
Department of Planning and Environment

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Applying for water treatment and sewerage works approvals

Guidance

October 2022



Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Applying for water treatment and sewerage works approvals

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1 Introduction

The 'Regulatory and assurance framework for local water utilities' (regulatory and assurance framework) outlines how the Department of Planning and Environment applies its risk-based and outcomes-focused approach to the regulation and assurance of local water utilities.

Local water utilities include:

- local government councils exercising water supply and sewerage functions under Division 2 Part 3 Chapter 6 of the NSW *Local Government Act 1993* (Local Government Act)¹
- water supply authorities exercising water supply and sewerage functions under the NSW *Water Management Act 2000* (Water Management Act).²

Section 5 of the regulatory and assurance framework outlines the implementation of the assessment and approval function for local water utility works. As shown in Figure 1, under section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act, the Minister for Lands and Water is responsible for approving local water utility works, including:

- construction or extension of water treatment works by a council (section 60(b) of the Local Government Act)
- provision of sewage from its area to be discharged, treated, or supplied to any person by a council (section 60(c) of the Local Government Act)
- construction, maintenance, and operation of water management works and other associated works (including water treatment works and sewage works) by a water supply authority (section 292(1)(a) of the Water Management Act)

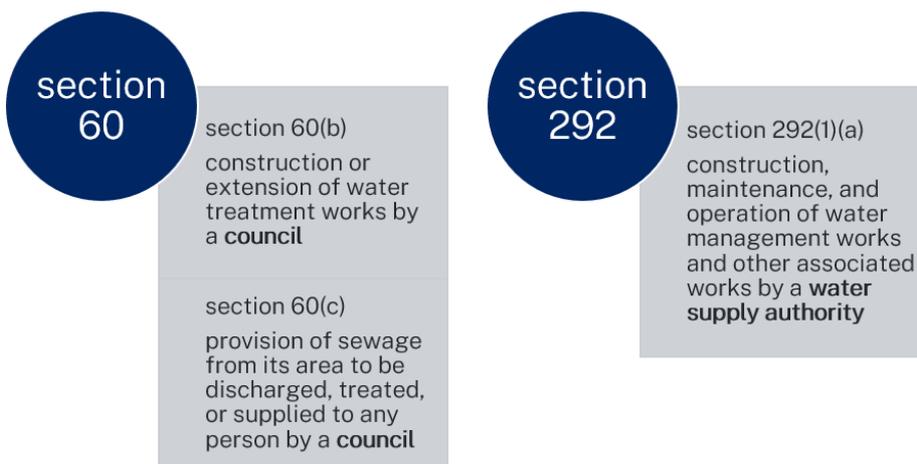


Figure 1. Works that need approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act

¹ A list of the local government councils exercising water supply functions under the Local Government Act is available at: www.industry.nsw.gov.au/water/water-utilities/local-water-utilities

² The following utilities are exercising water supply functions under the *Water Management Act 2000*: Central Coast Council, Cobar Water Board, Essential Energy, and WaterNSW for the Fish River Water Supply.

In the regulatory and assurance framework and this guidance, sewage and water management works include works for producing recycled water from sewage.

The minister has delegated the responsibility for assessing and approving applications made under section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act to the department. The purpose of this document is to provide additional guidance for local water utilities making such applications.

1.1 Roles of the department

As outlined in section 2.1 of the regulatory and assurance framework, the department may engage with local water utilities in various capacities. These roles (depicted in Figure 2) include:

- setting of statewide policy and state and regional strategies
- giving advice and providing support
- providing regulation and assurance
- funding.

The department performs these roles to ensure local water utilities are managing potential areas of risk appropriately.



Figure 2. The roles of the department

These 4 roles operate in a distinct manner but will interact and intersect.

The department performs its regulatory and assurance roles to manage sector-wide and local water utility-specific risks. These roles reflect the department's diverse expertise and independence. This

is supported by the sector, which broadly acknowledges that it is reasonable for the department to play a leading role in managing risks by providing oversight and assurance.

In addition to our regulatory role, we give technical and other advice to local water utilities both proactively and whenever requested. We will always seek to clearly distinguish between our regulatory role and advisory and support role.

Before planning for any proposed works, we encourage local water utilities to proactively engage with the department. A fact sheet providing an overview about how local water utilities can access our optional advice and support services on proposed water treatment and sewerage works is available in Attachment A.

We give advisory and technical guidance without charge. However, this guidance cannot be considered binding on the department's exercise of approval functions under section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act.

Where appropriate, this guidance will also refer to the department's advisory and support functions.

1.2 How to use this guidance document

This document acts as supplementary guidance to the 'Regulatory and assurance framework for local water utilities' and covers the assessment and approval of proposed works.

This guidance provides further detail on the department's regulatory expectations and adheres to the regulatory and assurance objectives and principles established under the regulatory and assurance framework (outlined in section 2).

This document:

- sets out the regulatory requirements for proposed works
- provides a planning and application guide
- describes how the department assesses an application after it is submitted by a local water utility
- describes how a local water utility can address the criteria
- provides templates and case studies to help utilities achieve regulatory expectations and gain approval.

This guidance is for the regulatory assessment and approval of proposed works. Where the department or another NSW Government agency is providing funding for works, separate guidance will be issued by the funding body.

1.3 Reviews of this guidance document

We will update this guidance document as required to ensure continuous improvement.

As part of our commitment to continuous improvement, we will conduct a performance review of the implementation of the 'Regulatory and assurance framework for local water utilities' and associated guidance materials, within 2 years from implementation and/or where a change in legislation renders it outdated. There will also be regular periodic reviews of the full suite of relevant regulatory documents, which will happen at least every 5 years.

2 Regulatory requirements for approval of proposed works

Prior to the construction of some water and sewage works, local water utilities must have an approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act.

Local water utilities undertake water and sewage works to deliver essential water supply and sewerage services to their customers and to manage key areas of risks for:

- water security (including continuity of service)
- water quality
- the environment
- assets and infrastructure
- customers
- financial sustainability of the local water utility.

Water and sewage infrastructure works are often large and infrequent investments with a long design life. In our regulatory role of assessing and approving works, we seek to ensure that works are fit for purpose, manage relevant risks, and provide robust and safe infrastructure for customers of local water utilities.

Section 5 of the regulatory and assurance framework outlines a process designed to enable the assessment and approval function. Before commencing any such works, it is the responsibility of a local water utility to apply to the department for assessment and approval of works under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act.

The guidance in this section provides further detail on regulatory expectations in our regulatory function of assessing and approving proposed works.

Specifically, section 5 of the regulatory and assurance framework establishes:

- what specific water treatment, recycled water and sewage works need approval
- what criteria and matters are considered by the department when assessing applications and making decisions under section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act
- when applications should be made by local water utilities
- what information should be submitted with an application
- our assessment and approval process
- our compliance and enforcement options
- opportunity for reviews of departmental decisions.

2.1 When an approval is needed

Local water utilities may need to undertake works to:

- meet level of service requirements for water supply and sewerage services
- cater for growth in demand for water supply and sewerage services
- comply with regulatory expectations
- improve the quality of water discharged to waterways
- respond to changes in raw water quality
- reduce supply discontinuity and service disruptions.

However, not all works will require approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act.

Section 5.1 of the regulatory and assurance framework provides a list of works that need approval and those that do not. These are summarised in Table 1. Further details are provided in:

- Table 2 for water treatment works that need approval
- Table 3 for sewerage works (including recycled water works) that need approval
- Table 4 for water treatment works that do not need approval
- Table 5 for sewerage works (including recycled water works) that do not need approval.



If a local water utility is uncertain about what works require approval, they should contact the department by emailing section60@dpie.nsw.gov.au.

Table 1. Works that require approval under section 60 of the Local Government Act and section 292 (1)(a) Water Management Act

| Work type | Works that need approval | Works that do not need approval |
|---|---|--|
| <p>Construction or extension of water treatment works by a council</p> <p>Section 60(b) Local Government Act</p> | <ul style="list-style-type: none"> • New water treatment plant • Augmentation of a water treatment plant • Replacement of a water treatment plant • Adding new treatment processes | <ul style="list-style-type: none"> • Replacement of treatment unit in a water treatment plant • Construction or extension of water supply network • Construction of raw water supply pipelines |
| <p>Provision of sewage from its area to be discharged, treated, or supplied to any person</p> <p>Section 60(c) Local Government Act</p> | <ul style="list-style-type: none"> • New sewage treatment plant or water recycling plant • Augmentation of a sewage treatment plant with or without recycling capability • Adding new treatment processes • New sewage collection network • New network for supplying recycled water • New discharge of treated sewage to the environment | <ul style="list-style-type: none"> • Replacement of treatment unit in a sewage or recycled water treatment plant • Minor extension of sewage collection network |
| <p>Water management works and other associated works</p> <p>Section 292 Water Management Act</p> | <ul style="list-style-type: none"> • New water treatment plant • Augmentation of a water treatment plant • Replacement of a water treatment plant • Adding new treatment processes • New sewage treatment plant or water recycling plant • Augmentation of a sewage treatment plant with or without recycling capability • New sewage collection network • New network for supplying recycled water • New discharge of treated sewage to the environment | <ul style="list-style-type: none"> • Replacement of treatment unit in a water treatment plant • Construction or extension of water supply network • Construction of raw water supply pipelines • Replacement of treatment unit in a sewage or recycled water treatment plant • Minor extension of sewage collection network |

Works that need approval

The works listed in Table 2 and Table 3 require approval under section 60 of the Local Government Act or section 292(1) of the Water Management Act.

