



New South Wales

Water Industry Competition Act 2006 (NSW)

Section 15

Notice of Decision - Variation of Network Operator's Licences

I, the Hon. Melinda Pavey, MP, Minister for Water, Property and Housing, have decided to amend the licences listed in Schedule 1, by deleting the content of the condition on each of those licences specified in Schedule 1, and replacing it with the following:

If the Licensee becomes aware that a customer's Plumbing is not Code Compliant, the Licensee must, within 10 days:

- (a) notify the customer of that fact, in writing, and*
- (b) where the Plumbing that is not Code Compliant threatens, or could threaten, water quality, public health or safety, also notify the Plumbing Regulator of that fact, in writing.*

[Note: Without limiting paragraph (b), an example of Plumbing which must be notified to the Plumbing Regulator under that clause is Plumbing that contains a point where it is possible for non-potable water to come into contact with a drinking water supply.]

Before this amendment, the standard condition required licensees to notify the Plumbing Regulator of all customer plumbing that was not Code Compliant. The reason for my decision to amend the condition is that the Plumbing Regulator, NSW Fair Trading, should be notified only where customer plumbing threatens, or could threaten, water quality, public health or safety.

I have also had regard to the licensing principles set out in section 7 of the *Water Industry Competition Act 2006* (NSW) in making this decision, particularly the protection of public health, the environment, public safety and consumers generally.

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The Hon. Melinda Pavey, MP
Minister for Water, Property and Housing

Dated this 26 day of July 2021

Schedule 1

- a. Licence 09_001 held by Veolia Water Australia Pty Ltd, condition 11.1 of Schedule B
- b. Licence 09_003 held by Aquacell Pty Ltd, condition 11.1 of Schedule B
- c. Licence 12_016 held by Orica Australia Pty Ltd, condition 11.1 of Schedule B
- d. Licence 12_022 held by Central Park Water Pty Ltd, condition 11.1 of Schedule B
- e. Licence 13_025 held by Discovery Point Water Pty Ltd, condition 11.1 of Schedule B
- f. Licence 15_031 held by Green Square Water Pty Ltd, condition 11.1 of Schedule B
- g. Licence 15_032 held by Aquacell Pty Ltd, condition 11.1 of Schedule B
- h. Licence 15_033 held by Cooranbong Water Pty Ltd, condition 11.1 of Schedule B
- i. Licence 16_035 held by Catherine Hill Bay Water Utility Pty Ltd, condition 11.1 of Schedule B
- j. Licence 17_040 held by Narara Ecovillage Co-operative Ltd, condition 13.1 of Schedule B
- k. Licence 17_042 held by Flow Systems Operations Pty Ltd, condition 11.1 of Schedule B
- l. Licence 19_043 held by Flow Systems Operations Pty Ltd, condition 11.1 of Schedule B
- m. Licence 20_044 held by Kyeema Wastewater Pty Ltd, condition 11.1 of Schedule B



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW)

Network operator's licence

Licence no. 20_044

Kyeema Wastewater Pty Ltd

(ACN 635 577 105)

PRELIMINARY

1. Summary

- 1.1. This Licence is granted under section 10(1) of the Act.
- 1.2. The Act prohibits a person from constructing, maintaining or operating any water industry infrastructure otherwise than under the authority of a licence. This Licence authorises the Licensee and other Authorised Persons to carry out such activities that would otherwise be prohibited under the Act.

2. Outline

- 2.1. This Licence is divided into the following sections and schedules:

Section 1 authorises the construction, maintenance and operation of water infrastructure for non-potable water (if applicable).

Section 2 authorises the construction, maintenance and operation of water infrastructure for drinking water (if applicable).

Section 3 authorises the construction, maintenance and operation of sewerage infrastructure (if applicable).

Schedule A sets out special Ministerially-imposed licence conditions that are specific to this Licence.

Schedule B sets out Ministerially-imposed licence conditions that generally apply to network operator's licences granted under the Act.

Schedule C sets out definitions and interpretation provisions.

Schedule D sets out the area of operations for the activities authorised under Section 3.

Schedule E provides indicative maps for reference only.

- 2.2. In addition to the conditions in Schedules A and B to this Licence, the Act and Regulation also contain conditions that apply to this Licence. Nothing in Schedules A or B modifies or affects the conditions imposed on this Licence by the Act or Regulation.
- 2.3. Where there is an inconsistency between Schedule E and Schedule D, Schedule D shall prevail over Schedule E to the extent of the inconsistency.

