



Review of fees under the *Water Industry Competition Act 2006*

Draft Report

February 2023

Water >>

Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly, PSM, Chair
Deborah Cope
Sandra Gamble

Enquiries regarding this document should be directed to a staff member:

Jamie Luke (02) 9290 8460
Nick Singer (02) 99290 8459

Invitation for submissions

IPART invites comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by Friday, 14 April 2023

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

Review of fees under the *Water Industry Competition Act 2006*
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

If you require assistance to make a submission (for example, if you would like to make a verbal submission) please contact one of the staff members listed above.

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's [submission policy](#) is available on our website.

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](#).

Acknowledgment of Country

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

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

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1 Executive Summary

We are reviewing the application, approval and annual fees because of changes to the regulatory framework for NSW private water utilities due to upcoming amendments to the *Water Industry Competition Act (2006)* (WIC Act). We are proposing a new structure to align with the changes in licensing and approval instruments.

This draft report outlines and seeks comment on our proposed fees structure under the new regulatory framework. Our proposed licence and approvals application fee structure is described in **Table 1** and proposed annual fee structure in **Table 2**.

Your comments will influence the way we set the fees under the new regulatory framework.

Table 1 Proposed application fees under the amended 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	4000

Note: Fees apply from July 2023.

Table 2 Proposed annual fees under the amended WIC Act

Fee type	Category determination	Annual fee (\$)
Operator licence 1	1 scheme	1300
Operator licence 2	2 to 5 schemes	1900
Operator licence 3	6 or more schemes	2500
Scheme – scale 1	See scales in Table 5	1100
Scheme – scale 2	See scales in Table 5	3200
Scheme – scale 3	See scales in Table 5	4200
Retailer licence 1	30 to 249 customer premises per scheme	1300
Retailer licence 2	250 to 10,000 customer premises per scheme	1900
Retailer licence 3	more than 10,000 customer premises per scheme	2500

Note: Fees apply from July 2023.

For further information about changes to the WIC Act, please visit [our website](#).

2 We are seeking feedback on the proposed fees

We are seeking comment on:

1. The proposed fee structure, specifically:
 - the use of a partial and full cost recovery approach to setting fees
 - the use of scales to determine licensee and scheme complexity and risk profile, and therefore applicable annual licence fees
 - any other feature of the proposed licence structure.
2. Separately charging a Part 5 assessment fee for licence applications that require a Part 5 assessment under the *Environmental Planning and Assessment Act 1979* (EPA Act).
3. Indexation of licence fees using the Sydney CPI adjusted by IPART's annual productivity factor.

We invite all interested parties to make submissions in response to this draft report by 14 April 2023 using the following link. For further information, see page ii for information on how to make submission.

Your comments will influence the way we set the fees under the new regulatory framework.

 Have your say

Your input is critical to our review process.

[Submit feedback >](#)

You can get involved by making a submission.

2.1 Our indicative timetable for the review

Table 3 provides a timetable for our review process.

Once we have provided our recommendations, the Minister will set the fees. Our Final Report will be publicly released once this decision is made.

Table 3 Review timetable

Steps	Timing
Draft Report	10 February 2023
Submissions to Draft Report due	14 April 2023
Deliver Final Report and recommendations to the Minister	30 May 2023
New application fee structure applies	1 July 2023

3 Changes to private water utility regulation

3.1 IPART currently administers the WIC Act

IPART has key functions under the WIC Act. Our role includes:

- Assessing licence applications and making recommendations to the Minister administering the WIC Act to approve or not approve licences.
- Monitoring compliance through audits.
- Undertaking 5-yearly reviews of licences.ⁱ

The WIC Act gives IPART powers to recover the cost of regulating the WIC Act licensees by charging fees, payable to the NSW Government.ⁱⁱ We charge licence application fees and annual licence fees.

3.2 The licensing structure is changing

There will be a different licensing structure under the amended WIC Act. Features of the new structure include:

- Applicants can apply for operator and/or retailer licences without necessarily applying for a scheme at the same time.
- The operator licence will specify the maximum scale of schemes authorised to be constructed or operated under each class of water industry infrastructure.
- Each scheme will have a scheme approval which authorises an operator to construct a scheme. Scheme approvals will specify the design capacity of the infrastructure.
- An operator will need an operational approval to start operating upon completion of construction of a scheme.