Water treatment works that need approval

Table 2. Water treatment works that need approval under section 60(b) of the Local Government Act or section 292(1) of the Water Management Act

| Water treatment works | Examples |
|---|---|
| New water treatment plant | <p>An entirely new water treatment plant may need to be constructed, for example to meet:</p> <ul style="list-style-type: none"> • growth in demand due to population growth • customer expectations for water services. <p>The local water utility may have constructed and operated similar treatment plants before or not. In both cases, approval is required before construction.</p> |
| Augmentation of a water treatment plant | <p>Augmentation of a water treatment plant may be needed, for example to:</p> <ul style="list-style-type: none"> • increase water supply capacity of treatment plant to meet growth in demand for safe drinking water • reduce single points of failure within the system that result in service disruptions and outages (or boil water notices) to provide redundancy and reliability within the system. <p>This could include new treatment processes or duplication of existing processes (such as adding parallel trains). All cases require an approval.</p> |
| Replacement of a water treatment plant | <p>In some cases, full replacement of a water treatment plant may be needed, instead of upgrading parts or augmenting the plant. For example, where:</p> <ul style="list-style-type: none"> • most assets are nearing end of service life, making full replacement of water treatment plant more economical than part upgrades • changes such as poorer raw water quality due to climate change or changes to health guidelines, render the design no longer fit for purpose. <p>Construction of any replacement of a water treatment plant requires an approval, regardless of whether the new process train is the same or different to the existing plant.</p> |
| Adding a new treatment process | <p>New treatment processes may need to be added to an existing plant, for example to:</p> <ul style="list-style-type: none"> • handle poorer raw water quality due to things such as changes to climate or water catchment from prolonged drought or intense rainfall periods • meet more stringent health guidelines for supply of safe drinking water • manage operational risks, such as reducing chemical handling. <p>Any time a new treatment process is added to a treatment plant (not a like-for-like replacement of a treatment unit), an approval will be required.</p> |

Sewerage works (including production of recycled water) that need approval

Table 3. Sewerage works that need approval under section 60(c) of the Local Government Act or section 292(1) of the Water Management Act

| Sewerage works | Examples |
|---|---|
| New sewage treatment plant or water recycling plant | <p>An entirely new sewage treatment plant or water recycling plant may need to be constructed, for example to meet:</p> <ul style="list-style-type: none"> • growth in demand for sewerage services due to population growth • more stringent discharge requirements. <p>The local water utility may have constructed and operated similar treatment plants before or not. In both cases, approval is required before construction. This could include replacement of a sewage treatment plant or water recycling plant.</p> |
| Augmentation of a sewage treatment plant with or without recycling capability | <p>Augmentation of a sewage treatment plant may be needed, for example to:</p> <ul style="list-style-type: none"> • increase capacity to manage larger flows and loads of sewage due to population growth and increased development • reduce single points of failure within the system that result in service disruptions and outages to provide redundancy and reliability within the system. <p>This could include new treatment processes or duplication of existing processes (such as adding parallel trains). Approval is required in all cases.</p> |
| Adding a new treatment process | <p>Adding any new process to the treatment train to improve effluent quality, treatment efficacy or other improvements (e.g. operational safety) will require an approval.</p> <p>This could include, for example:</p> <ul style="list-style-type: none"> • changing existing process to achieve more reliable effluent quality • adding additional process units for improved reliability in effluent quality • adding an additional pre-treatment unit to protect downstream units or improve their performance, for example, new inlet works. |
| New sewage collection network or new network for supplying recycled water | <p>An approval is needed to add sewage collection to an area that was previously not serviced or to introduce a new recycled water supply network. This does not include minor extensions to connect a small number of customers to an existing network area.</p> |
| New discharge of treated sewage to the environment | <p>Any new discharge to land or water will require an approval. This could include, for example, a:</p> <ul style="list-style-type: none"> • new irrigation scheme • change in discharge location for an existing discharge to waterway • new discharge to waterway. |

Works that do not need approval

The works listed in Table 4 and Table 5 do not require approval under section 60 of the Local Government Act or section 292(1) of the Water Management Act.

In addition, approvals are not required for maintenance activities that do not impact on process. This includes maintenance or repair of equipment, for example, like-for-like valve replacements and sensor and instrumentation upgrades.

Water treatment works that do not need approval

Table 4. Water treatment works that do not need approval under section 60(b) of the Local Government Act or section 292(1) of the Water Management Act

| Water treatment works | Examples |
|---|--|
| Replacing a water treatment unit | When replacing a water treatment unit that is like-for-like and meets the same performance outcomes, no approval is required under section 60 of the Local Government Act or section 292(1) of the Water Management Act. For example, replacing an open UV channel with another like-for-like open UV channel. There is no change to the raw water quality characteristics and the unit delivers the same dose and meets the same treatment standard or performance target. |
| Construction or extension of supply network | Where a water supply network is constructed or extended, no approval under section 60 of the Local Government Act or section 292(1) of the Water Management Act is required. |
| Construction of raw water supply pipelines | Construction of raw water supply pipelines, including any rising main construction, does not require approval under section 60 of the Local Government Act or section 292(1) of the Water Management Act. |

Sewerage works (including production of recycled water) that do not need approval

Table 5. Sewerage works that do not need approval under section 60(c) of the Local Government Act or section 292(1) of the Water Management Act

| Sewerage works | Examples |
|---|---|
| Replacement of a treatment unit in a sewage or recycled water treatment plant | <p>When replacing a sewage or recycled water treatment unit that is like-for-like and meets the same performance outcomes, no approval is required under section 60 of the Local Government Act or section 292(1) of the Water Management Act.</p> <p>For example, a membrane unit that has reached the end of its service life and requires replacement with the same type of membrane. Provided it is a like-for-like replacement and no changes have been made to the specifications and performance outcomes, no approval will be required.</p> |
| Minor extension of sewage collection network | <p>Sub-divisions or reticulation extensions do not require approval under section 60 of the Local Government Act or section 292(1) of the Water Management Act.</p> <p>For example, a sewage collection network may exist in an area, and a small number of customers that currently rely on onsite treatment are to be connected to it. The works involve a minor extension to connect these additional customers, but no new sewer mains are required.</p> |

2.2 Matters that must be considered before granting approval

The department is required to consider certain matters before granting approval.

An approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act may be granted if certain matters have been satisfied. These include:

- provision of relevant documents in council’s possession, such as plans and specifications of the construction or extension in question, and documents and data that are relevant to the construction or extension in question
- provision of any documents or information the minister needs to be satisfied of the council’s competency to carry out the construction or extension in question
- more documents and information as required by the minister, including those for any inspections of the work and the site of the work that that the minister directed the council to carry out.

These matters comprise the provision of relevant documents and information and will form the basis of all assessment processes and criteria as detailed in Section 5.2 of regulatory and assurance framework. When preparing applications, local water utilities should always consider these matters and criteria.

The outcomes-focused criteria we will apply to assess an application are set out in section 5.2 of the regulatory and assurance framework and are repeated here for ease of reference.

These criteria include if the proposed works:

- are fit for purpose
 - Are the proposed works identified in the local water utility's strategic planning?
 - Does the local water utility have in place effective, evidence-based strategic planning in accordance with section 3 of the 'Regulatory and assurance framework for local water utilities'?
 - Is there another strategic justification for the works?
 - Have technical options for the works been considered adequately?
 - Does the scope of the works meet the intent of the project?
- can manage risks
 - What technical or operational risks are the works intended to overcome or mitigate?
 - Have these risks been considered as part of the design of the proposed works?
 - Will the proposed works manage these risks?
- can meet public health and environmental standards
 - Are the proposed works able to meet the Australian Drinking Water Guidelines, Australian Guidelines for Water Recycling, and other relevant health regulations and standards?
 - Are the proposed works able to meet relevant environmental regulations and standards?
- can meet relevant regulations
 - Are the proposed works capable of adhering to relevant industry standards and regulations related to the design and construction of infrastructure and the management of water supply and sewerage services?
- are aligned to the competency of the local water utility
 - Is the local water utility itself competent to carry out the proposed project or has it engaged another party who has the capability or competency to do so?

For applications under section 292 of the Water Management Act, we will consider whether the proposed works are consistent with water sharing plans, water management principles, and the objects under the Water Management Act.

We will not consider cost-effectiveness when assessing applications under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act. We expect local water utilities to consider cost-effectiveness in all decisions, including those for infrastructure investment. We consider cost-effectiveness in the context of the strategic planning assessment (outlined in section 3 of the regulatory and assurance framework).

Where the department or other NSW Government agencies are providing funding for the works, a cost effectiveness and value-for-money assessment may be completed separately as part of that funding decision, for example under the [Safe and Secure Water Program](#).

Safe and Secure Water Program

The Safe and Secure Water Program is a \$1.1 billion regional infrastructure co-funding program for eligible water and sewerage projects in regional NSW. The key outcomes of the program are to improve public health, water security, environmental outcomes and social benefits.

Since starting in 2017, the program has completed 27 projects across the state. The NSW Government works in partnership with 92 local water utilities to ensure all NSW communities have safe, secure and sustainable water supply and sewerage services. Funding is prioritised to regional communities facing the most significant risks to water and sewerage services.

The NSW Government has committed \$282 million to 127 projects across 68 local water utilities that are currently being delivered, which will provide:

- water security – a secure water supply to 429,000 people that were previously at high risk of running out of water
- water quality – High quality drinking water to 171,000 people where water quality does not meet the Australian Drinking Water Guidelines
- environmental outcomes – Improved environmental outcomes to 123,000 people.

Contact details

For all enquires contact the Safe and Secure Water Program

Phone: 1300 176 011

Email: sswp@dpie.nsw.gov.au

3 The assessment and approvals process

3.1 Overview of the process

Section 5.5 of the regulatory and assurance framework outlines the assessment and approval process for works, including review, compliance, and enforcement options. The process follows the objectives and principles in sections 2.2 and 2.3 of the regulatory and assurance framework.

Figure 4 outlines the steps in the assessment and approvals process and shows that local water utilities should expect an application determination within 60 working days of the department receiving a completed application (phases 2, 3 and 4). If we require additional information, we will request it in writing, update the public register to 'status of assessment incomplete' and 'stop the clock' until we receive the information.

A local water utility can always withdraw, amend, or resubmit an application at any time. In these cases, the 'clock' for assessment and approval would restart.

A local water utility can access the advisory and support services of the department at any time. Before planning for any proposed works, we encourage local water utilities to proactively engage with the department. This engagement may include an informal discussion about the strategic context of the works proposed. Access to our advisory and support service is also available for strategic and technical advice throughout the life of the project from the options-consideration phase through to construction and operation.

However, our advisory and support role is separate from our regulatory role for assessment and approval of works.



