



**NEW SOUTH WALES
GOVERNMENT**

***WATER INDUSTRY COMPETITION ACT 2006
(NSW)***

NETWORK OPERATOR'S LICENCE

**Discovery Point Water Factory Pty Ltd
(ACN 142 392 541)**



New South Wales

WATER INDUSTRY COMPETITION ACT 2006 (NSW)

Section 10(5)

**Notice of Decision -
Application for a network operator's licence
From Discovery Point Water Factory Pty Ltd**

I, Andrew Constance, Minister for Finance and Services, under section 10(5) of the *Water Industry Competition Act 2006* (NSW) (the Act), have considered and accepted the advice and recommendations made by IPART in its report to me regarding the application from Discovery Point Water Factory Pty Ltd (142 392 541) (the Applicant) for a network operator's licence under the Act. I attach IPART's report (Attachment A).

Based on my consideration and acceptance of IPART's report:

- (a) I am satisfied that the Applicant is not a disqualified corporation as required under section 10(3) of the Act;
- (b) I am satisfied as to each of the criteria set out in section 10(4) of the Act; and
- (c) I have had regard to the licensing principles set out in section 7 of the Act in determining whether or not to grant a licence and what conditions should be imposed on any such licence granted.

I have determined to grant a network operator's licence to the Applicant subject to the conditions set out in licence number 13_025, the Act and the *Water Industry Competition (General) Regulation 2008* (NSW). I hereby attach the licence (Attachment B).

Minister for Finance and Services

Dated this 4th day of December 2013



New South Wales

Water Industry Competition Act 2006 (NSW)

**Grant of network operator's licence
Licence no. 13_025**

I, Andrew Constance MP, Minister for Finance and Services, under section 10 of the *Water Industry Competition Act 2006 (NSW)*, grant a network operator's licence to:

Discovery Point Water Factory Pty Ltd (ACN 142 392 541)

to construct, maintain and operate water industry infrastructure, subject to:

- (i) the conditions imposed by the *Water Industry Competition Act 2006 (NSW)*;
- (ii) the conditions imposed by reg 9 and set out in Parts 1, 2 and 3 of Schedule 1 to the *Water Industry Competition (General) Regulation 2008 (NSW)*;
- (iii) the conditions imposed by the Minister in the attached Schedule A, being special Ministerially-imposed licence conditions for Discovery Point Water Factory Pty Ltd's network operator's licence; and
- (iv) the conditions imposed by the Minister in the attached Schedule B, being standard Ministerially-imposed licence conditions for all licensed network operators.


.....

Minister for Finance and Services

Dated this

4th day of December 20 13

SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR DISCOVERY POINT WATER FACTORY PTY LTD'S NETWORK OPERATOR'S LICENCE

This schedule sets out the conditions which the Minister imposes pursuant to section 13(1)(b) of the Act. In addition to these special Ministerially-imposed conditions, the Licensee is subject to obligations imposed by the Act, the Regulation and the standard Ministerially-imposed licence conditions set out in Schedule B. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the conditions imposed on the Licensee by the Act or the Regulation.

A1 Activities authorised - non-potable water supply

A1.1 This Licence authorises the Licensee and any authorised persons specified in Table 1.1:

- a) to construct, maintain and operate the water industry infrastructure specified in Table 1.2;
- b) for the authorised purposes specified in Table 1.3;
- c) within the area of operations specified in Table 1.4,
subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1.1 Authorised persons

Flow Systems Pty Ltd (ABN 28 136 272 298)
Permeate Partners Pty Ltd (ABN 54 130 112 257)

Table 1.2 Water infrastructure

Infrastructure for the production, filtration, treatment, storage, transport and reticulation of non-potable water.

Table 1.3 Authorised purposes

Toilet flushing, unrestricted irrigation, clothes washing, car washing, general wash-down and water features (landscape architecture).

Table 1.4 Area of operations

The land the subject of the approval granted on 5 May 2011 under section 75O of the *Environmental Planning and Assessment Act 1979* (NSW) by the Director-General, Department of Planning & Infrastructure for application Major Project MP 10_0003; and

The land the subject of the approval granted on 19 March 2012 under section 75J of the *Environmental Planning and Assessment Act 1979* (NSW) by the Deputy Director General, Development Assessment and Systems Performance, Department of Planning & Infrastructure for application Major Project MP 10_0030.

A2 [Not applicable]

A3 Activities authorised – sewerage services

A3.1 This Licence authorises the Licensee and any authorised persons specified in Table 3.1:

- a) to construct, maintain and operate the water industry infrastructure specified in Table 3.2;
 - a) for the authorised purposes specified in Table 3.3;
 - b) within the area of operations specified in Table 3.4,
- subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 3.1 Authorised persons

Flow Systems Pty Ltd (ABN 28 136 272 298)
Permeate Partners Pty Ltd (ABN 54 130 112 257)

Table 3.2 Sewerage infrastructure

Infrastructure for the collection, filtration, treatment, storage, conveyance and disposal of sewage.