More detail on the new regulatory structure under the amended WIC Act can be found on our website.

3.3 Licences and schemes will be categorised by scale

Under the new framework, licences and schemes will be categorised by scale. Our proposed fee structure will categorise licences and schemes using similar criteria:

- **For an operator licence** the scale will be determined by the number of schemes the licensee has obtained approval to construct and operate.ⁱⁱⁱ See **Table 4**.
- **For a scheme** the scale (from one to 3) will be determined by reference to our Scales Guide and using the highest category (i.e. 1 to 3) of all services provided. **Table 5** provides the relevant section from the Scales Guide.

- **For a retailer licence** the scale will be determined by the number of customer connections of the largest scheme for which the licensee is to be authorised to act as retailer.^{iv} **Table 6** provides the relevant section from the Scales Guide.

Table 4 Operator licence categories

Category	Maximum number of schemes
Operator 1	1 scheme
Operator 2	2 to 5 schemes
Operator 3	6 or more schemes

Table 5 Scheme scale categories

Classes of water industry infrastructure ¹	End-use	Source	Parameter	Category	Scales
Drinking Water-supply only (on-selling)	Drinking water	Drinking water from another utility	Number of customer premises	A1	30 to 250
				A2	251 to 500
				A3	>500
Drinking Water - production	Drinking water	Any	Design capacity (kL/day)	B1	0 to 250
				B2	251 to 500
				B3	>500
Recycled water production from stormwater	Recycled water	Stormwater	Design capacity (kL/day)	C1	0 to 200
				C2	201 to 750
				C3	>750
Recycled water production from sewage	Recycled water	Treated Sewage	Design capacity (kL/day)	D1	0 to 200
				D2	201 to 750
				D3	>750
Further treatment of recycled water	Recycled water	Treated recycled water	Design capacity (kL/day)	E1	0 to 200
				E2	201 to 750
				E3	>750
Sewage treatment for disposal	Effluent discharge	Sewage	Design capacity (kL/day)	F1	0 to 200
				F2	201 to 750
				F3	>750

Table 6 Retailer licence scale categories

Category	Scales (Maximum number of customer premises per scheme)
R1	30 to 249
R2	250 to 10,000
R3	>10,000

Note: The maximum scale of a licence is determined by the number of customer premises in the largest scheme for which the applicant wishes to be authorised to act as retailer.

¹ Section 3A of the WIC Act

4 Fees under the amended WIC Act

Because of the changes to the structure of licence and scheme approval instruments in the amended WIC Act, the new fee structure needs to reflect the new regulatory framework. We propose a fee structure that has the following features:

- One-off fee for licence applications (both operator and retailer licences) and variations to existing licences. There will be an additional fee to be paid if a Part 5 assessment under the *Environmental Planning and Assessment Act 1979* (EPA Act) is required.
- One-off fee for scheme approvals, operational approvals and approval variations.
- Annual licence fees, the amount of which are determined by reference to:
 - For an operator licence – the scale of the licence and the number of schemes operated under that licence.
 - For a retail licence – the scale of the licence.

This structure follows a 'user pays' principle as the burden of fees is distributed based on the amount of effort IPART and other departments put into application assessments and annual regulatory activities. We have used the scale of the licensed activities as a proxy for the level of effort. We explain how we arrived at our proposed fee structure in sections 4.1 and 4.2 below.

Our proposed fee structure is based on:

- partial cost recovery of the efficient costs incurred by the NSW Government in assessing applications for licences, scheme approvals and operating approvals (i.e. application fees)
- full cost recovery of the efficient costs incurred by the NSW Government caused by licensee activity on an ongoing basis (i.e. annual licence fees).

4.1 Application assessment costs and fees

The costs to Government of assessing an application under the WIC Act is mostly driven by the number of labour hours incurred by the IPART Secretariat in assessment-related tasks (i.e. reviewing applications, preparing licences and reports, and undertaking application-related administrative tasks). Other costs include labour hours used by:

- the Department of Planning and Environment (DPE) and NSW Health in reviewing applications and/or assessments
- the Tribunal in preparing and meeting to decide upon a recommendation to the Minister
- consultancy costs incurred in assessing applications that require an assessment under Part 5 of the *Environmental Planning and Assessment Act 1979* (EPA Act)
- internal and/or external legal reviews and other specialist consultancy.