Figure 3. Approvals process for section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act

Phase 1 – Initial engagement before making a submission

Prior to submitting for approval, we strongly encourage local water utilities to engage with the department on their application. In our regulatory role, we can discuss completion of the template application form and any background information held by the local water utility that should be submitted as part of the application. We can also explain the matters that we must consider before granting approval of an application and what documentation and evidence is required to demonstrate that the local water utility can meet the approval criteria.

Seeking input from the department at the initial phase can help local water utilities understand their regulatory requirements and better position their application for the approval process.

While local water utilities can leverage the department's advisory and support role during the life of a project, any advice given under the advisory role cannot be considered binding on a formal determination.

Phase 2 – Submission of written application (starts the clock)

To seek approval for works, a local water utility must make a written application to the department using the online application form requesting approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act. The online application form is available via our [WAMS portal \(Water Actions Management System\)](#).

An application can be made at any time prior to construction and detailed documentation is required for assessment. The department encourages local water utilities to apply for assessment and approval at the earliest stage in their project where all required documentation is available. The essential application documentation is outlined in Table 8 of this document. Local water utilities should submit applications early to give the department enough time to make an assessment before construction commences – the 'clock' time is 60 working days. Local water utilities bear the risk associated with submitting an application at the later stages of planning and development.

The application needs to address the works proposed, why the works are proposed, and how the works will meet the local water utility's strategic goals, including meeting their customers' needs.

The submission should also include all relevant materials and supporting documentation set out in Table 8.

Phase 3 – Assessment of the application

The department will assess the application and all material supplied to make a decision. All applications will be assessed against the criteria before granting approval. If necessary, we may request additional information in writing to the local water utility.

We may use internal resources or commission an independent expert or an independent expert panel to do all or part of the assessment and make recommendations to the department.

If we are aware of other relevant information that has not been provided in the submission, we will provide the local water utility with the opportunity to comment before considering that information in the assessment.

We will seek input from other regulators of the local water utility with the intention of agreeing on design outcomes that fulfill all relevant regulatory requirements. Where other regulators require additional information, we will communicate this request to the local water utility in writing. Other regulators are responsible for overseeing and supporting local water utilities within their own regulatory frameworks.

Where any additional information is requested from a local water utility or other regulators, we will 'stop the clock' on the decision period until we receive the information. This will be reflected on the

public register. Additional information given to the department is assessed as part of the application. If needed, we or the local water utility may initiate further meetings to clarify an information request.

Assessment and recommendations may be subject to an internal peer-review process. We expect to trigger this process for all applications in the first two years of the framework. The internal peer-review process involves a departmental staff member not involved in the assessment reviewing the submission, assessment and recommendation to provide quality assurance of the assessment process. This internal peer-review process is distinct from the formal decision-review process detailed in section 6 of this guidance and section 9 of the regulatory and assurance framework.

Phase 4 – Approval within 60 working days

A senior executive in the department with the appropriate delegation will make a decision within 60 working days. The department will communicate the decision to the local water utility in writing and include reasons reflecting the matters that must be addressed before the department grants approval.

We will either:

- approve the works
- approve the works subject to conditions
- not approve the works.

Where consideration of an application for approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act requires assessment under Part 5 of the NSW *Environmental Planning and Assessment Act 1979*, the 60-working-day timeline may be extended with written notice to the local water utility.

We will publish the decision (including conditions, as appropriate), our reasons and any approval instrument on our website.

Subject to the conditions set out in section 5.5 and as described in section 9 of the regulatory and assurance framework, local water utilities can request internal review of applications under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act. See section 6 of this guidance for more information. Decisions may also be subject to review under administrative law.

As part of implementing this regulatory and assurance framework, the department will embed an internal quality assurance framework. This will assess and monitor its performance against several metrics and be used to inform improvement opportunities and initiatives. Our adherence to giving approval within the 60 working day timeframe is one such measure. We will publish performance results publicly each year, analyse trends and take proactive measures to respond to results and trends.

Phase 5 – Monitoring compliance with conditions

If an approval is given subject to conditions, we will monitor the progress of the works to ensure those conditions are complied with. This may include seeking additional information or input from the local water utility subject to the conditions set. We will issue a request for information specifying the information we need to be able to monitor the set conditions. If we do not receive the requested information, we may request an inspection to check that the conditions have been met.

3.2 Requests for additional information (stopping the 'clock')

The process aims to ensure that the department can assess and make a decision about a local water utility's application within 60 working days of receiving a completed application. If we require additional information, we will request it in writing, update the public register to 'status of assessment incomplete' and 'stop the clock' until we receive the information.

A local water utility can always withdraw, amend, or resubmit an application at any time. In these cases, the 'clock' for assessment and approval would restart. Figure 4 show how the 'clock' is applied throughout the assessment process.

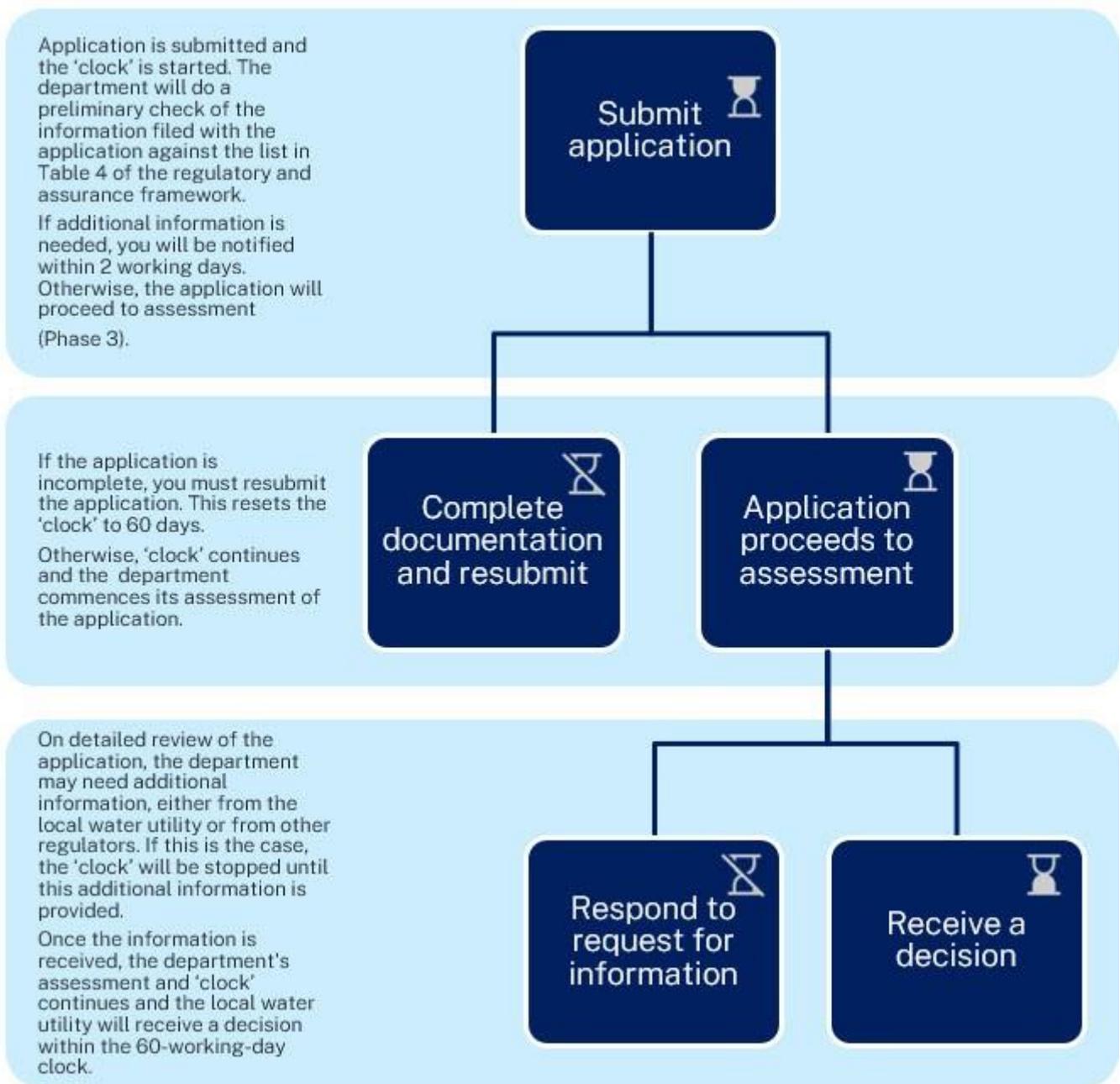


Figure 4. The 60-working-day clock

3.3 Expedited approvals

In some cases, approvals can be expedited to respond to an urgent need. This could include scenarios where critical works are needed immediately to respond to high-risk scenarios that may threaten public health, the environment, or supply continuity.

These could be due to:

- an unplanned incident response requiring restoration works within 24 hours (e.g., sudden damage from severe storm causing failure of a plant component)

- a longer-term issue with immediate high-risk consequences (e.g., climate change impacts resulting in deteriorated source water quality), where action is required urgently



If a local water utility needs an expedited approval, they should contact the department at section60@dpie.nsw.gov.au

4 Planning and application guide

This section aims to help local water utilities plan and apply for an approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act and covers how to prepare to apply for an approval, when and how to submit an application, and what happens after submission.

4.1 Preparing to apply for an approval

Before applying, local water utilities should prepare all necessary information for the approvals process. We also encourage local water utilities to proactively engage with the department as early as possible to access both:

- information on regulatory requirements and the approvals process (through our regulatory role)
- strategic and technical advice throughout the project lifecycle (through our advisory and support role).

In our regulatory role, we can discuss completion of the online application form and any material held by the local water utility that should be submitted with the application. We can also explain the matters that we must consider before granting approval of an application.

In our advisory and support role, we can offer expert strategic and technical advice throughout the life of the project. This includes during the development and options stages for works, throughout project design, and after approval is given. See Attachment A for more information.

Table 6 provides recommended steps in preparing to apply for an approval.

Table 6. Recommended steps in preparing to apply for an approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act

Recommended steps

1. Contact department for a meeting in early planning stages for the works before making submission. We recommend this is done early in the planning stages, and before any detailed options assessments or design work. This engagement may include a discussion about the strategic context or justification of the proposed works.