Table 3.3 Authorised purposes

Sewage collection, transport and treatment
Effluent disposal to sewer and effluent transfer to non-potable water system.

Table 3.4 Area of operations

The land the subject of the approval granted on 5 May 2011 under section 75O of the *Environmental Planning and Assessment Act 1979* (NSW) by the Director-General, Department of Planning & Infrastructure for application Major Project MP 10_0003; and

The land the subject of the approval granted on 19 March 2012 under section 75J of the *Environmental Planning and Assessment Act 1979* (NSW) by the Deputy Director General, Development Assessment and Systems Performance, Department of Planning & Infrastructure for application Major Project MP 10_0030.

INTERPRETATION AND DEFINITIONS

Interpretation

In this Schedule A, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) headings are used for convenience only and do not affect the interpretation of this Schedule A;
- (iii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iv) a reference to a person includes a natural person and any body or entity whether incorporated or not;

- (v) a reference to a clause is to a clause in this Schedule A;
- (vi) a reference to a schedule is to a schedule to this Licence;
- (vii) 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
- (viii) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

Definitions

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

In this Schedule A:

Act	means the <i>Water Industry Competition Act 2006</i> (NSW).
Licence	means this network operator's licence granted under section 10 of the Act.
Licensee	means the person to whom this Licence is granted under section 10 of the Act.
Minister	means the Minister responsible for Part 2 the Act.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR ALL LICENSED NETWORK OPERATORS UNDER THE ACT

This schedule sets out the standard conditions which the Minister imposes on the Licensee and all other licensed network operators pursuant to section 13(1)(b) of the Act. In addition to these standard Ministerially-imposed conditions, the Licensee is subject to obligations imposed by the Act, the Regulation and the special Ministerially-imposed licence conditions set out in Schedule A. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the conditions imposed on the Licensee by the Act or the Regulation.

B1 Ongoing capacity to operate

- B1.1 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 immediately in accordance with the Reporting Manual.

B2 Obtaining appropriate insurance

- B2.1 Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must:
- a) obtain insurance that is appropriate for the size and nature of the activities authorised under this Licence;
 - b) provide a copy of each certificate of currency of the insurance obtained to IPART; and
 - c) demonstrate that the insurance obtained is appropriate for the size and nature of the activities authorised under this Licence by providing a report to IPART from an Insurance Expert that:
 - i) certifies that in the Insurance Expert's opinion, the type and level of the insurance obtained by the Licensee is appropriate for the size and nature of the activities authorised under the Licence; and
 - ii) is in the form prescribed by the Reporting Manual.

- B2.2 *[Not applicable]*

B3 Maintaining appropriate insurance

- B3.1 The Licensee must maintain insurance that is appropriate for the size and nature of the activities authorised under this Licence.
- B3.2 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.
- B3.3 Whenever there is a change in the type, or level of insurance held by the Licensee in relation to the activities authorised under this Licence, the Licensee must provide a copy of the certificate of currency to IPART within 10 days of the change being made.
- B3.4 From time to time when requested in writing by IPART, the Licensee must provide a report to IPART, in the manner, form and time specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion the type and level of the insurance held by the Licensee is appropriate for the size and nature of the activities authorised under this Licence.

[Note: The situations in which IPART may request a report under clause B3.4 include (but are not limited to) the following:

- *when IPART has reason to believe that there may be a change in the type or level of insurance held by the Licensee in relation to activities authorised under this Licence;*
- *where there is a change in the type or extent of activities authorised under this Licence; or*
- *when IPART or an approved auditor has reason to believe that the type or level of insurance held by the Licensee may not be appropriate for the size and nature of the activities authorised under this Licence.]*

B4 Complying with NSW Health requirements

B4.1 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.

B5 Complying with Audit Guidelines from IPART

B5.1 The Licensee must comply with any Audit Guidelines issued by IPART.

B6 Reporting in accordance with the Reporting Manual

B6.1 The Licensee must prepare and submit reports in accordance with the Reporting Manual.

B7 Reporting information in relation to the Register of Licences

B7.1 Within 14 days of any change in relation to the following, the Licensee must notify IPART, and provide details, of the change in accordance with the Reporting Manual:

- a) any source from which the water handled by the Specified Water Industry Infrastructure is derived;
- b) the Authorised Purposes of the water handled by the Specified Water Industry Infrastructure;
- c) the identity of each licensed retail supplier or public water utility that has access to the infrastructure services provided by the Specified Water Industry Infrastructure for the purpose of supplying water to its customers;
- d) any other water infrastructure to which the Specified Water Industry Infrastructure is connected;
- 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;
- g) the arrangements for the disposal of waste from the Specified Water Industry Infrastructure.

