



New South Wales

Water Industry Competition Act 2006 (NSW)

Section 10

Notice of Decision - Application for a network operator's licence by True Water DTR Pty Ltd

I, The Hon. Rose Jackson, MLC, Minister for Water have decided to grant True Water DTR Pty Ltd (**Applicant**)'s (ACN 606 141 557) application (**Application**) for a network operator's licence under section 10(1) of the *Water Industry Competition Act 2006 (NSW)* (**Act**) subject to the conditions set out in licence number 23_048, the Act and the *Water Industry Competition (General) Regulation 2008 (NSW)*. The reasons for my decision are set out below.

I have considered and accepted the Independent Pricing and Regulatory Tribunal's (**IPART**)'s advice and recommendations in its report to me on the Application. 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 for the purposes of section 10(3)(a) of the Act;
- (b) I am satisfied that the Applicant is not a corporation that is a related entity (within the meaning of the *Corporations Act 2001 (Cth)*) of a disqualified corporation that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise (if granted), for the purposes of section 10(3)(b) of the Act; and
- (c) I am satisfied as to each of the criteria set out in section 10(4) of the Act.

I have also had regard to the licensing principles set out in section 7 of the Act in considering whether or not to grant the licence and what conditions should be imposed on any such licence granted.

I attach the licence (**Attachment B**).

The Hon. Rose Jackson,
MLC, Minister for Water

Dated this 24 day of October 2023



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW)

Network operator's licence

Licence no. 23_048

True Water DTR Pty Ltd

(ACN 606 141 557)

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:

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| Section 1 authorises the construction, maintenance and operation of water infrastructure for non-potable water (if applicable). |
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| Section 2 authorises the construction, maintenance and operation of water infrastructure for drinking water (if applicable). |
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| Section 3 authorises the construction, maintenance and operation of sewerage infrastructure (if applicable). |
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| Schedule A sets out special Ministerially-imposed licence conditions that are specific to this Licence. |
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| Schedule B sets out Ministerially-imposed licence conditions that generally apply to network operator's licences granted under the Act. |
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| Schedule C sets out definitions and interpretation provisions. |
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| Schedule D sets out the area of operations for the activities authorised by the Licence. |
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| Schedule E provides indicative maps for reference only. |
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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

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 to 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

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| None |
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Table 3.2 Water industry infrastructure and purposes for water industry infrastructure

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| <ol style="list-style-type: none">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:<ol style="list-style-type: none">a) production of treated non-potable water from sewage;b) treatment of sewage;c) filtration of sewaged) storage of sewage; ande) 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:<ol style="list-style-type: none">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; andf) disposal of treated non-potable water through the irrigation of land. |
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Table 3.3 Area of operations

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| Refer to Schedule D. |
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SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

1. Statement of Environmental Effects (SEE)

- 1.1. 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 SEE; 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 SEE.

2. Construction Environmental Management Plan

- 2.1. 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.
- 2.2. 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.

3. Management of Designated Irrigation Zones

- 3.1. The Licensee must manage irrigation of Designated Irrigation Zones in accordance with the recommendations in the LCA, and as detailed in the Effluent Management Plan.
- 3.2. The Licensee must monitor soil condition of Designated Irrigation Zones on an annual basis and maintain records of monitoring. Any deterioration to soil conditions from the LCA must be reported to IPART with proposed mitigation measures that the Licensee will undertake. The licensee must undertake, and maintain records of, all proposed mitigation measures unless notified otherwise by IPART.

4. Suitable Bank Guarantee

- 4.1. Before bringing any of the infrastructure the subject of this Licence into commercial operation, and at all times afterwards until the fifth anniversary of the

date any such infrastructure is first brought into commercial operation, the Licensee must ensure that a Suitable Bank Guarantee is in effect.

- 4.2. The Licensee must immediately provide a copy of the Suitable Bank Guarantee and any related documents to IPART or the Minister upon request.

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.]