SECTION 1 – ACTIVITIES AUTHORISED: NON-POTABLE WATER

Table 1.1 Authorised Persons

[Not applicable]

Table 1.2 Water industry infrastructure and purposes for water industry infrastructure

[Not applicable]

Table 1.3 Area of operations

[Not applicable]

Table 1.4 Authorised purposes for non-potable water

[Not applicable]

SECTION 2 – ACTIVITIES AUTHORISED: DRINKING WATER

[Not applicable]

Table 2.1 Authorised Persons

[Not applicable]

Table 2.2 Water industry infrastructure and purposes for water industry infrastructure

[Not applicable]

Table 2.3 Area of operations

[Not applicable]

SECTION 3 – ACTIVITIES AUTHORISED: SEWERAGE SERVICES

Subject to the conditions imposed by the Act, the Regulation and Schedules A and B of this Licence, this Licence authorises the Licensee and any Authorised Persons specified in Table 3.1 to construct, maintain and operate the water industry infrastructure specified in Table 3.2:

- a) for one or more of the purposes for water industry infrastructure specified in Table 3.2; and
- b) within the area of operations specified in Table 3.3.

Table 3.1 Authorised Persons

Innoflow Australia Pty Ltd (ACN 119 991 954)

Table 3.2 Water industry infrastructure and purposes for water industry infrastructure

- 1) A treatment plant for sewage and other sewerage infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or other sewerage infrastructure may be used for one or more of the following purposes for water industry infrastructure:
 - a) production of treated non-potable water from sewage;
 - b) treatment of sewage;
 - c) filtration of sewage
 - d) storage of sewage; and
 - e) conveyance of sewage.
- 2) A reticulation network for sewage and other sewerage infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or other sewerage infrastructure may be used for one or more of the following purposes for water industry infrastructure:
 - a) production of treated non-potable water from sewage;
 - b) treatment of sewage;
 - c) filtration of sewage;
 - d) storage of sewage;
 - e) conveyance of sewage; and
 - f) disposal of treated non-potable water through the irrigation of land.

Table 3.3 Area of operations

Refer to Schedule D.

SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

1. Notification of changes to Agreement

1.1. If a party to an Agreement proposes to:

- a) terminate the Agreement;
- b) novate the Agreement;
- c) assign or transfer any of its rights or obligations under the Agreement to any other person; or
- d) alter the Agreement in any way that materially reduces the Licensee's technical, financial or organisational capacity to carry out the activities authorised by this Licence,

the Licensee must provide IPART with written notice of that fact as soon as practicable, but no later than 3 months before the time when the proposed action is to occur. The written notice must include details of how the services provided under the Agreement will be provided subsequent to the proposed termination, novation, assignment, transfer or alteration.

2. Review of Environmental Factors

2.1. Where the Licensee carries out any activities authorised by this Licence, the Licensee must:

- a) implement environmental risk mitigation measures substantially consistent with the environmental risk mitigation measures identified in the REF; and
- b) specify, in any Plan or combination of Plans, how the Licensee will implement environmental risk mitigation measures substantially consistent with the environmental risk mitigation measures identified in the REF.

3. Construction Environmental Management Plan

3.1. The Licensee must not commence, or authorise the commencement of, the construction of any Specified Water Industry Infrastructure until after the Licensee has provided a Construction Environmental Management Plan to IPART, and IPART has provided written approval of the Construction Environmental Management Plan to the Licensee.

3.2. The Licensee must ensure that the construction of any Specified Water Industry Infrastructure is carried out in accordance with the approved Construction Environmental Management Plan.

SCHEDULE B – GENERAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

1. Ongoing capacity to operate

- 1.1. The Licensee must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licensee ceases to have this capacity, it must report this to IPART in accordance with the Reporting Manual.