2. Engage with other regulators:

Engage with other regulators to understand and address requirements, such as:

- NSW Health for preliminary drinking water safety design assessment
- EPA for advice to meet environmental requirements (e.g. effluent targets)
- other regulators where applicable.

Other regulators are responsible for overseeing and supporting local water utilities within their own regulatory frameworks.

3. Collect documentation

Information to be submitted with application including the materials set out in Table 8:

Recommended steps

- works description
- risk assessment
- early design for works
- documented experience
- confirmation of environmental planning assessment.

4. Ensure documentation addresses the department's criteria

Consider the department's criteria for assessing the application and how the local water utility's proposed works (see section 4.5):

- are fit for purpose
- can manage risks
- can meet public health and environmental standards
- can meet relevant regulations
- are aligned to the competency of the local water utility.

5. Continue to engage with department during preparation of the application

Optionally, a local water utility can have follow-up discussions with the department to help prepare and ensure it is on track with preparing the type of material (with sufficient detail) that the department would need to make a decision.

4.2 Initial engagement with the department -Phase 1

Although optional, we encourage local water utilities to engage the department before making a submission. During the meeting we will:

- listen and ask questions to understand the strategic context of the proposed works and/or the issues you are facing
- walk through the template application form with you
- explain the requirements that must be considered as part of the approval
- discuss how the documentation provides evidence to meet the assessment criteria.

Following the meeting, you will receive meeting minutes summarising the key points of the discussion together with a reference number to provide a continuous and easily accessible channel of communication between you and the department throughout the later phases of the approvals process and the life of the project.

4.3 Engaging with other regulators

Local water utilities should engage with and address the requirements of all other relevant regulators before making an application.

Other regulators are responsible for overseeing and supporting local water utilities within their own regulatory frameworks.

4.4 Collecting documentation

The department bases its assessment on the information that accompanies the application, and any subsequent requests for information from the local water utility or other regulators. The timing for the submission of an application is at the discretion of the council. An application should be made when the requested documentation is available and will vary depending on the individual project plan.

As set out in section 5.3 of the regulatory and assurance framework, local water utilities must supply the information set out in Table 8 of this document with their application. We encourage local water utilities to apply for assessment and approval at the earliest stage in their project where all required documentation is available. This provides certainty to progress the project to detailed design and avoids unnecessary costs for customers and the community. The documentation needs to be sufficiently detailed to allow the department to make a decision.

Generally, the information required to make an application comes from the work done during the planning and early design phases of an infrastructure project.

Note that some documentation and evidence may address multiple criteria. Conversely, some criteria will need evidence from a range of documents, as illustrated in Figure 6.

The following tables and figure outline what materials you will be required to submit as a minimum, how these relate to the department's assessment criteria and examples of optional documents that can support your application. We recommend you follow the steps in Table 7 and Figure 5 when preparing your application.

Table 7. Recommended steps to prepare supporting documents for your application

| Recommended steps |
|--|
| 1. Collate the minimum required material needed for submission, outlined in Table 8. |
| 2. Refer to Figure 6 and section 4.5 to ensure that the material you have collated will align to the department's assessment criteria. |
| 3. Refer to section 4.5 to determine if you can provide any additional documents that will support your application and how these will relate to the department's assessment criteria. |

Figure 5. Recommended steps to prepare supporting documents for your application

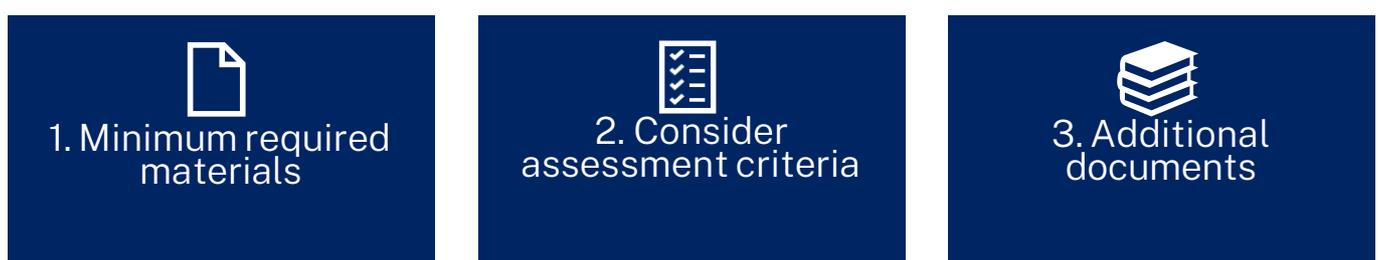


Table 8. Material to be provided for approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act

| Material | Detailed description |
|------------------------|---|
| Works description | <p>Documentation outlining the intended objective, nature, scope, and purpose of the proposed works</p> <p>Include links to the existing strategic planning of the local water utility or other justification for the works. Documentation should contain sufficient detail to enable the department to assess whether the proposed works or disposal represents an appropriate solution.</p> <p>Describe the planned process for design and construction.</p> |
| Risk assessment | <p>Where relevant:</p> <ul style="list-style-type: none"> • drinking water safety design assessment which should assess: <ul style="list-style-type: none"> – the capability of the treatment process to manage all identified risks to drinking water quality, including microbial risk – ability to monitor critical control points according to the Australian Drinking Water Guidelines and the requirements of the NSW <i>Public Health Act 2010</i> • preliminary recycled water risk assessment that follows the Australian Guidelines for Water Recycling. |
| Early design for works | <p>Technical drawings and other design materials completed to at least the level of detail that would be expected at an early design stage of works, including:</p> <ul style="list-style-type: none"> • a plan of the works including a list of all inclusions and exclusions in the works and how it will be delivered, costed, and programmed • operational philosophy • process flow diagram, concept piping and instrumentation diagram, general arrangement overview, site layout and electrical line drawing • site and infrastructure plans (and any other relevant site plans) • descriptions of any relevant existing infrastructure (which may include existing reticulation pipework, storages, or treatment systems) • description of the process, including a summary of the source water or sewage characterisation and the treated water or sewage performance targets. |

| Material | Detailed description |
|---|---|
| Documented experience | <p>Documented previous experience with design and construction of water treatment infrastructure and/or having access to qualified and experienced technical resources, who have competence in water infrastructure</p> <p>Describe the intended approach to procurement.</p> |
| Confirmation of environmental planning assessment | <p>If the particular water treatment works or sewerage works require environmental impact assessment under Division 5.1 of the NSW Environmental Planning and Assessment Act 1979, the local water utility must provide with the application for approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act, either:</p> <ul style="list-style-type: none"> • review of environmental factors to demonstrate that the duty under section 5.5 of the Environmental Planning and Assessment Act has been discharged. The review of environmental factors must comply with the Planning Secretary’s Guidelines for Division 5.1 assessments (PDF 5.40 MB), or • environmental impact statement to demonstrate that the duty under section 5.7 of the Environmental Planning and Assessment Act has been discharged. The local water utility may refer to the department’s State Significant Infrastructure Guidelines (PDF 664 KB) on environmental impact statement preparation and processes. |

4.5 Addressing the department’s assessment criteria

When preparing documentation for the application, local water utilities should always consider the matters and criteria that the department will use to assess the application.

You should clearly identify how the information included in the application demonstrates that the proposed works can meet each assessment criterion. Figure 6 illustrates the document types that contribute to satisfying different assessment criterion.

The **criteria** the department will apply to assess an application include, if the proposed works:

The **materials** to be provided by a local water utility for approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act:

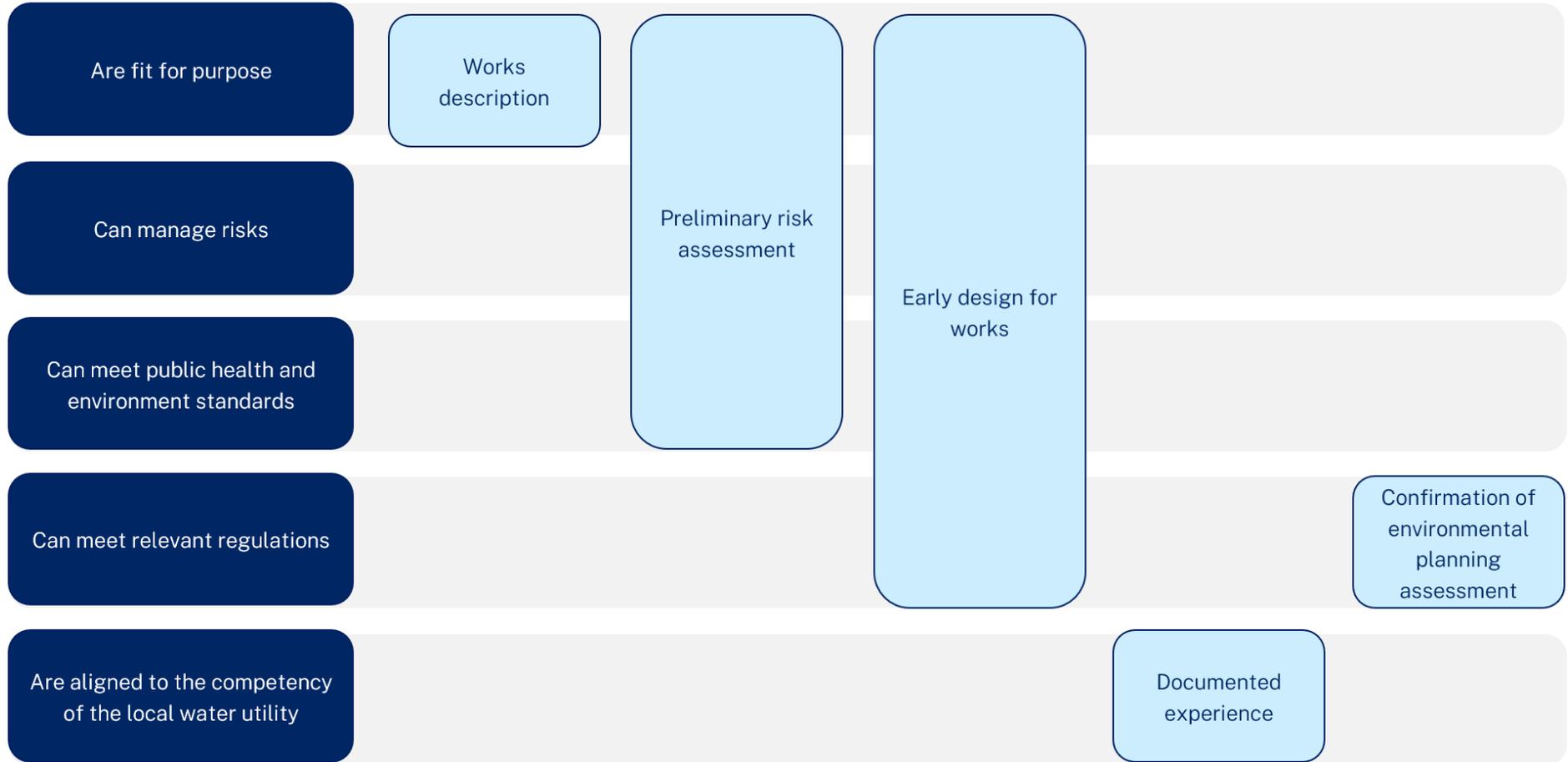


Figure 6. Using documentation provided with the application to meet the department’s criteria

Addressing whether the proposed works are fit for purpose

This section provides further detail on addressing the assessment criterion ‘if the proposed works are fit for purpose’. You can refer also to the map provided in Figure 6 to see the document types that address different assessment criteria.

