



Water Industry Competition Act 2006

Licence Application Guide

May 2023

Water >>

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Enquiries

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The Independent Pricing and Regulatory Tribunal

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

Version Control

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1	May 2023	Draft version released for stakeholder comment. Version to align licence application form and guide with the <i>Water Industry Competition Amendment Act 2021</i> and <i>Water Industry Competition (General) Regulation 2023</i> , both anticipated to commence 1 July 2023.

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1 Before you start

The *Water Industry Competition Act 2006* (NSW) (WIC Act) enables private sector water utilities to apply for the following licences to operate in NSW:

- **operator licences** to construct and operate water industry infrastructure (operate includes to maintain)
- **retailer licences** for the sale of water or sewerage services by means of water industry infrastructure.

Under the WIC Act, the Minister is responsible for granting the licences. The Independent Pricing and Regulatory Tribunal of NSW (IPART) is responsible for receiving and assessing licence applications and for administering and enforcing licences.

This guidance document provides information to assist you to complete your licence application.

1.1 General instructions to applicants

ⓘ Applicant's responsibilities

It is a criminal offence under section 73D of the WIC Act to provide false or misleading information or documents in an application.

The applicant must take all reasonable steps to ensure the information provided in the application form is complete, true, and correct.

An officer of the applicant corporation is required to make a declaration to this effect in the application form. Failure to disclose information, or any misrepresentation, may result in a licence not being issued or a licence later being revoked.

Substantial fines can apply for corporations and individuals providing false or misleading information to IPART or the Minister.

As part of the application process, we must assess an applicant's capacity to undertake the proposed licensed activities.

The questions asked in the **Licence Application Form** are designed to allow you to establish the applicant corporation's capacity to carry out the proposed activities in compliance with the licence (if granted), the WIC Act and the *Water Industry Competition (General) Regulation 2022* (WIC Reg).

For a licence to be granted, the Minister must be satisfied of the requirements set out in sections 8C and 8D of the WIC Act. In considering whether the licence should be granted and what conditions to impose, the Minister must also have regard to the objects in sections 2A and 5A of the WIC Act.

For **Section 2A**, these are:

1. to protect public health and safety and the environment in connection with the water industry, including in the longer term
2. to protect the interests of consumers, particularly small retail customers in the quality, reliability and price of water and sewerage services, including in the longer term
3. to facilitate the efficient, reliable and sustainable provision of water and sewerage services, having regard to financial, environmental and social considerations
4. to promote the sustainable use of resources in connection with the water industry
5. to facilitate competition in the water industry with a view to encouraging innovation and improved efficiency in the industry.

For **Section 5A**, these are:

1. to promote the adoption of written policies concerning the use of water resources as prescribed by the regulations, if any^a
2. to mitigate the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the approval or licence
3. to promote the equitable sharing among participants in the drinking water market of the costs of water industry infrastructure that significantly contributes to water security.

Applicants should consider if they have the capacity to undertake the activities the licence would authorise. This includes complying with the licence (if granted), the WIC Act and WIC Reg. The WIC Act and WIC Reg impose standard licence conditions applicable to all licensees. Applicants can also review the kinds of additional conditions that are imposed on licensees by viewing existing licences granted through our public register.

Your responses should include all the necessary information to demonstrate an extensive understanding of the activities the applicant is proposing to undertake. This includes the issues, risks or impacts associated with these activities, and the processes required to address or manage these issues, risks or impacts. The information provided in your application should reflect the type, size, complexity, and level of risk associated with the activities to be licensed.^b

Where more extensive information is to be provided in response to a question, the [Licence Application Form](#) requests you include the information as an attachment to the application. This ensures we have enough information to assess your application in accordance with our statutory obligations under the WIC Act.

^a Section 8 of the WIC Reg prescribes the following policies: [NSW Water Strategy](#), [Greater Sydney Water Strategy](#) and the [Lower Hunter Water Security Plan](#).

^b For example, a recycled water scheme involving a single source basic treatment and single pipeline to one commercial customer will be less complex and therefore require less supporting information than a multi-source scheme, with complex treatment and a pipe network ultimately supplying a mix of commercial and residential customers.

Box 1 Structuring application responses

The applicant is responsible for providing correct information and for demonstrating the applicant will meet the legislative criteria. To assist us with assessing your application we request you:

- label responses and attachments with the application question number being addressed in the document and/or the file name
- provide evidence and explain how this evidence supports your response
- for lengthy documents, tell us where the document addresses a question. For example, use highlighting, and/or indicate the relevant sections or page numbers
- mark attachments that you wish to remain confidential as 'confidential' (discussed in **section 1.1.1** below).

Do not provide information that is unnecessary to the application.

Failure to follow these guidelines may delay or lead to rejection of your application.

1.1.1 How do we treat confidential information?

We use transparent and publicly available processes to consider applications and must invite submissions on applications, including from the public.^c Unless they are confidential, we treat your application and attachments as public documents. We publish these documents on our website and distribute them to interested parties as appropriate.

Subject to our disclosure obligations (referred to below), we will treat financial information provided for the purposes of your application as confidential. We may share that information with our consultants but will do so on a confidential and 'need to know' basis.

You should let us know if you consider other aspects of your application to be confidential so that we can discuss your confidentiality concerns with you. In general, we do not consider consultant reports, risk assessments and other technical information to be confidential.

In particular, you should provide confidential documents separately (i.e. documents in a separate computer file or files), which are clearly marked "confidential" in the filename, use a watermark (if possible), and clearly identify the confidential information that should not be publicly released.

^c Section 8B(2) of the WIC Act sets out who IPART must provide copies of your application to and invite submissions from.