2.7. Without limiting clause 2.1, the Licensee must maintain professional indemnity insurance during the Design Phase and for a minimum period of 6 years from the date of the commencement of construction of any infrastructure which is the subject of 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:
 - a) the date on which the sample was taken;
 - b) the time at which the sample was taken;
 - 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 monitoring purposes are carried out by a laboratory accredited for the relevant analyses 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

[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
 - 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 of that fact, in writing.

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).

Audit Guidelines means the document titled "*Audit Guideline – under the 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.

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| Construction Environmental Management Plan | <p>means a site or project specific plan which:</p> <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 SEE 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 (NSW)</i> . |
| Designated Irrigation Zone | means designated irrigation zone identified in the LCA and True Water's Effluent Management Plan. |
| Effluent Management Plan | Means the document titled "Effluent Management Plan", version EMP-ASHBv2, 7 November 2022, prepared by True Water DTR Pty Ltd. |
| 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 (Cth)</i> 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 (NSW)</i> . |
| LCA | means the " <i>Land Capability Assessment for Recycled Water Application, Chelsea Gardens Estate, Moss Vale, SEEC Pty Ltd</i> , 19 October 2020. |
| Licence | means this network operator's licence granted under section 10 of the Act. |

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| Licensee | means True Water DTR Pty Ltd (ACN 606 141 557). |
| 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). |
| Regulation | means the <i>Water Industry Competition (General) Regulation 2021</i> (NSW). |
| Reporting Manual | means the document titled "Network Operator's Reporting Manual under <i>Water Industry Competition Act 2006</i> ", which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au . |

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| Specified Water Industry Infrastructure | <p>means the water industry infrastructure specified in, as applicable:</p> <ul style="list-style-type: none"> a) section 1, Table 1.2; b) section 2, Table 2.2; and c) section 3, Table 3.2. |
| SEE | <p>means <i>Statement of Environmental Effects, Proposed Interim Wastewater Treatment System, Chelsea Gardens, Moss Vale, Premise, 20 October 2020</i></p> |
| Suitable Bank Guarantee | <p>means a bank guarantee which:</p> <ul style="list-style-type: none"> a) is issued by a reputable financial institution; b) provides guaranteed funding to the Licensee of at least \$1.5 million for the operation and maintenance of the infrastructure the subject of this Licence for at least five years from the date any infrastructure the subject of this Licence is first brought into commercial operation; and c) may be drawn down gradually over the period ending on the fifth anniversary of the date any infrastructure the subject of this Licence is first brought into commercial operation. |
| Water Quality Plan | <p>means the water quality plan that the Licensee is required to prepare under the Regulation.</p> |

SCHEDULE D – AREA OF OPERATIONS – SEWERAGE SERVICES

Table D.1 Vertices for area of operations for non-potable water

| Vertex | Easting | Northing | Vertex | Easting | Northing |
|---------------|----------------|-----------------|---------------|----------------|-----------------|
| 1 | 258709.81 | 6171826.37 | 13 | 259935.05 | 6172523.91 |
| 2 | 258867.32 | 6171345.93 | 14 | 259865.23 | 6172139.03 |
| 3 | 259051.85 | 6171301.12 | 15 | 259608.55 | 6172189.2 |
| 4 | 259194.8 | 6171930.24 | 16 | 259548.67 | 6172125.93 |
| 5 | 259471.96 | 6172028.02 | 17 | 259468.98 | 6172111.09 |
| 6 | 259470.59 | 6172080.94 | 18 | 259445 | 6172129.12 |
| 7 | 259563.71 | 6172098.23 | 19 | 259403.89 | 6172128.05 |
| 8 | 259618.95 | 6172156.61 | 20 | 259404.54 | 6172102.98 |
| 9 | 259859.77 | 6172108.91 | 21 | 259439.97 | 6172103.9 |
| 10 | 259800.96 | 6171784.59 | 22 | 259441.39 | 6172048.99 |
| 11 | 260134.69 | 6171719.42 | 23 | 259202.63 | 6171964.74 |
| 12 | 260166.47 | 6172491.95 | | | |

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.