2. Maintaining appropriate insurance

- 2.1. The Licensee must hold insurance that is appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.
- 2.2. The Licensee must provide a copy of each certificate of currency of the insurance maintained by the Licensee to IPART in accordance with the Reporting Manual.
- 2.3. Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must demonstrate that the insurance held is appropriate for the size and nature of those commercial operation activities, by providing a report to IPART from an Insurance Expert that:
- a) certifies that in the Insurance Expert's opinion, the type, scope and limit of the insurance held by the Licensee is appropriate for the size and nature of those commercial operation activities; and
 - b) is in the form prescribed by the Reporting Manual.
- 2.4. [Not applicable]
- 2.5. If, in relation to the activities authorised by this Licence, there is, or is to be, a change in either of the following, the Licensee must provide a report to IPART in accordance with the Reporting Manual:
- a) the insurer or underwriting panel in respect of an insurance policy held by the Licensee; or
 - b) the type, scope or limit on the amount of insurance held by the Licensee.
- 2.6. From time to time when requested in writing by IPART, the Licensee must provide a report to IPART, in the manner and form and within the timeframes specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion the type, scope and limit on the amount of insurance held by the Licensee is appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.

[Note: The circumstances in which IPART may request a report under clause 2.6 include (but are not limited to) the following:

- *where IPART considers that there may be a change in the type, scope or limit on the amount of insurance held by the Licensee in relation to activities that the Licensee is carrying out under this Licence;*
- *where there is a change in the type or extent of activities authorised by this Licence; or*
- *where IPART or an approved auditor considers that the type, scope or limit on the amount of insurance held by the Licensee may not be appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.]*

3. Complying with NSW Health requirements

- 3.1. The Licensee must carry out the activities authorised by this Licence in compliance with any requirements of NSW Health that:
- a) IPART has agreed to; and
 - b) are notified from time to time to the Licensee by IPART in writing.

4. Complying with Audit Guidelines

- 4.1. The Licensee must comply with any Audit Guidelines issued by IPART.

5. Reporting in accordance with the Reporting Manual

- 5.1. The Licensee must prepare and submit reports in accordance with the Reporting Manual.

6. Reporting information in relation to the register of licences

- 6.1. The Licensee must notify IPART, and provide IPART with details, of any change in relation to the following, in accordance with the Reporting Manual, within 14 days of the change:
- a) [Not applicable]
 - b) [Not applicable]
 - c) [Not applicable]
 - d) [Not applicable]
 - e) the identity of each licensed retail supplier or public water utility that has access to infrastructure services provided by the Specified Water Industry

Infrastructure for the purpose of providing sewerage services to its customers;

- f) any other sewerage infrastructure to which the Specified Water Industry Infrastructure is connected; and
- g) the arrangements for the disposal of waste from the water industry infrastructure specified in section 3, Table 3.2.

7. Monitoring

7.1. The Licensee must undertake any monitoring that is required for the purposes of this Licence, any Plan, the Act or the Regulation in accordance with this clause 7.

7.2. The Licensee must keep the following records of any samples taken for monitoring purposes specified in the Water Quality Plan:

- a) the date on which the sample was taken;
- b) the time at which the sample was collected;
- c) the point or location at which the sample was taken; and
- d) the chain of custody of the sample (if applicable).

7.3. The Licensee must ensure that analyses of all samples taken for the purposes of Verification Monitoring are carried out by a laboratory accredited for the specified tests by an independent body that is acceptable to NSW Health, such as the National Association of Testing Authorities or an equivalent body.

8. Delineating responsibilities

[Not applicable]

9. Notification of changes to end-use

9.1. [Not applicable]

10. Notification of commercial operation

10.1. Each time the Licensee has brought any new Specified Water Industry Infrastructure into commercial operation, the Licensee must:

- a) notify IPART in accordance with the Reporting Manual that it has brought the relevant Specified Water Industry Infrastructure into commercial operation; and

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- b) provide such notification within 10 days after it has brought the relevant Specified Water Industry Infrastructure into commercial operation.

11. Notification of non-compliant Plumbing

- 11.1. If the Licensee becomes aware that a customer's Plumbing is not Code Compliant, the Licensee must, within 10 days, notify the customer and the Plumbing Regulator, in writing, of that fact.

SCHEDULE C – INTERPRETATION AND DEFINITIONS

1. Interpretation

1.1. In this Licence, unless the context requires otherwise:

- a) the singular includes the plural and vice versa;
- b) headings are used for convenience only and do not affect the interpretation of this Licence;
- c) a reference to a document includes the document as modified from time to time and any document replacing it;
- d) a reference to a “person” includes a natural person and any body or entity whether incorporated or not;
- e) a reference to a clause is to a clause in this Licence;
- f) a reference to a section is to a section in this Licence;
- g) a reference to a schedule is to a schedule to this Licence;
- h) a reference to a law or statute includes regulations, rules, codes and other instruments under it, and consolidations, amendments, re-enactments or replacements of them; and
- i) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

2. Definitions

2.1. Expressions used in this Licence that are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation.

2.2. In this Licence:


Act means the *Water Industry Competition Act 2006* (NSW).