If we agree with your confidentiality claims, we will publish only your public application responses on our website. However, we will give a copy of your confidential application responses to the Minister administering the WIC Act in accordance with section 8B(2)(a) of the WIC Act. However, we may give a copy of your confidential application responses to the Departments and Authorities responsible to the Ministers specified in the WIC Act or WIC Reg, on a confidential basis, if necessary to assess your application. We seek your consent to this in the 'declaration and acknowledgement' section of the **Licence Application Form (Question 21)**.

If we do not agree with all your confidentiality claims, we will explain where we disagree and ask you if you would prefer to either:

- withdraw your claim of confidentiality; or
- maintain your claim, which will mean that the information over which you claim confidentiality does not form part of your application, so we will not take it into account.

Further, where we consider you have provided confidential information that may deny procedural fairness to other parties, we may invite you to withdraw your claim of confidentiality. If you do not, we may be unable to consider the information when determining your application.

Disclosure obligations

Please note that third parties may apply under the *Government Information (Public Access) Act 2009* (NSW) for access to applications, including applications that contain confidential information. If we receive such an application, we are required to decide on disclosure in accordance with that Act. That Act would require us to consult with you if we received such an application.

Where an application includes personal information, IPART will deal with that information in accordance with the information protection principles set out in the *Privacy and Personal Information Protection Act 1998* (NSW).

1.1.2 Is there an application fee?

Application fees apply for new licences and approvals. **Table 1** details application fees for licences and approvals under the WIC Act.

Table 1 Application fees under the WIC Act

Type of application	Fee (\$)
Operator licence	6000
Retailer licence	6000
Combined operator/retailer licence	10,000
Convert combined to separate operator and retail licences	2000
Part 5 assessment	5000
Variation of licence	3000
Scheme approval	8000
Operational approval	2000
Variation of approval	2000

The appropriate licence application fee should be made payable to the Independent Pricing and Regulatory Tribunal of NSW or by electronic transfer to:

Westpac Banking Corporation

BSB: 032-001

Account No: 205717

Reference: WICA app

Provide a copy of the electronic transfer receipt with your licence application. You should contact us if you need to pay your licence application fee in other ways.

Note that once an application has been submitted, your application fee(s) will not be refunded if your application is refused or withdrawn.

1.1.3 How to submit the application

To apply, you will need to submit the completed **Licence Application Form** and attachments containing all relevant supporting documents. Please note that where there is more than one attachment in a question, they should be labelled as separate files, and combined into a single electronic folder/zip file.

When you have completed your application, you should submit via email (email to wica@ipart.nsw.gov.au) for applications below 10 MB. For larger applications, contact the applications team on (02) 9290 8412 or wica@ipart.nsw.gov.au so that secure file transfer arrangements can be made.^d

Do you require further information?

If you have further questions about your application, you can contact our Water Regulation and Compliance team via:

- Email: wica@ipart.nsw.gov.au, or
- Telephone: (02) 9290 8412

We encourage you to discuss your licence application and obtain assistance from IPART's Water Regulation and Compliance team prior to submitting your application. Once we receive your application, we will assign you a contact officer, who will assess your application and remain in contact with you throughout the application and assessment process.

^d We use a secure file transfer service (e.g. Sigbox) for larger files. Please note we do not accept USBs or other storage media for applications.

1.2 What happens once you have submitted your application form?

1.2.1 What will happen next?

What you can expect from us

When we receive your application, we will check that your **Licence Application Form** is complete and that you have supplied all the necessary information and supporting documents.

If your application is complete, we will seek submissions from the Departments and Authorities responsible to the Ministers specified in the WIC Act or WIC Reg, the relevant local council and public water utility, as well as the public,^e on your application. We will also proceed to assess your application in detail before preparing a recommendation to the Minister to either grant or refuse the licence(s).

We try to process applications quickly. Complete applications are generally processed between 2 to 3 months, depending on the complexity of the project, quality of the application and your responsiveness to requests for information.

What we expect from you

We expect a complete application that explains how the applicant meets the assessment criteria in the WIC Act and WIC Reg.

We will not process the application until we are provided with a complete application. We may request additional information from you if your application is incomplete. This is likely to delay assessment of your application.

We may also request additional information in response to submissions made during our public consultation or our detailed assessment of your application.

We may reject an application that does not comply with the requirements of the **Licence Application Form** and this Guide.

You can withdraw your application at any stage during the assessment process.

1.2.2 What are a licensee's continuing compliance and audit obligations?

Licensing obligations are set out in the WIC Act and WIC Reg, as well as in the licence.

We have prepared fact sheets and FAQs (see below) that explain a licensee's compliance and audit obligations following the granting of a WIC Act licence.

^e See section 8B(2) of the Act for details.

The granting of an operator licence does not allow the applicant to start constructing and operating water or sewerage infrastructure immediately. A licensee must obtain a scheme approval from IPART before commencing construction, and an operational approval from IPART before commencing operation of the water or sewerage infrastructure.

For further information, please refer to the following fact sheets or contact our Water Regulation and Compliance team as per our contact details in section 1.1.3 above.

You can find our fact sheets and FAQs on our website at [WICA Fact Sheets and FAQs](#).

1.3 Variations

You should use the **Licence Application Form** if you are applying for a variation to an existing licence (a variation). You tell us if you are making a variation at **Question 12**.

If you are applying for a variation, you only need to provide information to the extent that the existing licence is changed (see the example in **Box 2**).

Box 2 Level of information required for variation application

Example: An applicant is applying to expand their operations by increasing the number and scale of schemes or the class of infrastructure they are authorised to operate under their existing licence.

Responses to questions only need to provide information that supports the claim of additional capacity needed to operate larger scale or different types of schemes.

In this example, if the details of corporate ownership, corporate structure or disqualification status have not changed, there is no need for a detailed reply to these questions. The applicant can respond with "Unchanged since last application" in their answers.