Our proposed licence application fee structure is detailed in **Table 7**:

Table 7 Proposed application fees under the amended 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	4000

Note: Fees apply from July 2023.

4.1.1 Partial cost recovery of assessment costs

To lower the up-front cost for applicants seeking a licence or scheme approval, our proposed fee structure recovers fees on a partial cost recovery basis. Our proposed application fees recover around 20% of the estimated total costs to Government of assessing applications.

The amount and type of information received and assessed during the licence assessment process is similar under the existing and new regulatory structure. Therefore, historical costs provide good guidance when estimating costs under the new structure. There may be efficiencies found under the new framework where licensees and applicants will only need to undertake a streamlined scheme approval process rather than the existing lengthier licence variation process required for a new scheme.

We will monitor for efficiencies that can be realised under the new structure and review our fee structure within 5 years.

The cost of assessing applications is substantial. Application fees that reflected the total cost of assessments would create high barriers for new entrants to the private water industry and existing participants wanting to gain approval for new schemes. Discouraging new licences and scheme approvals would be detrimental to competition and innovation in the private water industry. Consistent with the objects of the Act, we consider a new fee system, where possible, should facilitate competition and encourage innovation in the water industry, by not restricting new entrants.^v

There are very few jurisdictions comparable to the NSW private water market. Our proposed fees are comparable to Western Australia's [water licensing fees](#) for the mining and public water supply sectors, where licence and permit application fees vary from \$172 to \$8929.

We are proposing fee increases, however existing licence application fees do not cover the cost of assessment and have remained nominally the same since their introduction in 2009. Our proposed fees better reflect the actual cost of assessment and allow fee levels to catch up with the increase in costs over the past 13 years.

4.1.2 We estimated assessment costs using historical assessment times

We estimated the cost of assessment based on the time taken to assess applications under the existing WIC Act framework. Under the existing WIC Act:

- Applications can be made for network operator licence or a retail supplier licence. To have a licence approved the applicant, and the proposed scheme, need to meet the criteria in section 10(4), and consideration must be given to the principles in section 7, of the WIC Act.
- Within these two types of licence applications, an application can be for a new licence, or for a variation of an existing licence. Assessing a variation may require less effort than in assessing the application for a licence.
- Under the existing WIC Act regulatory structure, we do not charge a fee for a variation.

In arriving at our estimates, we selected historical assessment time data, including:

- **Total assessment time** – that is the total number of weeks from when an application is received to when IPART's recommendation is sent to the Minister's office for consideration and approval
- **'Clock-on' time** – This is the time, in weeks, the IPART secretariat works on the assessment. When an application is incomplete, and/or more information is requested through a formal information request, then the assessment is 'clock-off' and this time, until the further information is received, is excluded from the clock-on time.

Using clock-on time data, we estimated costs by calculating variable labour cost (i.e. the assessing analysts' time), a fixed labour time component (i.e. managerial and legal review, technical support and Tribunal member time), and estimates of cost provided by DPE and NSW Health. Our cost estimates include salaries, labour on-costs and an overhead application.

Our data included:

- Low risk schemes – for example, the collection of sewage from a small number of domestic premises for treatment then disposal through irrigation to land (<50 connections)
- High risk schemes – for example, the collection and treatment of domestic sewage to produce recycled water that is then distributed to residential premises through dual reticulation (>750 connections).

Cost estimates are included in **Table 8**:

Table 8 Cost estimates for existing licence application assessments

Application characteristics	Estimated Cost (\$)
Large, complex, higher risk	111,800
Small, less complex, lower risk	39,300
Average of on-clock data sample (23 weeks)	86,550

4.1.3 Assessment times depend on several variables

Accurately estimating the time and cost incurred in assessing applications is difficult and requires the use of averages. The level of complexity or risk attached to a licensee or scheme will influence the time spent on an application assessment. Factors that make estimation difficult include:

- **Variability in quality of the applications.** Historically, some applications have required multiple RFIs and changes in scope due to the quality of the information provided. This is also related to the business maturity, and our prior knowledge of, the applicant. We will continue to address this issue with continuous improvements in application guidance and assessment processes.
- **Variability of the type of applicants.** Current licensees include domestic subsidiaries of multinational corporations and large institutional investors, small to medium domestic companies, an incorporated co-operative, and small single scheme corporations. The inherent risk and complexity of an applicant influences assessment times.
- **Variability of the size and type of water schemes.** Licensed schemes vary from single industrial customers, to small housing developments, to large housing developments or high-rise with thousands of small retail customers. The level of inherent risk attached to a scheme's operations influences the assessment time.
- **Different types of products or services provided by each scheme.** Products can include drinking water, recycled water and/or sewerage services. Recycled water can be sourced from several sources, such as ground water, dams or sewage, and licensed for many uses which may require different levels of treatment (e.g. toilet flushing, air conditioning, industrial processes, washdown, or irrigation).
- **Complexity of technology solutions.** There are different technology solutions for each scheme, for example a recycled water plant can be:
 - situated in the basement of a high-rise residential block and extract sewage to produce water to a high standard for cooling towers, or
 - situated in a rural area and treat sewage from a small number of homes and produce water to a lower standard for irrigation.
- **Complex legislative requirements of the WIC Act.** The WIC Act and related regulation contains complex application assessment requirements. Our assessment process is costlier for schemes that have more attached risk.

Our experience tells us the better prepared an application is, the less time, in *total* weeks, the application will take for us to assess. This is mainly because of less need for requests for information (RFIs), and the replies, which add time to the total assessment time.

4.1.4 Part 5 assessments are more costly

Our cost estimates for application assessments in section 4.1.2 do not include the cost of an assessment under Part 5 of the EPA Act. Not all applications will require a Part 5 assessment. This is generally decided on a case by case basis. We estimate the average cost to be around \$20,000 per assessment. This includes \$10,000 for an environmental assessment consultant, \$5000 for external legal advice and \$5000 for IPART internal legal advice.

4.1.5 Scheme assessment times will reduce but costs remain the same

We estimate that around 65% of costs in assessing a network operator licence under the existing WIC Act directly relates to assessing the scheme.

Our scheme assessment times will likely reduce under the new regulatory structure, and we will achieve this by placing more analysts on an assessment, but the total number of on-clock labour hours, and therefore the cost, to complete an assessment is expected to remain the same.

Under the new regulatory structure, we are required to complete scheme approvals within 90 days and operational approvals within 60 days. The 90-day and 60-day fixed assessment times will exclude (i.e. 'stop the clock' conditions will apply to) days the application is open for public submissions or requests for information are outstanding. The new fixed assessment time requirements will commence after the amended WIC Act 12-month transitional period has ended, that is, from March 2024.

4.2 Annual fees

Our proposed annual licence fee structure reflects the estimated cost of compliance activities under the new regulatory structure. The structure is described in **Box 1**.

Box 1 Annual Fees

The proposed fee structure has the following:

- An **operator licence** annual fee comprised of both a:
 - **licence component** – a base fee per licence determined by the category of the licence (see **Table 4**), and
 - **scheme component** – for each scheme, determined by the number and scale of operational schemes, that is schemes, or the stages within a scheme, that have received an *operational approval* (i.e. not the total number and scale of schemes *permitted* under the licence). Scale of schemes is determined by reference to our Scales Guide (see **Table 5**).
- A **retailer licence** annual fee determined by the number connections of largest scheme operated under the licence, as per the Scales Guide (see **Table 6**).

The scale categories within fee types in **Table 9** (i.e. from 1 to 3) represent increasing scale of size, complexity, and risk. For example, an operator licence with 1 scheme with a scale of A1 has a lesser degree of size, complexity, and risk than an operator licence with 6 to 20 schemes with scales of A2 and A3.

Licensees that operate multiple schemes are more likely, on average, to report non-compliances and incidents which would require annual audits. Likewise, schemes with a higher scale carry higher risk because of the greater consequences of any non-compliances and incidents. To better reflect the cost of regulating different scales of licences and schemes we have scaled the annual fees for operator licences depending on the number and scale of schemes that operate under a licence.