Agreement means any agreement or deed provided to IPART in connection with the Licensee's application for this Licence, or any application to vary this Licence.

Audit Guidelines means the document titled “*Audit Guideline – Water Industry Competition Act 2006*”, which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au, and any other guidelines issued by IPART in relation to audits under the Act.

Authorised Person	means each person specified in, as applicable: <ul style="list-style-type: none"> a) section 1, Table 1.1; b) section 2, Table 2.1; and c) section 3, Table 3.1.
Construction Environmental Management Plan	means a site or project specific plan which: <ul style="list-style-type: none"> a) complies with the basic structure detailed in the Environmental Management Plan Guidelines; and a) identifies how the Licensee will implement the environmental risk mitigation measures identified in the REF to the extent they relate to construction.
Code Compliant	has the meaning given to that term under section 7 of the <i>Plumbing and Drainage Act 2011</i> (NSW).
Environmental Management Plan Guidelines	means the document titled “ <i>Guideline for the Preparation of Environmental Management Plans</i> ”, prepared by the Department of Infrastructure, Planning and Natural Resources.
Insurance Expert	means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001</i> (Cth) that authorises the broker to provide financial product advice for, and deal in, contracts of insurance within the meaning of Chapter 7 of that Act.
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> (NSW).
Licence	means this network operator’s licence granted under section 10 of the Act.
Licensee	means Kyema Wastewater Pty Ltd (ACN 635 577 105).
Licensee’s Code of Conduct	has the meaning given in Schedule B, clause 8.1.

Minister	means the Minister responsible for Part 2 of the Act.
NSW Health	means the Water Unit of NSW Ministry of Health and any of the local health districts as defined by the NSW Ministry of Health.
Plan	means any infrastructure operating plan, water quality plan or sewage management plan that the Licensee is required to prepare under the Regulation.
Plumbing	means any pipe, fitting or apparatus that is situated: <ul style="list-style-type: none"> a) downstream of the customer’s connection point to a water main, where the water main is Specified Water Industry Infrastructure; b) upstream of a customer’s connection point to a sewer main, where the sewer main is Specified Water Industry Infrastructure; or c) upstream of a customer’s connection point to a stormwater drain, where the stormwater drain is Specified Water Industry Infrastructure.
Plumbing Regulator	has the meaning given to that term under section 3 of the <i>Plumbing and Drainage Act 2011</i> (NSW).
REF	means the document titled “Review of Environmental Factors – Part 5 EP&A Act 1979 – Kyeema Wastewater Pty Ltd”, Version 2, prepared by Nation Partners Pty Ltd and dated 21 February 2020 and does not include any modified version of that document or any document replacing it.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Reporting Manual	means the document titled “Network Operator's Reporting Manual”, which is prepared by IPART and is available on IPART’s website at www.ipart.nsw.gov.au .



Specified Water Industry Infrastructure

means the water industry infrastructure specified in, as applicable:

- a) section 1, Table 1.2;
- b) section 2, Table 2.2; and
- c) section 3, Table 3.2.

Verification Monitoring

means verification monitoring as described in the document titled "*Australian Drinking Water Guidelines*" or the document titled "*Australian Guidelines for Water Recycling*" as the case may be.

Water Quality Plan

means the water quality plan that the Licensee is required to prepare under the Regulation.

SCHEDULE D – AREA OF OPERATIONS – SEWERAGE SERVICES

Table D.1 Vertices for area of operations

Vertex	Easting	Northing
0	160039.2	6118454
1	160025.5	6118313
2	159369	6118397
3	159386	6118546
4	159161.6	6118909
5	159149.5	6118961
6	159156.4	6119432
7	159456.4	6119401
8	159769	6118890
9	160077.3	6118850
10	160039.2	6118454

Note: Coordinate reference system is MGA 56.

SCHEDULE E – AREA OF OPERATIONS – MAPS

Schedule E contains a map showing the area of operations for sewerage services.