In assessing the variation application, we will consider information provided in the original licence application and the licensee's compliance history.

2 About the applicant

Question 1: Who are your contacts for this application?

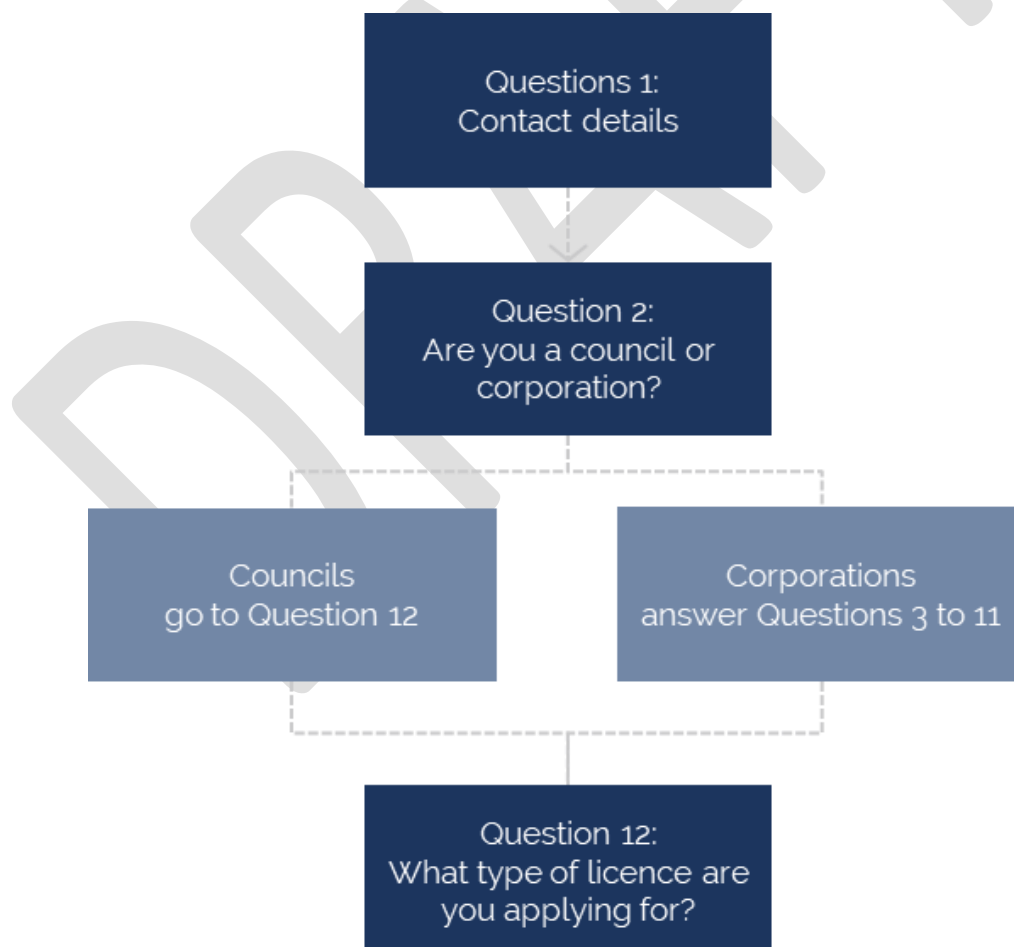
Question 1 asks who the primary contact for the application is. If we need to contact you about the application we will use the contact details provided.

Question 2: Are you a corporation or a council?

Question 2 asks if the applicant is a corporation or a local government council. As councils' organisational and financial capacity are regulated under other legislation, applications from councils are only assessed on technical capacity and applicant councils should answer **Question 2**, including providing the name of the council, and then skip to **Question 12**.

Applicant corporations need to answer **Questions 3 to 11** before progressing to **Question 12**.

Figure 1 Answering questions 1 to 12



3 About the applicant corporation

Question 3: Which corporation is applying for a licence?

Question 3 asks for identification details of the applicant corporation.

Question 4: How is your corporation organised?

Questions 4 asks about the organisational structure of the applicant corporation. Responses to this question help us to assess the corporation's organisational capacity to comply with the WIC Act and to carry out the activities to be authorised by the licence, if granted.

Your application should include, as a minimum, an organisation diagram showing the applicant's internal management structure.

Question 5: What experience and expertise do you have?

Question 5 asks about the experience and/or expertise of the applicant corporation's executive team. Responses to this question help us to assess the organisational capacity of the applicant corporation to undertake the activities to be authorised by the licence, if granted.

We consider organisational capacity to be an organisation's ability to function and is measured by the factors that enable an organisation to perform its functions and achieve its goals.

Enabling factors include effective leadership that supports and communicates a clear strategy that then enables an organisation to achieve its long and short-term objectives. Capacity also includes accountability through governance structures, policies and processes which govern how roles and responsibilities are delegated, managed, and coordinated. This is supported by skilled employees, technologies, and data management.

Capacity at the organisational level can be demonstrated, in part, through the level of experience and/or expertise of leadership including executive personnel who will be responsible for managing the licensee corporation. This question asks for evidence of experience and/or expertise of senior personnel and can include managing a water or sewerage operation or working within the water industry or other industries.

We regard leadership as critical in setting the direction and vision of the organisation and ensures that resources are effectively deployed to achieve goals. We ask about the range of skills and qualities that the applicant's leadership possesses, which may include strategic thinking, communication and interpersonal skills, adaptability, and a commitment to learning and development.

