- 8.2 The Department shall provide advice to the Corporation on wastewater management activities that impact on public health, where appropriate.
- 8.3 The Department shall make independent judgements on public health matters related to the Corporation's activities and exercising its powers and functions under the *Public Health Act 1991*.
- 8.4 Where any drinking water supplied by the Corporation is failing to meet the 2004 Guidelines which the Corporation is required by clause 7.2 to meet, or where the provision of drinking water, or the reclamation, reuse, disposal, or treatment of wastewater takes place in such a manner that a hazard to public health may arise, the Corporation shall be responsible for assessing the problem and proposing rectification action. If the Department is of the opinion that it is appropriate to do so, it may provide advice on rectification action that may be taken by the Corporation. Where the Department gives any advice to the Corporation under this clause, it shall be entirely the responsibility of the Corporation to take appropriate rectification action to ensure that the drinking water it supplies is safe to drink and meets the requirements of the Corporation's Operating Licence and clause 7.2 and that other activities are conducted in a manner that do not pose a potential hazard to public health. The Department will use the 2004 Guidelines, any updated Guidelines and other relevant information in providing such advice in relation to drinking water.
- 8.5 The Department shall report to IPART upon the Corporation's compliance with the provisions of this Memorandum and upon any public health matters related to the Corporation's operations, as required by IPART or as considered appropriate by the Department, to enable IPART to carry out its functions under the Act.

9. Emerging public health issues related to water

- 9.1 The parties shall cooperatively exchange information and the Corporation shall participate in appropriate research and development on emerging public health issues related to drinking water so as to enable them to make well informed judgements regarding action to be taken in relation to the Corporation's water supply system to maintain the protection of public health.
- 9.2 The parties shall independently provide input to public consultation and discussion on revisions of the *Australian Drinking Water Guidelines*, and on guidelines for other grades of water.

10. Events of public health significance

- 10.1 The Corporation shall immediately report to the Department any information or event within its drinking water supply system, or within its wastewater reclamation and reuse and wastewater reticulation, treatment and disposal operations which may adversely affect public health.
- 10.2 The report of information by the Corporation will include maps depicting geographical locations and systems in addition to tables or text if required by the Department.
- 10.3 The Corporation shall, in consultation with the Department and other Government agencies where appropriate, maintain and update the Corporation's drinking water quality incident management plan (*Drinking Water Quality Event Management Standard Operating Procedure*).
- 10.4 The Corporation shall, in consultation with the Department and other Government agencies where appropriate, develop and implement incident management plans covering the Corporation's activities relating to waste water management and recycling.
- 10.5 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 plans and incident management procedures and protocols there under. The incident management plans shall contain or incorporate by reference, procedures and protocols for the coordinated management of incidents including media and stakeholder liaison and any notification of public health advice from the Department.
- 10.6 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.

11. Data exchange

- 11.1 The Department will provide the Corporation with reports and studies it undertakes which are relevant to those activities of the Corporation which impact on public health.
- 11.2 The Corporation will provide reports and studies undertaken by the Corporation as part of its business which are relevant to public health.

12. Public education and information

- 12.1 The Department and the Corporation shall jointly undertake a public education program relating to the health aspects of drinking water.
- 12.2 The Corporation shall report to the public in accordance with section 3.3 of its Operating Licence.