The first three questions within this assessment criterion are related to the strategic justification for the works (Figure 7).

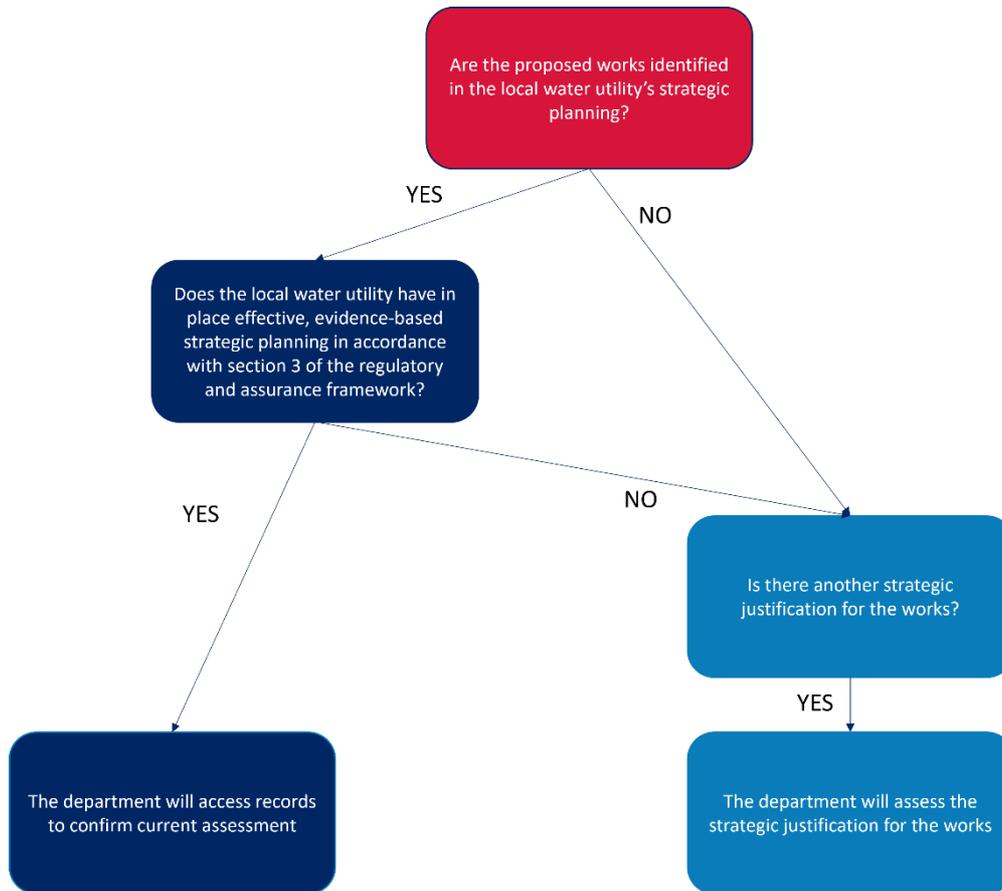


Figure 7. Considering the strategic justification of works as part of addressing whether the proposed works are fit for purpose

The fourth and fifth questions within the ‘addressing whether the proposed works are fit for purpose’ criterion, are related to the local water utility’s consideration of technical options and ensuring the scope of the works meets the intent of the project.

Are the proposed works identified in the local water utility’s strategic planning?

We expect a local water utility’s decision to augment or build new infrastructure is preceded and supported by strategic planning of its water supply and sewerage services to meet the needs of its community and regulatory obligations.

We will first consider whether the proposed works are based on a strategic decision that has been made as part of the local water utility’s strategic planning.

The local water utility should be able to demonstrate that the proposed works are based on its existing strategic planning or some other strategic justification.

If the proposed works are identified in the local water utility’s strategic planning, we would then consider whether the strategic planning is evidence-based and effective (see below).

In cases where proposed works are not part the strategic planning, we would ask that the local water utility to include it once it has been identified. If the proposed works are based on another strategic justification, we would then consider that justification (see below).

Does the local water utility have in place effective, evidence-based strategic planning in accordance with section 3 of the regulatory and assurance framework?

If the proposed works are identified in the local water utility's strategic planning (see first criteria question), we will consider whether the local water utility has in place effective, evidence-based strategic planning in accordance with section 3 of the 'Regulatory and assurance framework for local water utilities'. We will access our records to confirm our current assessment of the local water utility's strategic planning.

Alternatively, the local water utility may:

- have had its strategic planning assessed by the department in its assurance function and found that it is not effective, evidence-based strategic planning
or
- not have a current assessment of its strategic planning assessed by the department.

In the first scenario, we will consider whether the reasons given (when it was found that the strategic planning was not effective, evidence-based strategic planning) are relevant to the justification of the proposed works. If the reasons are relevant, we may decide that this criterion is not met. If the reasons are not relevant, we will consider whether there is another justification for the works.

In the second scenario, the local water utility would need to provide another strategic justification of the works (see below). The local water utility may also seek an assessment of its strategic planning through the department's assurance function (this may require stopping the clock to allow the assessment).

Is there another strategic justification for the works?

In some cases, the proposed works will be necessary but:

- have not been identified in the local water utility's strategic planning
or
- the local water utility has not had its strategic planning assessed as effective and evidence-based
or
- the department's review of the local water utility's strategic planning has found that it is not effective, evidence-based strategic planning.

In such instances, other evidence can be supplied to demonstrate the strategic justification for the works.

For example, a new disinfection system or pre-treatment dosing might be adopted as an outcome of a water quality assessment and/or drinking water quality management system review. This may not necessarily be captured in broader strategic planning but could have other satisfactory strategic justification. In such cases, we would also request that the proposed works, are included in the local water utility's strategic planning.

For this criterion to be met, we will consider whether the justification of the proposed works:

- demonstrate alignment with the local water utility's strategic objectives and relevant strategic planning outcomes
- meet a demonstrated need
- consider
 - community benefits/welfare
 - deliverability
 - whole-of-life considerations.

However, if the department found through its assurance function that the local water utility's

strategic planning is not effective and evidence-based, and that the reasoning for that finding is relevant to the proposed works, the department may decide that the works are not fit for purpose.

There may also be emergency scenarios where proposed works need to be carried out that have not been identified in the local water utility's strategic planning. Options for expedited approval may also be available, which are detailed in separate guidance.

Have technical options for the works been considered adequately?

To allow the identification of the best possible works that meets the long-term needs of the community and all stakeholder requirements, local water utilities must undertake sufficient planning and investigation.

Risk analysis should inform the identification, development, and assessment of options (refer to related criterion and associated questions for assessing that the proposed works can manage risks). Utilities should consider adaptive planning and integrated water management approaches that can mitigate against unforeseen challenges and risks, such as climate-influenced hazards, market volatility and uncertainty.

The utility must provide evidence that technical options for the works have been considered adequately. The scope of the options assessment should reflect the complexity of the project. A simple project requires a less detailed options assessment.

A comprehensive options assessment would include:

- description and comparison of the alternative options that are appropriate to meet community's needs, including multiple technical options, and may include considering alternatives such as non-build, operational modification, or source control
- high-level process description and process flow diagram of options
- comparison of options on an equal basis (for example, using net present value analysis, or multi-criteria analysis).
- justification for selection of the preferred option – there is no requirement for a local water utility to select the least cost option, however the option must be justified based on a comparison with other options.

If we consider the information provided does not demonstrate that technical options for works have been considered adequately, we may request additional information. If, with the additional information, we still consider that the technical options have not been considered adequately, the proposed works will be considered not fit for purpose.

The local water utility may withdraw the application at any time and resubmit the application once further investigations have been carried out. This would reset the clock.

Utilities can access the department's advisory services for developing an options report. Optional guidance notes on water treatment or sewerage works options studies are available on the [department's website](#).

Does the scope of the works meet the intent of the project?

The problem the works are addressing must be accurately diagnosed, and the proposed solution must address the problem.

This means that sufficient data should be presented to rule out any other underlying causes of problems. For example, a local water utility may face compliance issues with effluent quality and considers a treatment unit upgrade is needed. However, proper characterisation of the influent sewage may reveal an issue with illegal discharges, which can be at least partially managed with

non-infrastructure solutions.

Treatment systems and processes should be based on established and mature technologies that are well understood and capable of meeting performance objectives. Emerging technologies and innovative approaches can be considered where it can be clearly demonstrated that risks to public health, community and the environment are addressed.

Early designs must be appropriately sized with suitable factors of safety (these may be benchmarked). Where the size or scope of the project is larger than the minimum required (such as building for more capacity than presently required), this must be based on evidence to support the need for the additional capacity.

Addressing whether the proposed works can manage risks

This section provides further detail on addressing the assessment criterion 'if the proposed works can manage risks'. You can refer also to the map provided in Figure 6 to see the document types that address different assessment criteria.