Our proposed annual fee structure is detailed in **Table 9**:

Table 9 Proposed annual fees under the amended WIC Act

Fee type	Category determination	Annual fee (\$)
Operator licence 1	1 scheme	1300
Operator licence 2	2 to 5 schemes	1900
Operator licence 3	6 or more schemes	2500
Scheme – scale 1	See scales in Table 5	1100
Scheme – scale 2	See scales in Table 5	3200
Scheme – scale 3	See scales in Table 5	4200
Retailer licence 1	30 to 249 customer premises per scheme	1300
Retailer licence 2	250 to 10,000 customer premises per scheme	1900
Retailer licence 3	10,001 or more customer premises per scheme	2500

Box 2 provides an example of annual fees for an operating licence:

Box 2 Annual fees examples

Example 1: A smaller licensee holds a retail licence and 1 operator licences under which they operate 1 scheme. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retail Licence	Licence category 1 - highest number of customer premises per scheme is between 30 and 249	1300
Operator licence	Category 1 licence - licence has 1 scheme	1300
Scheme	Category 1 scheme – category determined per scale guide	1100
Total annual fees	Total of all fee components	3700

Box 2 Annual fees examples

Example 2: A larger licensee holds a retailer licence and 10 operator licences under which they operate 10 schemes. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retail Licence	Category 2 licence - highest number of customer premises per scheme, among all schemes covered by the licence, is between 250 and 10,000	1900
Operator licences	Nine category 1 licences – each licence has 1 scheme (\$1300 each licence)	11,700
	One category 2 licence - licence has between 2 and 5 schemes	1900
Schemes	Four category 2 schemes – category determined per scale guide (\$3200 each scheme)	12,800
	Six category 3 schemes - category determined per scale guide (\$4200 per scheme)	25,200
Total annual fees	Total of all fee components	53,500

Example 3: A licensee with a single commercial/industrial customer and high volumes of water production. The licensee's annual licence fees are calculated as:

Fee component	Scale	Fee (\$)
Retail Licence	Licence category 1 - highest number of customer premises per scheme is between 30 and 249	1300
Operator licence	Category 1 licence - licence has 1 scheme	1300
Scheme	Category 3 scheme – category determined per scale guide	4200
Total annual fees	Total of all fee components	6800

4.2.1 We estimated average annual compliance costs per licence

The compliance framework under the new WICA regulatory structure will be largely unchanged from the existing arrangements. IPART will continue to:

- monitor all licensees for compliance, for example via audits
- undertake 5-yearly reviews of licences and approvals^{vi}
- require annual statements of compliance from licensees and prepare an annual compliance report to the Minister.

The cost of compliance activities can vary from year to year, and from licensee to licensee. The main drivers of variations in compliance costs between licensees and schemes are licensees' compliance history and the occurrence and type of reportable incidents.

For example, if a licensee has a good compliance history, with no significant incidents reported, and no material non-compliances (i.e. non-compliance with regulatory or licence conditions) detected during annual audit activities, then the licensee is only audited once every 2 years. This halves the average annual compliance cost to IPART for that licensee.

A reportable incident is an incident that threatens, or could threaten, water quality, public health or safety, for example a sewage overflow, an out-of-range sample reading or a substantial customer billing error. A reportable incident may require a simple desktop review at low cost, or a long and complex investigation at substantial cost. Therefore, reportable incidents add variability to annual compliance costs because of their unpredictable occurrence, and unpredictable severity.

Some aspects of annual compliance are consistent across licences and schemes. For example, the cost to IPART of initiating, attending, and reviewing annual audits is mostly constant across licences and schemes.

Based on historical annual compliance activities under the existing WIC Act regulatory structure, we have estimated the annual compliance cost per licence by including an estimated average IPART, DPE and NSW Health labour cost, including on-costs and an overhead application. We estimate the average annual cost of compliance for a licence to be \$4970 per year, and for a 5-year review of a licence to be \$8900 every 5 years.

4.2.2 Impact on existing licensees and customers is minimal

We modelled the impact of the proposed new annual fee structure on existing licensees by comparing what licensees paid in 2021 to what they will pay in 2023. We found that annually:

- six licensees would pay between \$1300 and \$19,700 less
- two licensees would pay between \$400 and \$1300 more
- revenue collected from all licensees would be \$49,600 less.

One licensee could realise further reductions in annual fees by moving the operations of multiple schemes under fewer, or even a single, operator licence.