We consider leadership with more experience can often be better equipped to navigate complex challenges and make sound decisions. This includes in the water, or other relevant, industries

This question relates to senior personnel at an executive level, for example, Executive Directors, Managing Directors, Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Operating Officer (COO), Executive Managers or General Managers. Senior personnel at an executive level may also be provided to the licensee through agreements with third parties (for example, senior level consultants or contractors). You may rely on, or propose to rely on, third parties for senior experience and expertise.

We ask about the organisation's leadership in **Question 5**. We assess financial capacity in other parts of the application, and we ask about water industry specific, operational, and technical experience and/or expertise, to assess the applicant's technical capacity, in **Questions 15 and 18**.

Reliance on third parties

Your organisational capacity may rely on the experience and expertise of third parties such as senior consultants, contractors, or a related corporation of the applicant. Under section 8D(7) of the WIC Act, we must consider **the extent to which** the applicant corporation relies on third parties for capacity, and the suitability of those arrangements.

If you are relying on, or propose to rely on, third parties you can provide details of the extent to which you rely on third parties to undertake the activities for which you are seeking a licence. Examples of activities may include executive staff or other consulting services or support.

An applicant who relies on third parties could include:

- how the third parties will provide organisational capacity to the applicant, that is what activities, services or support the third party will undertake, or provide to, the applicant
- a description of the arrangements made, or to be made, with the third parties (e.g. contractual arrangements)
- where available, the name of the third parties, including their Australian Business Number (ABN), Australian Registered Body Number (ARBN) or Australian Company Number (ACN).

Question 6: What is the ownership structure of your corporation?

Question 6 asks about the ownership structure of the corporation. Responses to this question help us to assess the corporation's organisational capacity.

We consider the context of the applicant's ownership. Your application should include both a:

- description of the ownership structure of the applicant corporation that lists related corporations that have a direct or indirect interest in, or influence on, the applicant corporation's proposed activities under the licence being applied for
- corporate group chart, showing the entities that have an ownership interest in the applicant, and a full description of what ownership entails. The diagram should outline the relationship between the applicant and its ultimate Australian holding company, including the names of any intermediate holding companies and other **related corporations**. You may also include details of non-Australian ownership.

The corporate group ownership information also must identify any related corporations, that is any **related bodies corporate** that have or would have a direct or indirect interest in, or influence on, the carrying out of the activities under the licence, if granted. The term 'related body corporate' is defined in the *Corporations Act 2001* (Cth) (Corporations Act).



The WIC Act defines a **related corporation** as a corporation that both:

- Is a 'related body corporate' of the applicant within the meaning of the Corporations Act. That is, a related body corporate is a holding company, subsidiary or subsidiary of a holding company of the applicant corporation.
- Would have, or has, a direct or indirect interest in, or influence on, the carrying out of activities under the approval or licence.

For further information on the term '**related body corporate**' see the definitions in the Corporations Act.

Question 7: Who are the Directors and managers of your corporation?

Question 7 asks for identification details of Directors and senior management of the applicant corporation.

We will use the information to undertake disqualified corporation, disqualified individual and suitable corporation checks for **each director and person concerned in the management of** the applicant corporation, and any related corporations that would have a direct or indirect interest in, or influence on, the carrying out of the activities under the licence, if granted.

The Dictionary in the WIC Act defines what is a "disqualified corporation" and "disqualified individual". Sections 8D(4)-(6) of the WIC Act set out what IPART must check to determine whether a corporation is a "suitable corporation".



A **person concerned in the management of** a company includes people who can make decisions affecting the operations of the whole company or a significant part of it, for example the CEO, COO, CFO and other senior staff. Receivers, administrators, liquidators, and trustees are also persons concerned in the management of a company.

Director IDs

We ask for the Director Identification Number (director ID) of the directors of the applicant, or a *related corporation*, to assist us in undertaking disqualified corporation and suitable corporation assessments.

We note that persons who were Directors on or before 30 October 2021 were not required to obtain a director ID until 1 November 2022. For those Directors who have not yet obtained a director ID, please insert "not obtained yet" in the answer table.

For more information on director IDs see the Australian Business Registry Services website at www.abrs.gov.au.

Questions 8 to 10: Are you a suitable corporation?

Questions 8 to 10 ask about the circumstances of the applicant corporation, its related corporations, and directors and management of the applicant corporation. We must consider responses to **Question 8**, and may consider responses to, **Questions 9 and 10** in determining if the applicant corporation is a suitable corporation to be granted a licence.

Responses to these questions may be taken into account to assess if the applicant is a suitable corporation to hold a licence under section 8C(3) of the WIC Act by considering the matters in sections 8D(5) and (6) of the WIC Act.

Before completing, see the specific terms used in this question in our [Licence Application Guide](#).

Under section 8D(4) of the WIC Act, a licence cannot be granted if the applicant is a disqualified corporation. Under section 8D(6)(a) and (c) of the WIC Act, whether a related corporation is a disqualified corporation may be considered in determining if the applicant is a suitable corporation. A disqualified corporation means a corporation that:

- has, as one of its directors or as one of the persons concerned in its management, an individual who is a disqualified individual, or
- as a result of disciplinary action under the WIC Act, is a disqualified corporation for the purposes of the WIC Act.

A disqualified individual means an individual who:

- pursuant to the Corporations Act, is prohibited from managing a corporation, or
- as a result of disciplinary action under the WIC Act, is a disqualified individual for the purposes of the WIC Act, or
- is a director of a disqualified corporation or is concerned in the management of a disqualified corporation.

If you tick 'yes' for any of the circumstances listed in the question, provide details of the circumstances in the box at the bottom of the question. We will consider the details and context in assessing whether you are a suitable corporation.

Under section 8D(6)(b) of the WIC Act, when considering whether you are a suitable corporation, we may consider each of the considerations under section 8D(5), as though the references to a director in section 8D(5) were instead to a person concerned in the management of the corporation.