What technical or operational risks are the works intended to mitigate?

Local water utilities may face a range of technical or operational risks, including those associated with water security, water quality, environment, assets and infrastructure, customers, and financial sustainability.

Strategic planning, risk assessments and technical options assessments should identify these technical and operational risks. This ensures that the right problem has been identified (i.e. the project need) and is the basis for selecting the right solution.

For water quality, local water utilities should identify risks in source water (or sewage when considering recycled water supply) from:

- microbial, chemical, physical and radiological characteristics
- changes in source water quality over time
- inability of existing infrastructure to manage water quality and/or meet current and future demand
- more frequent and extreme weather events
- impacts of climate change on water quality
- current and future changes to regulatory requirements.

Have these risks been considered as part of the design of the proposed works?

Once identified, the risks should be incorporated into the development of suitable options, and the preferred option taken forward, as well as the design of the proposed works.

The design of the proposed works must solve the problem. For example, if drinking water quality risks have been identified, these must be set out in the drinking water quality envelope, including source water quality parameters and drinking water quality targets, so that the appropriate treatment barriers can be designed.

Will the proposed works manage these risks?

The proposed works must be capable of managing the risks.

For example, once the water quality envelope has been defined with source water quality parameters and drinking water quality targets, suitable treatment barriers must be selected with evidence that they meet the requisite log reduction values to manage the risk. This should also be supported by suitable identification of critical control points, operational philosophy, and the drinking water quality management system.

For sewerage works for example, once the effluent discharge targets and the receiving bodies are identified, suitable treatment barriers must be selected that can reliably meet these targets over a range of operational scenarios.

Addressing whether the proposed works can meet public health and environmental standards

This section provides further detail on addressing the assessment criterion 'if the proposed works can meet public health and environmental standards. You can refer also to the map provided in Figure 6 to see the document types that address different assessment criteria.

Are the proposed works able to meet the Australian Drinking Water Guidelines, Australian Guidelines for Water Recycling, and other relevant health regulations and standards?

The local water utility is responsible for understanding standards and obligations that apply to it.

Where applicable to the proposed works, clearly identify how the proposed works are able to meet the [Australian Drinking Water Guidelines](#), [Australian Guidelines for Water Recycling](#) and other relevant health regulations and standards.

Local water utilities should provide where relevant:

- a drinking water safety design assessment
The assessment should demonstrate how the proposed water treatment works have been designed to be consistent with the Australian Drinking Water Guidelines, the NSW *Public Health Act 2010* and Public Health Regulation. This includes identification of raw water quality risks, selection of appropriate treatment processes, assessment of the capability of the treatment processes to manage identified risks including microbial risk, identification and management of critical control points, and appropriate operational monitoring. The design of the works should be informed by a review of the utility's drinking water risk assessment and catchment *Cryptosporidium* risk assessment, developed in conjunction with NSW Health
- information about how the proposed works will support implementation of their drinking water management systems
The system and relevant documents should be reviewed and updated to reflect the changes to risks and controls related to the proposed works. Updated documents must be provided to NSW Health
- a preliminary recycled water risk assessment
The assessment should demonstrate how the proposed recycled water treatment works have been designed to be consistent with the Australian Guidelines for Water Recycling. This includes identification of sewage catchment quality risks, identification of all recycled water end uses, selection of appropriate treatment processes and associated log removal values, assessment of the capability of the treatment processes to manage identified risks including microbial risk, identification and management of critical control points, and appropriate operational monitoring. If this is an augmentation of an existing recycled water works, the design of the works should be informed by a review of the utility's existing recycled water risk assessment. For augmentation of existing recycled works, local water utilities should also consider how the proposed works will support the implementation of their current recycled water management systems. The systems and relevant documents should be reviewed and updated to reflect the changes to risks and controls related to the proposed works. Updated documents must be provided to the department.

Local water utilities should also be aware of the requirements of the NSW *Fluoridation of Public Water Supplies Act 1957*, Fluoridation of Public Water Supplies Regulation 2017 and NSW Code of Practice for Fluoridation of Public Water Supplies. Utilities should engage with NSW Health where the proposed water treatment works have the potential to impact the design or operation of a water fluoridation system.

Are the proposed works able to meet relevant environmental regulations and standards?

The local water utility is responsible for understanding standards and obligations that apply to it.

The utility should clearly identify how the proposed works are able to meet relevant environmental regulations and standards.

The proposed works must meet any relevant environmental regulation and standards, including compliance with any EPA licences.

NSW Protection of the Environment Operations Act 1997

Under the NSW *Protection of the Environment Operations Act 1997* (POEO Act), sewage treatment above a processing capacity threshold that includes the discharge of wastes or by-products to land or water requires an environmental protection licence. The POEO Act provides the statutory framework for managing water pollution in NSW. The EPA regulates discharges to water and land using conditions it places in licences issued under the POEO Act.

Where pollution causes or threatens material harm to the environment, there is a duty to report pollution incidents under Section 148 of the Act. The EPA works closely with water utilities to ensure appropriate safeguards are in place to protect human health and the environment. Under the Act, there is a duty to notify the relevant authorities if a pollution incident is occurring that causes or threatens material harm to the environment.

All licence holders also need to prepare and implement pollution incident response management plans.

NSW Environmental Planning and Assessment Act 1979

Local water utilities are responsible for providing water and sewerage services to urban land identified in council's local environmental plan.

The local water utility will need to determine the relevant planning pathway for the particular water treatment works or sewerage works.

If the particular water treatment works or sewerage works require environmental impact assessment under Division 5.1 of the NSW *Environmental Planning and Assessment Act 1979*, the local water utility must provide with the application for approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act, either:

- review of environmental factors to demonstrate that the duty under section 5.5 of the Environmental Planning and Assessment Act has been discharged. The review of environmental factors must comply with the Planning Secretary's Guidelines for Division 5.1 assessments (PDF 5.40 MB)
- or
- environmental impact statement to demonstrate that the duty under section 5.7 of the Environmental Planning and Assessment Act has been discharged. The local water utility may refer to the department's State Significant Infrastructure Guidelines (PDF 664 KB) on environmental impact statement preparation and processes.

Where planning approval is not in place, or if the Department also needs to consider the works under Part 5 of the Environmental Planning and Assessment Act, the 60 working day timeline may be extended by written notice to the local water utility.

Other relevant regulations, standards and guidelines

The following environmental regulations, standards and guidelines may be relevant to the proposed works:

- [Environmental guidelines: Use of effluent by irrigation \(PDF 1.99 MB\)](#)
- [Effluent reuse management: Strategic environmental compliance and performance review \(PDF 1.42 MB\)](#)
- [Australian Guidelines for Water Recycling](#)
- [Licensing guidelines for sewage treatment systems \(PDF 609 KB\)](#)
- [Environmental guidelines: Use and disposal of biosolids products \(PDF 854 KB\)](#)

Addressing whether the proposed works can meet relevant regulations

This section provides further detail on addressing the assessment criterion 'if the proposed works can meet relevant regulations'. You can refer also to the map provided in Figure 6 to see the document types that address different assessment criteria.

Are the proposed works capable of adhering to relevant industry standards and regulations related to the design and construction of infrastructure and the management of water supply and sewerage services?

The local water utility is responsible for understanding standards and obligations that apply to it.

The utility should clearly identify how proposed works can meet relevant industry standards and regulations.

As part of delivering safe water and sewerage services to customers and communities, local water utilities must carry out design and development stages to ensure the proposed works follow the relevant industry standards and regulations.

The following regulations, standards and guidelines may be relevant to the design and construction of your proposed works:

- [Work Health & Safety Act 2011 \(NSW\)](#)
- [Water Services Association of Australia \(WSAA\) Codes](#)
- [Plumbing Code of Australia](#), which is part of the National Construction Code
- [Liquid Trade Waste Management Guidelines \(PDF 15.0 MB\)](#)
- relevant Australian Standards.

To meet this criterion, the application could include a signed statement from the designer of the proposed works stating that relevant industry standards and regulations have been considered and can be met by the proposed design.

Addressing whether the proposed works align to the competency of the local water utility

This section provides further detail on addressing the assessment criterion ‘if the proposed works align to the competency of the local water utility’. You can refer also to the map provided in Figure 6 to see the document types that address different assessment criteria.

Is the local water utility itself competent to carry out the proposed project or has it engaged another party who has the capability or competency to do so?

The local water utility must either itself be competent to carry out the proposed project or have a suitable plan and access to another party who has the capability or competency. This should also include demonstration of resourcing capacity (e.g. availability and resourcing of either internal staff or external parties). Examples of evidence that may be used to demonstrate competency include:

- capability statement demonstrating the local water utility and/or key staff have previous experience with designing, procuring, project managing, constructing similar scales and types of projects
- capability statements, resumes, qualifications, registrations, and/or training records of staff involved in the proposed works
- procurement plan or strategy to approach the market for resources to procure or deliver the works
- roles descriptions for staff that may be hired to undertake work on the project
- project management plans and resource management plans demonstrating availability of resources.

Addressing whether the proposed works are consistent with water sharing plans, water management principles, and the objectives under the Water Management Act

For applications under section 292 of the Water Management Act, we will consider whether the proposed works are consistent with water sharing plans, water management principles, and the objects under the Water Management Act.

4.6 Making an application (Phase 2)

Phase 2 of the approvals process is the submission of a written application for approval, which starts the 'clock'. The clock time is 60 working days, but the 'clock' may be stopped if additional information is required after submission.

When to submit an application

Local water utilities can decide when to apply, which may depend on the project timeline of your proposed works. We encourage early engagement to ensure that any issues can be resolved before work progresses.

In deciding when to apply, consider:

- do you have the minimum documentation as per Table 8?
- does the documentation sufficiently address the assessment criteria to allow the department to make a decision?
- what is the planned timeline for construction, and is there sufficient time to allow assessment and approval (allowing for the 'clock' period plus any need to stop the clock for additional requests for information)?

We encourage local water utilities to apply for assessment and approval at the earliest stage in their project once all required documentation is available. This provides direction for project progression and avoids unnecessary expenditure.

Some local water utilities may choose to progress design efforts to a more advanced stage (for example to a 75% design stage) to include additional design details before requesting an assessment under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act. Local water utilities bear any risks associated with submitting a formal application at later stages of planning and development.