B8 Monitoring

B8.1 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 B8.

B8.2 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).

B8.3 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.

B9 Provision of copy of Plan

B9.1 Whenever the Licensee makes a significant amendment to a Plan, the Licensee must provide a copy of the amended Plan to IPART at the same time that it provides a copy to the approved auditor engaged to prepare a report as to the adequacy of the amended Plan, as required under the Regulation.

B10 Delineating responsibilities – interconnections

B10.1 If a code of conduct has not been established under reg 25 of the Regulation, the Licensee must (by a date specified by IPART) establish a code of conduct (**Licensee's Code of Conduct**) in accordance with this clause B10.

B10.2 The Licensee's Code of Conduct must set out the respective responsibilities of (i) the Licensee, and (ii) each licensed network operator, licensed retail supplier and/or public water utility that supplies water, provides sewerage services or constructs, maintains or operates any other water industry infrastructure in the Specified Area of Operations. The Licensee's Code of Conduct must at a minimum, provide for:

- a) if the Specified Water Industry Infrastructure is connected to any other water industry infrastructure, who is responsible for repairing, replacing or maintaining any pipes, pumps, valves, storages or other infrastructure connecting the Specified Water Industry Infrastructure to the other water industry infrastructure;
- b) who is responsible for water quality;
- c) who is liable in the event of the unavailability of water;
- d) who is liable in the event of failure of the Specified Water Industry Infrastructure;
- e) the fees and charges payable in respect of the use of the Specified Water Industry Infrastructure; and
- f) who is responsible for handling customer complaints.

B10.3 Before the Licensee brings the Specified Water Industry Infrastructure into commercial operation or by a later date specified by IPART (if any), the Licensee's Code of Conduct must be agreed in writing between the Licensee and the other licensed network operators, licensed retail suppliers and/or public water utilities referred to in clause B10.2.

B10.4 *[Not applicable]*

B10.5 The Licensee must not contravene the Licensee's Code of Conduct to the extent that it makes the Licensee responsible or liable for the matters set out in it.

B11 Notification of changes to end-use

- B11.1 If the Licensee proposes to operate the Specified Water Industry Infrastructure to supply water for an end-use which is not set out in the most recent Water Quality Plan provided to IPART, the Licensee must notify IPART in writing at least 3 months before commencing such operation.

B12 Notification of changes to Authorised Person

- B12.1 If an Authorised Person ceases, proposes to cease, or receives notification to cease providing any of the services relating to the activities authorised by this Licence, the Licensee must provide IPART with written notice as soon as practicable but no later than 28 days before the date of cessation of the services. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken.

B13 Notification of commercial operation

- B13.1 This clause B13 applies each time the Licensee has brought any of the Specified Water Industry Infrastructure into commercial operation.

- B13.2 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
- b) provide such notification within 10 days after it has brought the relevant Specified Water Industry Infrastructure into commercial operation.

INTERPRETATION AND DEFINITIONS

Interpretation

In this Schedule B, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) headings are used for convenience only and do not affect the interpretation of this Schedule B;
- (iii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iv) a reference to a "person" includes a natural person and any body or entity whether incorporated or not;
- (v) a reference to a clause is to a clause in this Schedule B;
- (vi) a reference to a schedule is to a schedule to this Licence;
- (vii) 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
- (viii) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

Definitions

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

In this Schedule B:

Act	means the <i>Water Industry Competition Act 2006</i> (NSW).
Audit Guidelines	means the document entitled "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 the authorised persons specified in, as applicable: <ul style="list-style-type: none"> (i) Schedule A, clause A1, Table 1.1; (ii) Schedule A, clause A2, Table 2.1; and (iii) Schedule A, clause A3, Table 3.1.
Authorised Purposes	means the authorised purposes specified in, as applicable: <ul style="list-style-type: none"> (i) Schedule A, clause A1, Table 1.3; (ii) Schedule A, clause A2, Table 2.3; and (iii) Schedule A, clause A3, Table 3.3.
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 the person to whom this Licence is granted under section 10 of the Act.
Licensee's Code of Conduct	has the meaning given in clause B10.1.
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.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Reporting Manual	means the document entitled "Network Operator's Reporting Manual," which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au .
Specified Area of Operations	means the area of operations specified in, as applicable: <ul style="list-style-type: none"> (i) Schedule A, clause A1, Table 1.4; (ii) Schedule A, clause A2, Table 2.4; and (iii) Schedule A, clause A3, Table 3.4.
Specified Water	means the water industry infrastructure specified in, as applicable:

Industry
Infrastructure

- (i) Schedule A, clause A1, Table 1.2;
- (ii) Schedule A, clause A2, Table 2.2; and
- (iii) Schedule A, clause A3, Table 3.2.

Verification
Monitoring

means verification monitoring as described in the document entitled "Australian Drinking Water Guidelines" or the document entitled "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.

Superseded