Although there are substantially lower fees for most licensees, the new fee levels better represent the actual cost that those licensees impose on the Government. That is, the lower fees are justified on a cost recovery basis.

Overall, there is a reduction in annual fees. The changes in fee levels should not have detrimental or unintended consequences as annual fees are a relatively small contribution to the total cost for licensees to meet other annual regulatory requirements, in particular the cost of engaging external auditors. However, where possible, we expect any cost savings from regulatory fees to be passed through to customers.

4.3 We will index fees by CPI

Fees under the existing WIC Act fee structure have not nominally increased since introduced in 2009. To align the fee structure with the costs of regulatory activities we propose to increase fees annually by a rate equivalent to inflation. We have selected Sydney CPI as an index that most closely reflects the increases in cost to the Government over time.

We propose to and adjust the Sydney CPI index by IPART’s annual productivity factor. This means fees will increase by slightly less than inflation each year. This allows for costs to increase consistent with economy-wide movements in price, minus an allowance for efficiency gains. IPART’s annual productivity factor is the rolling 15-year average of the Australian Bureau of Statistics’ market sector value-added multifactor productivity based on quality adjusted hours worked.

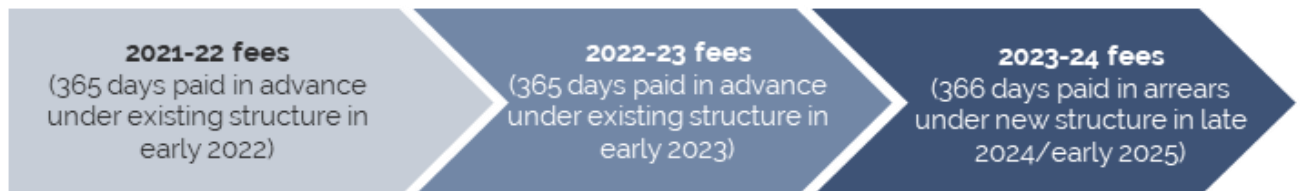
4.4 Transitioning to the new annual fee structure

Under the existing fee structure, annual fees for operator licences are levied in advance and retail licences in arrears. Under the new fee structure, for simplicity, we propose to levy all annual fees in arrears. We will transition licensees to the new fee structure from 1 July 2023 (i.e. the date the new WIC reg commences).

For licensees that will no longer require a licence under the amended WIC Act, we will only charge fees up to 30 June 2023.

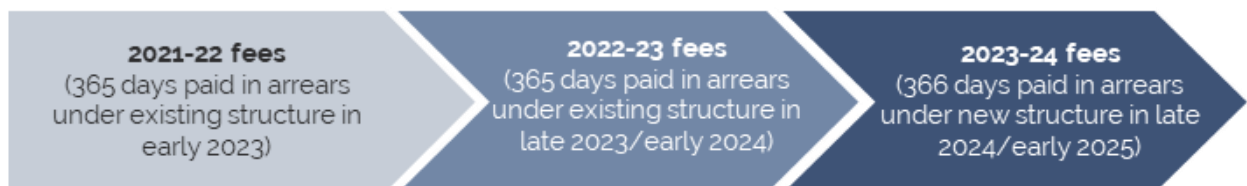
For operator licences transitioning to the new fee structure, we have levied fees in 2023 for network operator licences for the period from 1 July 2022 to 30 June 2023 (i.e levied in advance). When the new WIC Reg has commenced, we will levy fees for the period of 1 July 2023 to 30 June 2024 in arrears in late 2024 or early 2025. Any adjustment for over/under advance payment will be made once the new fee structure is approved by the Minister. **Figure 1** illustrates how we will transition annual operator fees from the existing fee structure to the new structure.

Figure 1 Transition of operator licence annual fees



Under the existing fee structure, annual retail licence fees are already paid in arrears. To transition these licences to the new fee structure for 2022-23, we propose to levy the existing fee structure to 30 June 2023, and levy the new fee structure from 1 July 2023. **Figure 2** illustrates how we will transition annual retailer fees from the existing fee structure to the new structure.

Figure 2 Transition of retailer licence annual fees



After 30 June 2024 both operator and network annual fees will be levied in arrears for the previous financial year.