Here are some definitions that will assist you in completing **Questions 8 to 10**:

A **disqualified corporation** means a corporation that, as a result of disciplinary action under this Act, is a disqualified corporation for the purposes of this Act, or a corporation that has as a director or person concerned in its management, an individual who is a disqualified individual.

A **disqualified individual** means an individual who is prohibited from managing a corporation under the Corporations Act, or an individual who, as a result of disciplinary action under this Act, is a disqualified individual for the purposes of this Act, or an individual who is a director of a disqualified corporation or is concerned in the management of a disqualified corporation.

A **related corporation** means a corporation that both:

- is a '*related body corporate*' of the applicant within the meaning of the Corporations Act. That is, a related body corporate is a holding company, subsidiary or subsidiary of a holding company of the applicant corporation, and
- would have, or has, a direct or indirect interest in, or influence on, the carrying out of activities under the approval or licence.



For **Question 9** we only require the details of **related corporations** that are Australian parent companies and/or Australian subsidiaries of the applicant corporation.

We may however, during the application assessment process, request details of other related corporations.

A **person concerned in the management** of a company includes people who can make decisions affecting the whole company or a significant part of it, for example, the CEO, COO, CFO and other senior staff. Receivers, administrators, liquidators, and trustees are also included.

A **statutory authorisation** means a licence, approval, or other authorisation whether under the law of NSW, the Commonwealth or another State or a Territory.

Question 11: Does your corporation have financial capacity?

Question 11 asks if the applicant has financial capacity. We must assess an applicant's financial capacity (i.e. the financial resources) to undertake licensed activities at the scale authorised by the proposed licence.

We recognise that applicants generally have diverse financial circumstances and may have commercial or non-commercial reasons for applying for a licence.

We therefore consider an applicant is best placed to decide what evidence to provide to support a claim of financial capacity. You are required to provide this evidence in response to the financial capacity question of the **Licence Application Form**. Given the confidential nature of most financial information, you should consider providing a response marked confidential.

Depending on the resources available to the applicant, you may benefit from seeking the advice of a finance professional (i.e. Certified Practising Accountant, Chartered Accountant, Member of Institute of Public Accountants or similar) in preparing answers to financial capacity questions.

You may find it convenient to provide us with a contact name and details for a relevant person to contact for follow-up questions regarding financial capacity (e.g. company accountant or external accountant). If so, please be explicit in giving us permission to contact this person.

This chapter provides advice and guidance on what we may consider, and what we have considered in past applications, in assessing financial capacity. However, this guidance is not prescriptive, and applicants need to consider how best to provide evidence of their financial capacity.

How does risk affect financial capacity?

In assessing an applicant's financial capacity, we also consider the overall risk related to the activities the licence would authorise. This includes the impact from a loss of financial capacity and any subsequent loss of services may have on a licensee's customers. Higher risk, and greater consequences for customers subject to a loss of services, requires a higher level of assurance of financial capacity.

For example, **residential or small business customers** have less capacity to absorb the financial consequences of a licensee failure. Therefore retailing to, and infrastructure used to supply to, residential or small business customers carries greater risk and consequence than retailing to, and infrastructure used to supply, a smaller number of commercial or industrial customers.



Residential or small business customers - in the application form and guide we use "residential or small business customers" to refer to **small retail customers**, defined in the WIC Act as:

small retail customer means a person who owns or occupies *small retail customer premises* and receives or is proposed to receive, directly or indirectly, water or sewerage services.

small retail customer premises means—

- (a) premises, including each separate premises within community land scheme, company title scheme or strata scheme, that are used or proposed to be used for residential purposes or small business purposes, or
- (b) premises of a class declared by the regulations to be small retail customer premises

What can provide evidence of financial capacity?

When assessing financial capacity, we may consider if:

- **access to financial resources** (e.g. using financial analysis such as ratio and trend analysis and considering profitability, finance arrangements and financial ability)
- **there are contextual factors** that impact financial capacity (e.g. financial support from a third party, corporate structure, cross-company guarantees or bank guarantees).

Financial capacity of applicant without 'stand-alone' capacity

An applicant may not have 'stand-alone' financial capacity. Stand-alone financial capacity describes an applicant who has, without financial assistance from another party, the financial resources to undertake, and continue to undertake, the activities the licence would authorise.

An applicant may not have stand-alone capacity if, for example, they:

- are a newly formed corporation with no financial history
- do not have the financial resources (e.g. cash, equity, or borrowings) to undertake the licence activities without outside assistance.

An applicant may however have financial capacity through financial support from a third party. Examples of third parties include a parent company or corporate group, a consortium of investors, or a line of credit from a lender.

Proving financial capacity

To support a claim of the financial capacity of an applicant (or where relevant, a third party), applicants are advised to provide documentary evidence. As discussed in the beginning of this section, applicants should consider their own circumstances and the facts of the application in deciding on type and amount of evidence they provide.

Examples of evidence that would support financial capacity are:

- the latest 3 years of historical financial statements, that is, the:
 - profit and loss statement, also called the statement of financial performance
 - balance sheet, also called the statement of financial position
 - cash flow statement, also called the statement of cash flows
- a registered company auditor's report confirming accounts are accurate
- tax return documents which can be used to verify the income and expenses in the financial statements.

Other supporting evidence could include:

- an aged creditor's report, from the most recent accounts
- an aged debtor's report, from the most recent accounts
- a list of suppliers, identifying any major or critical suppliers
- a list of customers, identifying any major or critical customers
- pipeline of work, order book or detailed WIP
- forecasts of profitability, including forecast profit and loss, balance sheet, cash flow statements and underlying assumptions.