Engagement with the department prior to submission through initial engagement (Phase 1) can also help assess when you have sufficient information to apply.

How to submit an application

A local water utility must make a written application to the department using the [online application form](#) requesting approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act. This link connects to the department's self-service WAMS portal.

The application needs to address the works proposed, why the works are proposed, and how the works will meet the local water utility's strategic goals, including meeting their customers' needs. This submission should include all relevant materials and supporting documentation.

All applications must use the same application form and be submitted online. The online application form is available via our [WAMS portal](#). New users will need to register prior to accessing the online application form. For any issues with this self-service portal email water.wams@dpie.nsw.gov.au.

The application form requires you to provide:

- applicant details and contact information
- name and location of the proposed works
- for each assessment criterion, a description of how the local water utility meets the criteria, referring to information submitted with the application, and any relevant links or other sources the department should rely on

- materials such as works description, risk assessment, early design works, documented experience and confirmation of environmental planning assessment
- any other relevant information or links and any requests specific to the application.

Structuring application responses

The local water utility is responsible for providing the correct information and for proving the proposed works meet the assessment criteria.

To assist with our assessment of the application, we request you:

- label responses and attachments with the criteria being addressed and/or the file name
- provide evidence and explain how the evidence supports your response
- do not provide information that is unnecessary to the application.

For lengthy documents, tell us where the document addresses the assessment criteria. Do this, for example, by using highlighting and/or indicating sections or page numbers.

On submission of your application, you will receive from the department:

- notification of receipt via email
- a reference number
- a 'clock' start date.

Applications that do not include the minimum documentation as per Table 8 or are poorly structured may be considered as incomplete. You will receive notification from the department that the application is incomplete and will be asked to resubmit the application.

Table 9. Recommended steps for submitting an application

Recommended steps

1. Check documentation against list in Table 8 and ensure it meets the assessment criteria.
2. Prepare and organise information for application
3. Label responses and attachments with the criteria being addressed and/or the file name
4. Create and submit your online application through the application portal (WAMS – Water Actions Management System).

5 The department's assessment and decision

5.1 Assessment of the application (Phase 3)

Once all the documentation that is needed for the application is submitted, we will start assessing the application. All applications will be assessed against the matters that must be considered before granting approval. We may use internal resources or commission an independent expert or an independent expert panel to do all or part of the assessment and make recommendations to the department.

The department's risk-based approach to regulation

The department takes a risk-based approach to regulation and assurance of local water utilities. This means we target our efforts for oversight, support and intervention based on analysis of the risk profile for each local water utility, and across the sector. In assessing applications for approval, we will apply the approach shown in Figure 8.

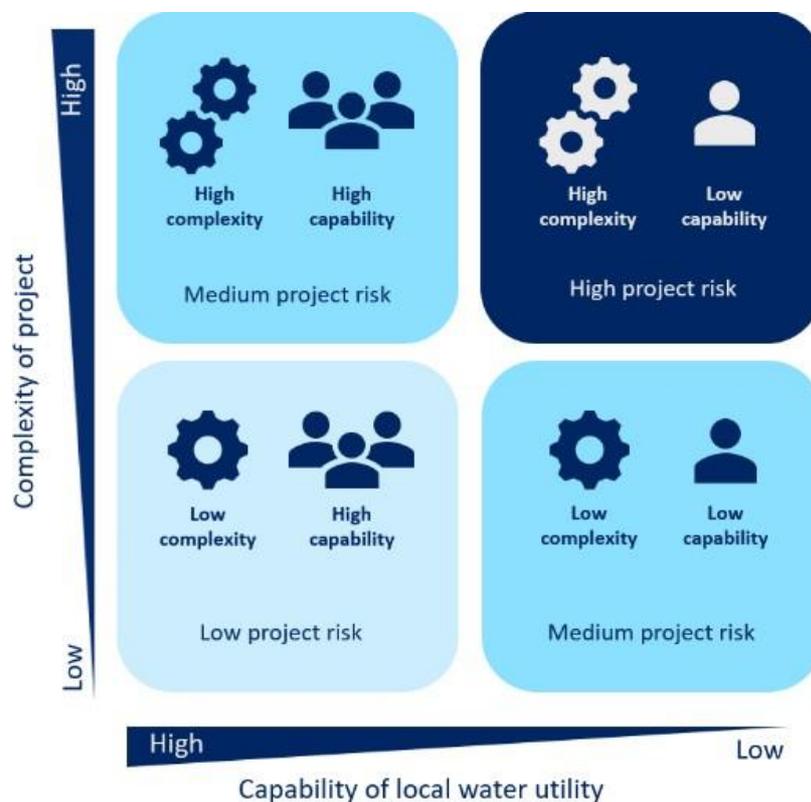


Figure 8. Risk matrix illustrating the department's approach to assessing the risk profile of applications

As the level of complexity of a project increases, the risk increases. For example, development of a multi-train treatment plant is likely to have much higher risks than the replacement of a single unit in a treatment train. On the other hand, risk is lowered where a local water utility has a high degree of capability to manage delivery of the works. This could include experience with procuring or constructing similar scales and types of projects, as well as sufficient resources (i.e. number of personnel and availability during project timeline) to manage the delivery of the project.

Based on the risk profile determined by our risk assessment approach, we will plan and allocate resources to ensure assessment of all applications within the 60-working-day clock. We will allocate the highest level of resources to applications that are assessed as high risk (i.e. higher project complexity and lower capacity of the local water utility). All applications, regardless of risk profile, will be assessed against the same criteria within the 60-working-day assessment period.

Responding to requests for further information

During assessment, we may require more information. If so:

- we will 'stop the clock'
- you will receive a request in writing
- we will update the public register to 'status of assessment incomplete'.

When we request further information, we will ask that you respond to the request within 4 weeks. If required, we or the local water utility may initiate further meetings to clarify an information request.

We understand that it may take longer than 4 weeks to compile the additional information. However, we will require an indication of the time you need in order to allocate our resources effectively and efficiently. If you take longer than 12 weeks to respond to our request, we will provide written notice that we are restarting the 'clock' for your application.

Your application can also be withdrawn and resubmitted at any time, which resets the 'clock'. To formally withdraw your application, the applicant must notify the department in writing. Notifications should be sent to section60@dpie.nsw.gov.au.

Input from other regulators

The department is identified in the [NSW Water Strategy \(PDF 16.2 MB\)](#) as the primary regulator for regional local water utilities under the Local Government Act, as well as under the Water Management Act.

In addition to the department, other NSW Government regulatory agencies are responsible for overseeing local water utilities within their own regulatory frameworks. We work collaboratively with other regulatory agencies to ensure we provide efficient and effective support to local water utilities.

NSW Health, the NSW Environment Protection Authority, and the Natural Resources Access Regulator all have specific responsibilities for overseeing and supporting local water utilities within their own regulatory frameworks, and may interact with the assessment of a proposed water treatment or sewerage works approval.

During our assessment of the application (Phase 3), we will seek input from other regulators of the local water utility where necessary, with the intention of agreeing on design outcomes that fulfill all relevant regulatory requirements. We will also seek advice from those regulators on how the information supplied by the local water utility aligns with their regulatory work.

If we identify aspects of the proposed works that require further information for approval under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act but are within the regulatory remit of another regulator, we will:

- seek confirmation and details from the local water utility about what consultation and engagement with the other regulator has occurred
- request agreement from the local water utility that we can coordinate with another regulator regarding the proposed works and the appropriate supporting information
- communicate this request in writing to the regulator and 'stop the clock' on the decision period until we receive the information (this will be reflected on the public register as 'status of assessment incomplete')
- if needed, initiate further meetings directly with the regulator to clarify an information request.

Once the information has been received, the 'clock' will restart.

In working collaboratively with other regulatory agencies, we will:

- give a coordinated response to issues with the potential to significantly affect NSW communities
- consult on issues that may have implications for other agencies' regulatory areas, including where we communicate with local water utilities on these issues.

We are also committed to managing any potential disagreements over jurisdiction or responsibility between local water utility regulators entirely within NSW Government and without requiring the involvement of local water utilities.



To minimise the need to request information from other regulators during the assessment period, we encourage local water utilities to engage with all other relevant regulators prior to submission.

5.2 Approval and monitoring (Phase 4 and Phase 5)

The local water utility will receive written communication of the department's decision within 60 working days (plus any time added from 'stop the clock' provisions). The written communication will include reasons for our decision and will state that the department has either:

- approved the works
- approved the works subject to conditions
- not approved the works.

Where works for which an approval under section 60 of the Local Government Act or section 292(1) of the Water Management Act also require further assessment under the Environmental Planning and Assessment Act, the 60 working day clock may be extended with written notice. An extension is required when the department considers that the evidence provided to address the proposed work in accordance with Part 5 of the Environmental Planning and Assessment Act (as set out in Table 5 of the Act) is not satisfactory, or if the proposed work does not meet the requirements of the assessment.

The department will publish the decision (including conditions, as appropriate), our reasons and any approval instrument on our website.

Compliance with conditions

If an approval is given subject to conditions, we will monitor the progress or inspect the works to ensure those conditions are complied with. This may include seeking additional information or input from the local water utility. If additional information is requested, you will generally have 2 weeks to provide this information. We will consider requests for extension of time to provide information.

The types of conditions attached to an approval may differ depending on the type of work being approved and the risk profile of the application.

Most approvals will have the following standard conditions applied:

- consistency with design
A local water utility can only construct drinking water treatment works that are consistent with those approved, or allow for sewage to be discharged, treated, or supplied in a way that is broadly consistent with the way that was approved. Some degree of variation is acceptable to ensure that the practical realities associated with design and construction, or treatment and discharge, are accounted for.
- consistency with standards
Local water utilities must always adhere to any relevant legal, regulatory, industry or technical standards in completing the works (including environmental planning requirements where relevant).

Additional conditions may be imposed to manage project-specific risks. Conditions attached to each approval may differ depending on the risk profile of the application. As such, the department may attach more conditions for applications with a higher risk, and less for those with lower risk. For example, an approval for water recycling works with a high-risk profile may include the conditions:

- The approval holder must not supply recycled water until they have provided Recycled Water Management Systems documentation that follows the template in [NSW Guidelines for Recycled Water Management \(PDF 1.27 MB\)](#), to the satisfaction of the department.
- The minister may revoke the approval if any requirement to furnish information or documentation is not satisfied.