4.5 Review of fee structure commenced after 5 years

Consistent with Australian Government guidance on cost recovery, we propose commencing a review of our fee structure within 5 years. This is so we can make sure that our fee structure accurately reflects the actual historical costs of regulatory activities.^{vii} [We would like to hear your views on this matter by 14 April 2023.](#)

Appendices



A Our cost recovery approach

In deciding upon a fee structure under the new WIC Act regulatory structure, we used a cost recovery approach. That is, we propose:

- application fees that partially cost recover the actual costs to Government of assessing an application for a licence, scheme approval or operational approval
- annual fees that are equivalent to the actual costs to Government of administering the regulatory activities of operators and retailers under the WIC Act.

A.1 IPART has the power to collect fees

IPART has the power to collect fees. The Amendment Act allows IPART to collect application fees and annual fees from licensees.^{viii} IPART does not however have power to collect application fees for:

- licences and approvals licences granted to replace existing licences
- an application for a licence or approval by a person in relation to an existing unlicensed scheme.^{ix}

A.1.1 The existing fee structure is based on best estimates

The existing fee structure was set in 2009 and based entirely upon best estimates of actual costs. Accurately setting fees was complicated as there was no available:

- actual historical costs for reference
- directly comparable regulatory structures or
- industry benchmarks.

For this review historical cost data was available to allow for more accurate, cost reflective, fee setting.

A.2 Fees are appropriate for WIC Act activities

We consider fees to be the most appropriate way to recover the cost of administering the WIC Act.

Australian Government guidance advises fees should be recovered from those who caused the demand for government services and match that fee with the costs of providing that service.

Table A.1 describes how we applied criteria in the guidance to WIC Act activities.

Table A.1 Criteria used in deciding to charge WIC Act fees

Criteria	Does criteria apply?	Are fees appropriate?
<p>A government should and can charge for an activity:</p> <ul style="list-style-type: none"> to achieve policy outcomes where those who create the demand for the activity can be identified and can pay. 	<ul style="list-style-type: none"> Policy outcomes are contained in the WIC Act Demand for regulatory activity is created by private water utilities. 	<p>Fees charged on a full or partial cost-recovery basis are appropriate where the charge is for:</p> <ul style="list-style-type: none"> a good, service or regulation made to a specific individual or organisation regulatory activities, such as licensing and monitoring.

Source: *Australian Government Department of Finance, Australian Government Charging Framework Resource Management Guide No. 302, July 2015, p 11-12.*

The Australian Government's charging framework guidance compares fee with levies (among other types of revenue raising). Of all revenue paths, we consider cost recovery fees are the most appropriate for WIC Act activities. For clarity in communications with stakeholders, we use the term 'annual fees' to also describe 'levies' for annual regulatory activities:

Table A.2 Types of government revenue

Type of revenue	Examples	Basis of calculation
Cost recovery fees	<ul style="list-style-type: none"> Registrations Applications Licences 	Charges must reflect efficient unit cost of a specific good or service
Cost recovery levies	<ul style="list-style-type: none"> Monitoring compliance Investigations Enforcement 	Charges must reflect efficient overall costs of the activity
Resource charges	<ul style="list-style-type: none"> Rights and privileges, including licences to access IP or natural resources Also includes lease and use of public property or infrastructure 	Charges generally based on the potential value of the activity to the recipient
Commercial pricing	<ul style="list-style-type: none"> Sale of publications or data Provision of specialist expertise Advertising and sponsorship 	Charges generally based on market rates
Fines and penalties	<ul style="list-style-type: none"> Fines, including statutory fines and enforcement penalties 	Amounts of fines and penalties relate to specific criminal sanctions
General taxation	<ul style="list-style-type: none"> Specific taxes, non-cost recovery levies, excises and customs duties 	Taxes generally do not relate to a specific activity or its costs (i.e. raise general revenue)

Source: *Australian Government Department of Finance, Australian Government Charging Framework Resource Management Guide No. 302, July 2015, p 5.*

Where appropriate, non-government recipients of specific government activities should be charged some or all the costs of those activities. A cost recovery policy promotes consistent, transparent and accountable charging for government activities and supports the proper use of public resources.^x

Key considerations when deciding on which activities are appropriate for cost recovery are:

- will government be the only provider of the activity?
- who might be charged (e.g. is there an identifiable individual, organisation or group that receives the activity or creates the need for the activity?)