Where the reporting date of the most recent financial statements is more than three months prior to the application date, you could provide management accounts (i.e. a profit and loss statement, trial balance or trading statement). These can be supported by the most recent bank reconciliation and a copy of the relevant bank statement.

Evidence of financial support by a third party should be provided where an applicant does not have stand-alone capacity. This can include:

- a financial guarantee, deed of indemnity or any other instrument that supports the applicant's financial capacity (e.g. a guarantee from a parent company or related entity of third party)
- an agreement for debt or equity provided by a third party (e.g. a bank, credit union, or a government body).

Where financial support is provided by a third party, we would likely seek to assess the financial capacity of that entity to provide financial support to the applicant. Evidence of financial capacity of a third party could include:

- the financial records of the guarantor (similar to those described in the section above), or
- a letter from a financier (being a bank, credit union or government) confirming indicative financing of the applicant's activities, including the:
 - nature of finance (e.g. bridging, long-term, corporate debt, government funding)
 - type and limit of the facility
 - type and limit of any guarantee
 - terms and conditions.

What are contextual considerations?

In assessing an applicant's financial capacity, we do not consider an applicant's financial capacity in isolation and will consider any other contextual factors that are particular to the applicant or the application.

As discussed earlier in this section, one example of a contextual factor is financial support for the applicant from a third party. In addition to the information already provided regarding financial support (e.g. guarantees, debt and equity), we may also consider:

- the corporate group structure (including parent corporate group and details of ownership) where the applicant is part of a corporate group
- equity structure (i.e. equity holders, types of shares, options, quantities of shares and options etc.)
- agreements, contracts, or covenants that may impact the financial capacity of the applicant.

The list is not exhaustive. We recommend you include any other information that may inform the assessment of financial capacity of the applicant in your application.

Question 12: What type of licence are you applying for?

Question 12 asks if you are applying for:

- a retailer licence
- an operator licence
- both a retailer licence and an operator licence using this single form

- a composite retailer and operator licence, or
- a variation of an existing licence.

A retailer licence authorises the sale of water or sewerage services provided by means of water industry infrastructure for which the licensee is the registered retailer. As councils' retail activities are regulated under other legislation, **applicants that are councils will not require a retailer licence.**

An operator licence authorises the construction and operation (including maintenance) of water industry infrastructure of the class specified in the licence for which the licensee is the registered operator.

If you are applying for a variation of 1 or more licences, provide the licence number of each licence you are seeking to vary, and describe the nature and purpose of the proposed variation to the existing licences.

ⓘ For the remainder of the application, after **Question 12**:

Questions 13 to 15 are for applications relating to retailer activities

Questions 16 to 18 are for applications relating to operator activities

Questions 19 to 21 are for all applicants.

4 Retailer licence questions

The level of technical capacity an applicant should have depends on the scale of activities, and the risk posed to customers and the environment, by the proposed licence.

The technical capacity assessment for a retailer licence application requires that the applicant, at a minimum, demonstrates a good understanding of customer protection, handling customer complaints and hardship, business systems, relevant experience and skills held by key personnel, billing and customer enquiries.

Question 13: What retail activities do you propose to undertake?

Question 13 asks for a description of the proposed retail activities the applicant intends to undertake as a licensee. The response to this question will help us to gain a basic understanding of the applicant's intention and purpose in applying for a retailer licence.

You should also describe the retail activities the applicant intends to undertake as a retailer licensee.

Question 14: What scale of retailer licence are you applying for?

Question 14 asks for the maximum scale of the proposed licence. Information on scales is in our **Scales Guide**. The maximum scale of schemes the licence authorises will depend on the applicant's demonstrated capacity to carry out the proposed activities. We use this information to identify the maximum scale of the schemes that will be specified in the retailer licence.

You can refer to the scales in the question, however you also have the option to describe the capacity of the proposed licence in the box provided, if the suggested scales in our **Scales Guide** are not suitable for your proposed activities.

We recommend an applicant apply for a licence that meets, but does not exceed, their capacity. We will assess the technical, financial and organisational capacity of the applicant with reference to the maximum scale and number of schemes the licence would authorise. For example, if an applicant applied for a scale of operations that exceeds their capacity, then we would recommend the licence not be granted.

For a combined retailer/operator licence, tick the retailer box that applies. Operating licence scales are asked for in **Question 17**.

Question 15: Do you have the technical capacity to be a retailer?

Question 15 asks if the applicant has the technical capacity to be a retailer. We must assess an applicant's technical capacity to undertake licensed activities at the scale authorised by the retailer licence, if granted.

We recognise that applicants generally have diverse circumstances and may have varying objectives in applying for a licence.

We therefore consider an applicant is best placed to decide what evidence to provide to support a claim of technical capacity. You are required to provide this evidence in response to the retailer technical capacity question of the **Licence Application Form**.

You may find it convenient to provide us with a contact name and details for a relevant person to contact for follow-up questions regarding technical capacity. If so, please be explicit in giving us permission to contact this person.

This section provides advice and guidance on what we may consider, and what we have considered in past applications, in assessing technical capacity. However, this guidance is not prescriptive, and applicants need to consider how best to provide evidence of their technical capacity.

How does risk affect technical capacity?

In assessing an applicant's technical capacity, we also consider the overall risk related to the activities the licence would authorise. This includes the impact from a loss of technical capacity and any subsequent loss of services may have on a licensee's customers. Higher risk, and greater consequences for customers subject to a loss of services, requires a higher level of assurance of technical capacity.

For example, as residential or small business customers have less capacity to absorb the consequences of a licensee failure. Therefore, retailing to residential or small business customers carries greater risk and consequence than retailing to a smaller number of commercial or industrial customers.

Experience and expertise

Your experience and/or expertise, or access to experience and expertise via third parties, in retailing activities can inform our assessment of technical capacity.