The department, under delegation from the minister, may require additional information, including information to ensure any conditions imposed are being complied with.

6 Review of departmental decisions

To ensure fairness and equity, it is important that local water utilities affected by decisions have a mechanism to have a departmental decision about their regulation reviewed.

This section outlines the review process, its scope, and rationale for implementation.

To minimise the likelihood of the need to review a decision, we encourage open dialogue between ourselves and the local water utility throughout the application, assessment and approvals process.

A local water utility can seek an internal review of the department's decision if it believes that, in making the decision, the department made a mistake or considered:

- matters outside those that must be considered before granting approval
- information that was misinterpreted by the department
- information that was not given with the application
- information that the department did not ask the local water utility to supply
- information that other local water utility regulators did not give in the assessment of the application.

Any additional information provided by the local water utility during the application process in response to a request for information is part of the application and 'given with the application'. This includes where the department is aware of other information that is not provided by the local water utility in its initial submission, and the department shares the information with, and requests comment from, the local water utility.

To seek a review of the department's decision, the local water utility must submit a request in writing to the department and include the grounds for request.

In addition to internal review through the department, local water utilities may also be able to seek a review of a decision of the minister under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act in a court or tribunal.

6.1 Asking for a review of a decision under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act

Local water utilities can seek a review by the department of any decisions made by the department as a regulator. Section 9 of the 'Regulatory and assurance framework for local water utilities' covers the process for all decisions made by the department. For the purposes of an approval for water treatment and sewerage works under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act. The regulatory decision includes any decision, direction, assessment, advice or request made as part of that decision.

When making the decision, we will give written communication that documents our reasons to either:

- approve the works
- approve the works subject to conditions
- not approve the works.

This will ensure decisions are clear and the local water utility is provided with information to decide whether to seek a review. The reasons behind a decision will be made available as a matter of

course and will include any evidence or context that informed our position.

Internal review by the department does not guarantee that the decision will be overturned. In response to a review, we may change our regulatory decision and substitute new and/or altered recommendations and expectations for the local water utility or we may let the decision stand.

The review process seeks to ensure that local water utilities can understand why a decision has been made, and to put forward reasons why it may be necessary for the decision to change.

6.2 Internal review pathway

We have developed a robust and transparent internal review process to give local water utilities a quicker and less formal avenue to have an administrative decision reviewed. Local water utilities may still be able to seek a review of a decision of the minister under section 60 of the Local Government Act or section 292(1)(a) of the Water Management Act in a court or tribunal.

The internal review allows local water utilities to formally request we reconsider our decision. The process can be applied at the request of a local water utility when they do not understand, or disagree with, the department's decision for their works approval. The department's review and decision process will be based on the specific circumstances of the case, including the cost, complexity, risk profile, risk mitigation, and distribution of responsibility. If necessary, we may source an independent, external service provider (that is, a water engineering expert) to deliver non-binding third-party technical recommendations to provide an expert, independent evaluation to help facilitate the review process.

Consistent with standard probity processes, any decision subject to review will not be returned to the senior executive in the department that was the application's original decision-maker for consideration. Information may be sought from the initial assessor and decision-maker as part of the review process to ensure the review process incorporates all relevant considerations and materials.

The department will manage the review process promptly, based on the specific circumstances of each review. The process for internal review of decisions is outlined in Table 10.

Table 10. The department's internal decision review framework

| Step | Explanation and process |
|--|---|
| 1. Provision of rationale and evidence | <p>The department, at the written request of a local water utility, will give further rationale about why the initial decision was made. This may include an explanation of any key evidence, information, data, or documentation that was used to inform the initial decision.</p> |
| 2. Engagement regarding the decision | <p>If the local water utility remains unsatisfied with the decision after the department gives additional reasons and detail, it may request a formal meeting with the department. When requesting a meeting, the utility must give information about its desired outcome, as well as the suggested evidence-base or justification for the appeal. The department may request additional information, or dismiss the request, if it is insufficiently substantiated.</p> <p>This meeting will be chaired by the senior executive that made the original decision.</p> <p>The purpose of this engagement is to allow the local water utility to ask questions about the decision, to understand the department's position, and to present information to substantiate and support an alternative decision.</p> <p>Following this meeting the department may request additional information from the local water utility, and/or if necessary, seek further advice from an expert engineer. The department may also provide additional information to the local water utility.</p> <p>Based on this engagement process, the department may:</p> <ul style="list-style-type: none"> • change its regulatory decision and substitute new and/or altered recommendations and expectations for the local water utility or • not change its regulatory decision. |
| 3. Chief Operating Officer review | <p>If the local water utility remains unsatisfied with the decision following the engagement stage, the decision will be escalated to the Chief Operating Officer or another executive director level position at the department who was not involved in the original decision. The local water utility may use this opportunity to give additional evidence as appropriate.</p> <p>Based on this review process, the department may:</p> <ul style="list-style-type: none"> • change its regulatory decision and substitute new and/or altered recommendations and expectations for the local water utility or • not change its regulatory decision. <p>In communicating their decision regarding the review, the executive director will give the local water utility information about the decision as appropriate, regardless of whether it has changed, including an assessment of the evidence, information, data, or documentation that was used to inform their decision.</p> |

| Step | Explanation and process |
|--------------------------------|--|
| 4. CEO NSW Water Sector review | <p>If the local water utility remains unsatisfied with the department's position after a review by the Chief Operating Officer (or equivalent) either due to no change in the initial decision or a change that does not satisfy the utility's concern, the decision will be escalated to the CEO NSW Water Sector (or equivalent deputy secretary level position) from the department for final consideration.</p> <p>If appropriate and useful, this consideration can involve engagement with relevant senior representatives of the local water utility, such as the general manager, with a view to discuss the decision and potential ways forward.</p> <p>The outcome of this review may be that the department:</p> <ul style="list-style-type: none"> • changes its regulatory decision and substitute new and/or altered recommendations and expectations for the local water utility or • does not change its regulatory decision. <p>The department will give high-level reasons for its position to either change or not change its decision at the CEO NSW Water Sector review stage. This will be accompanied by a notice indicating that no further internal review will be contemplated.</p> |

Attachment A - Accessing optional advisory and support services

Accessing optional advisory and support services for local water utilities

This document provides information about how local water utilities can access the department’s optional advisory and support services for water treatment and sewerage works.

The department provides support to local water utilities across a range of areas (depicted in Figure 1) including:

- statewide policy, and state and regional strategies
- general and technical advice
- regulation and assurance
- funding.

We perform these various roles to assist local water utilities and ensure they are managing potential areas of risk appropriately.



Figure 1. The roles of the department

These 4 roles operate in a distinct manner but will naturally intersect.

We perform our regulatory and assurance roles to manage sector-wide and local water utility specific risks. These roles are based on our diverse expertise and independence. This position is

supported by the sector, which broadly acknowledges that it is reasonable for the department to play a leading role in managing risks by providing oversight and assurance.

The Minister for Lands and Water has delegated the responsibility for assessing and approving of applications for water treatment and sewerage works made under section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act to the department.

In addition to our regulatory role, the department gives technical and other advice to local water utilities proactively and whenever requested by the local water utility. We will always seek to clearly distinguish between our regulatory role and advisory and support role.

We give advisory and technical guidance without charge, but it cannot be considered binding on the department's exercise of approval functions under section 60 of the Local Government Act and section 292(1)(a) of the Water Management Act.

Types of advice and support available from the department

All advice and support available from the department is optional for all local water utilities.

General advisory (accessible even before any works are proposed)

This advice and support can be accessed as soon as a risk or issue has been identified, for example:

- navigating regulatory processes with the department and other regulators
- challenges managing water security or water quality
- responding to extreme weather events
- meeting demand growth.

The department can provide general or specific expert technical advice to help the local water utility shape a solution. An outcome of this may be identifying possible infrastructure works or identifying alternative options.

Initial engagement about risks and potential solutions

Once the local water utility has identified risks and potential solutions, which may include proposed water treatment or sewerage works, a more specific engagement can be held about the project and the pathway toward approval.

Continued engagement at key points during development of documentation for submission

As the local water utility continues to develop the project, it can benefit from engagement with the department at key touchpoints, such as during options investigation and concept design, to support the development of a robust solution based on relevant information. This independent and impartial advice is likely to positively affect the assessment process and minimise the risk of delays.

Timing and benefits of optional advisory and support services available from the department

The department’s optional advisory and support services are available to all local water utilities. Advisory services are available to utilities at any stage from options development, concept design, detailed design, tendering, construction, operations and maintenance.

Table 1 Example advisory and support services with outcomes and benefits

| Area of advice and support | Key activities | Outcomes and benefits |
|---|--|--|
| Advisory services available to all utilities | <ul style="list-style-type: none"> • Discuss challenges that local water utility is facing • Provide expert technical advice • Assistance with the review of the draft options report and comments on reports • Broader agency advice and support with liaison with Infrastructure NSW, NSW Health, EPA, etc | <ul style="list-style-type: none"> ✓ Access to more information and any gaps identified ✓ Helps to identify possible solutions to be considered ✓ Helps to ensure the options are appropriate for local water utility, consistent with resourcing, capability, etc. ✓ Helps to ensure options studies are suitable for broader stakeholder uses ✓ Provides another, independent check on report, including correctness, gaps, direction ✓ Support to confirm project is on track (timing) ✓ Helps to confirm budget is adequate (and that least cost option identified) ✓ Enables any project showstoppers, gaps, constraints to be identified at any early stage ✓ Identifies any supporting studies required to support application ✓ Ensures stakeholders are engaged and consulted |
| Early advice and support about proposed works | <ul style="list-style-type: none"> • Meet informally to discuss strategic context • Information gap assessment • Establish project timeline, governance, and reporting requirements | <ul style="list-style-type: none"> ✓ Ensures a sound basis for project is in place (strategic planning) ✓ Help to establish project timeline ✓ Identifies all stakeholders to be included ✓ Information gaps are identified, early in the process so they can more easily be addressed |