- the impact of cost recovery on competition, innovation or the financial viability of those who may need to pay charges and the cumulative effect of other government activities
- whether it is efficient to cost recover the activity (e.g. are the costs of administering cost recovery appropriate to proposed charges for and revenue from the activity?)
- how cost recovery might affect:
 - the policy outcomes for the activity
 - other government policies and legislation (e.g. policies relating to access to essential community services)
 - Australia's obligations under international treaties (e.g. free trade agreements).^{xi}

We also aim to minimise cost recovery charges through the efficient implementation of cost recovered activities. The 3 principles that that we apply to our cost recovery process are:

1. efficiency and effectiveness
2. transparency and accountability
3. stakeholder engagement.^{xii}

A.3 We undertake activities efficiently and effectively

We have applied principles of good governance in applying a cost recovery approach to the proposed fee structure.

Good governance is both efficient and effective. Efficiency and effectiveness in government involve making the proper use of available resources to achieve government policy outcomes. Government activities should meet quantity, quality and other targets, be undertaken at minimum cost, and be conducted in accordance with applicable policy and legislative requirements.^{xiii}

For a cost recovered activity, efficiency also relates to whether it is efficient to provide the activity on a cost recovery basis (i.e. the costs of administering cost recovery should be proportional to the charges for and potential revenue from the activity). Effective cost recovery includes appropriate revenue management.^{xiv}

A cost recovery model should align the costs involved in providing an activity and the revenue raised through related charges and fees. Cost recovery charges should be:

- clear and easy to understand
- closely linked to the specific activity
- set to recover the full efficient costs of the specific activity
- efficient to determine, collect and enforce
- set to avoid volatility, while still being flexible enough to allow for changes based on fluctuations in demand or costs.^{xv}

Ideally, the expenses and revenue should be aligned on a yearly basis. However, where justified, they can be aligned over a longer period (e.g. the business cycle of the activity). Government entities should develop mechanisms (e.g. internal control systems) to manage any under- or over-recovery. There must not be systematic over- or under-recovery of costs.^{xvi}

B Existing fee structure

B.1.1 Application fees

The same application fee applies across all licences. **Table B.1** outlines the existing WIC Act application fee structure.

Table B.1 Application fee structure

Application type	Application fee (\$)
Network operator licence	2500
Retail supplier's licence	2500
Both a network operator licence and retail supplier's licence	5000

Source: [IPART website](#)

B.1.2 Annual licence fees

Table B.2 lists the existing annual licence fees that apply to each licence type.

Table B.2 Annual licence fees

Licence type	Category	Annual licence fee (\$)
Network operator	Small	2000
Network operator	Medium	4000
Network operator	Large	9000
Retail supplier	Small	1000
Retail supplier	Medium	3000
Retail supplier	Large	6000

Table B.3 details how licence categories are determined when issuing fees.

Table B.3 Licence categories for determining annual fees

Licence type/activities	Small	Medium	Large
Network operators of all water/sewerage infrastructure (excluding sewer mining systems or works only)	0-250kL/day capacity	250-750kL/day capacity	>750kL/day capacity
Network operators of sewer mining systems or works only	0-500kL/day conveyed, extracted or treated	500-1,500kL/day capacity conveyed, extracted or treated	>1,500kL/day capacity conveyed, extracted or treated
Retail Suppliers	0-250kL/day supplied or conveyed	250-750kL/day supplied or conveyed	>750kL/day supplied or conveyed

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- i WIC Act, sections 9 and 85.
 - ii WIC Act, section 86.
 - iii WIC Act, section 8E.
 - iv WIC Act, section 8F.
 - v Amendment Act, section 2A(e).
 - vi Amendment Act, section 85(2)
 - vii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 17.
 - viii Amendment Act, sections 12(1)(d) and 8N(1)(a).
 - ix Amendment Act, Schedule 4, Part 4, sections 10(4) and 14(3).
 - x Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl. 10.
 - xi Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl. 11.
 - xii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 15.
 - xiii Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 24.
 - xiv Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 25.
 - xv Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 36.
 - xvi Australian Government Department of Finance, *Australian Government Cost Recovery Guidelines (RMG 304)*, cl 37.