Experience and expertise can include access to experience or expertise from management, employees and nominated third parties. You may find it useful to refer to your response to **Question 5** in describing third parties.

To establish technical capacity, you can describe the positions or roles that your personnel and/or third parties will occupy in carrying out operations. What skills will these personnel have?

Examples of experience or expertise could include the areas of:

- customer service and enquiries
- billing, retail operations, and related technology and business systems
- complaint handling, hardship policies, debt collection, and consumer rights
- development of retail management plans and processes
- experience in handling residential customers (i.e. small retail customers).

Evidence can include examples of projects or roles undertaken.

The application should contain enough information to allow us to make our assessment.

Reliance on third parties

Your technical capacity may rely on the experience and expertise of third parties such as contractors, subcontractors or a related corporation of the applicant. Under section 8D(7)(a)-(b) of the WIC Act, we must consider *the extent to which* the applicant corporation relies on third parties for capacity, and the suitability of those arrangements.

If you are relying on, or propose to rely on third parties, you can provide details of the extent to which you rely on third parties to undertake the activities for which you are seeking a licence. Examples of activities may include retail, billing, call services, or other consulting services or support.

An applicant who relies on third parties could include:

- how the third parties will provide technical capacity to the applicant, that is, what activities, services or support the third party will undertake, or provide to, the applicant
- a description of the arrangements made, or to be made, with the third parties (e.g. contractual arrangements)
- where available, the name of the third parties, including their ABN, ARBN or ACN and place of business.

You do not need to include scheme specific activities. There is an opportunity to provide scheme specific third-party details when applying for a scheme approval.

ⓘ For the remainder of the application, after **Question 15**:

Questions 16 to 18 are for applications relating to operator activities

Questions 19 to 21 are for all applicants.

5 Operator licence questions

The level of technical capacity an applicant should have depends on the type and scale of activities and the risk posed to customers and the environment by the proposed activities.

The technical capacity assessment for an operator licence application, requires that the applicant, at a minimum, demonstrates a good understanding of:

- the risks, and how to address the risks, associated with constructing, operating and maintaining water or sewerage infrastructure
- management systems and processes to manage water or sewerage infrastructure and water quality
- relevant experience and skills held by key personnel needed to undertake the activities to be authorised by the licence.

Question 16: What operating activities are you proposing to undertake

Question 16 asks for a description of the proposed operating activities the applicant intends to undertake as a licensee. The response to this question will help us to gain a basic understanding of the applicant's intention and purpose in applying for an operator licence.

You should also describe the operating activities the applicant intends to undertake as an operator licensee.

Question 17: What classes and scale of water industry infrastructure are you applying for?

Question 17 asks for the maximum capacity of the proposed licence. The maximum number and scale of schemes the licence authorises will depend on the applicant's demonstrated capacity to carry out the activities. We use this information to identify the classes of water industry infrastructure, maximum number and scale of schemes that is to be specified in the operator licence.

Provide the details of the classes and maximum scale of the infrastructure you are seeking to be licensed to operate. This includes the maximum number of schemes in each class and scale the applicant is requesting to operate under their proposed licence. Information on scales is in our **Scales Guide**.

You can refer to the scales in the question, however, you also have the option to describe the maximum capacity of the proposed licence in the box provided if the suggested scales in our **Scales Guide** are not suitable for your proposed activities.

We recommend an applicant apply for a licence that meets, but does not exceed, their capacity. We will assess the technical, financial and organisational capacity of the applicant with reference to the classes, maximum scale and number of schemes the licence would authorise. For example, if an applicant applied for a scale of operations that exceeds their capacity, then we would recommend the licence not be granted.

For a combined retailer/operator licence tick the retailer boxes that apply. Retailer licence scales are asked for in **Question 14**.

Question 18: Do you have the technical capacity to be an operator?

Question 18 asks if the applicant has the technical capacity to be an operator. We must assess an applicant's technical capacity to undertake licensed activities at the scale authorised by the proposed operator licence.

We recognise that applicants generally have diverse circumstances and may have varying objectives in applying for a licence.

We therefore consider an applicant is best placed to decide what evidence to provide to support a claim of technical capacity. You are required to provide this evidence in response to the operator technical capacity question of the **Licence Application Form**.

You may find it convenient to provide us with a contact name and details for a relevant person to contact for follow-up questions regarding technical capacity. If so, please be explicit in giving us permission to contact this person.

This section provides advice and guidance on what we may consider, and what we have considered in past applications, in assessing technical capacity. However, this guidance is not prescriptive, and applicants need to consider how best to provide evidence of their technical capacity.

How does risk affect technical capacity?

In assessing an applicant's technical capacity, we also consider the overall risk related to the activities the licence would authorise. This includes the impact from a loss of technical capacity, and the impact any subsequent loss of services may have on a licensee's customers. Higher risk, and greater consequences for customers subject to a loss of services, requires a higher level of assurance of technical capacity.

For example, residential or small business customers have less capacity to absorb the consequences of a licensee failure. Therefore, operations providing services to, and infrastructure used to supply, residential or small business customers carries greater risk and consequences than operations providing services to, and infrastructure used to supply, a smaller number of commercial or industrial customers.

Experience and expertise

Your operating experience and expertise, or access to experience and expertise via third parties, can inform our assessment of technical capacity.

Experience and expertise can include access to experience or expertise from management, employees and nominated third parties. You may find it useful to refer to your response to **Question 5** in describing third parties.

To establish technical capacity, you can describe the positions or roles that your personnel and/or third parties will occupy in carrying out operations. You can also describe what skills these personnel will have.

Examples of experience could include experience in the construction, maintenance and operation of water, sewerage and/or other utility infrastructure. This could include gas, electricity or telecommunications infrastructure. Evidence can include examples of projects or roles undertaken.

Examples of areas of expertise could include expertise in:

- identifying and managing the environmental impacts of constructing and operating water infrastructure
- undertaking risk assessments
- managing assets
- ensuring reliability and continuity of utility services
- managing water quality and/or sewage treatment (as relevant)
- constructing and operating infrastructure (water or other).

Reliance on third parties

Your technical capacity may rely on the experience and expertise of third parties such as contractors, subcontractors or a related corporation of the applicant. Under section 8D(7)(a)-(b) of the WIC Act, we must consider *the extent to which* the applicant corporation relies on third parties for capacity, and the suitability of those arrangements.

If you are relying on, or propose to rely on, third parties you can provide details of the extent to which you rely on third parties to undertake the activities for which you are seeking a licence. Examples of activities may include operational staff, construction services, and technical, environmental, or other consulting services or support.

An applicant who relies on third parties could include:

- how the third parties will provide technical capacity to the applicant, that is what activities, services or support the third party will undertake, or provide to, the applicant
- a description of the arrangements made, or to be made, with the third parties (e.g. contractual arrangements)
- where available, the name of the third parties, including their ABN, ARBN or ACN and place of business.

You do not need to include scheme specific activities. There is an opportunity to provide scheme specific third-party details when applying for a scheme approval.

Management plans, systems and processes

Technical capacity could be demonstrated by having knowledge of, and capacity to develop, management plans, systems and processes to manage water and/or sewerage infrastructure assets, business systems and processes.

We can consider quality, environmental and asset management processes and systems that will be used to support the licensed activities as, once a licence is granted, licensees are required to, for example:

- manage water infrastructure safely and reliably, and in a way that protects public health and the environment (section 8H(1)(c) of the WIC Act)
- licensees are also required to facilitate the efficient, reliable and sustainable provision of water and sewerage services (section 2A(c) of the WIC Act).

Evidence may include examples of processes and procedures demonstrating the applicant's capacity to develop and implement systems or plans. The processes and/or procedures should demonstrate good operational practice and link to a risk management process.

Management plans or systems should be supported by rigorous risk assessments. Risk assessments should include consideration of climate change risks to ensure the infrastructure to be authorised under the licence will be resilient and reliable.

Asset management plans or systems

Technical capacity could be established by experience in, and capacity to, manage assets.

Evidence may include:

- draft or existing asset management systems
- experience of asset management.
- access to asset management skills
- showing you can develop an asset management system that complies with AS ISO 55001:2014 or an asset management plan that addresses:
 - safe and reliable operation and maintenance
 - built in redundancy
 - infrastructure renewals
 - the maintenance, monitoring and reporting of standards of service.

Water quality and sewage management

Technical capacity could also be established by experience in, and capacity to, manage water quality and/or sewage.

Evidence may include:


- showing you can develop compliant management plans such as a water quality management system (consistent with the *national safety guidelines*) for water infrastructure, and a sewage management system for sewerage infrastructure

- draft or existing water quality management or sewage management systems
- experience of management in these areas
- access to water quality or sewage management skills.

 **national safety guidelines** are defined in the Dictionary of the WIC Act as the guidelines or another document concerning the safe provision of water services or sewerage services prescribed by the regulations, whether as in force at a particular time or from time to time. The WIC Reg (section 5) has prescribed the following documents:

(a) the Australian Drinking Water Guidelines, published by the Australian Government, the National Health and Medical Research Council and the Natural Resource Management Ministerial Council,

(b) the Australian Guidelines for Water Recycling (Phases 1 and 2), published by the Environment Protection and Heritage Council, the Natural Resource Management Ministerial Council and the Australian Health Ministers' Conference.

 For the remainder of the application, after **Question 18**:
Questions 19 to 21 are for all applicants.

6 Additional questions for all applicants

Question 19: What is your organisation's capacity to respond to climate change?

Question 19 asks what, if any, business objectives or strategies the applicant has in place to mitigate or adapt to climate change, relevant to the activities you are proposing to undertake under the licence, if granted.

We need to be satisfied that the applicant has the organisational and technical capacity to operate water industry infrastructure safely and reliably and in a way that protects consumers, public health and the environment in the longer term, and will facilitate the efficient, reliable and sustainable provision of water and sewerage services.

An applicant can provide details of any relevant policies, strategies, reports, processes, or practices that consider climate change. This could include, for example, any of the following: net zero target/policy/strategy, climate change risk statement, climate-related financial disclosure ([Task Force on Climate-related Financial Disclosures](#)) reporting, use of climate modelling or climate risk tools, adoption of relevant international standards (eg, *ISO 14091:2021 Adaptation to climate change – Guidelines on vulnerability, impacts and risk assessment*) or industry guidelines on climate change adaptation or risk assessments such as [Water Services Association of Australia - Climate Change Adaptation Guidelines](#).

The Minister must have regard to the objectives of the Act when granting a licence, including:

- to protect public health and safety and the environment in connection with the water industry, including in the longer term
- to protect the interests of consumers in the quality, reliability and price of water and sewerage services, including in the longer term, and
- to facilitate the efficient, reliable and sustainable provision of water and sewerage services, having regard to financial, environmental and social considerations.^f

Question 20 – Other supporting information

Question 20 asks for any other information that the applicant has that could support their application.

If you would like to provide further information to support the applicant's organisational, financial and technical capacity, please include evidence in this question. This applies to **both operator and retailer licence applicants**.

Councils are **not** assessed for organisational and financial capacity and should only address technical capacity in this question.

^f Section 2A of the WIC Act.

Questions 21 –Declaration and Acknowledgement

Question 21 asks for a completed Declaration and Acknowledgement for the application. This must be completed for the application to be accepted.

DRAFT