

Submissions re Application for Network Operator and Retail Supplier Licence

A. Introduction

1. This submission will argue that the Applicant, Northern Water Solutions (NWS), should not be granted its Application for Network Operator and Retail Supplier Licence.
2. The Applicant has not demonstrated any good reason as to why the Cobaki Lakes Development (“the Development”) cannot be connected directly to the existing sewerage and water supply network of the Tweed Shire Council (TSC).
3. The construction of a Waste Water Treatment Plant (WWTP) at 425 Piggabeen Road was not part of the original Application for Cobaki Estate by the developer, Leda Holdings (“Leda”). In fact, the original Application by Leda Holdings was for direct connection to the TSC water and sewerage system along Piggabeen Road (to be renamed Cobaki Parkway as part of the development).
4. Apparently then, even Leda believed earlier at the time of the original Application for the Development that a direct connection to the TSC water and sewerage system was the best option.
5. Leda Holdings is now seeking to change this to enable it to set up its own private water utility: see paragraph 3.5.1 on page 21 of the Licence Application.
6. The land at 425 Piggabeen Road on which the Applicant now seeks to place the WWTP is across the road from the boundary of the Cobaki Lakes Development and was not within the original boundaries of the Development. It was the site of a golf driving range. The property had been on the market for sale for an extended period of time. It is understood 425 Piggabeen Road was only purchased by Leda Holdings recently this year.

B. Section 10(4)(d) of the Water Industry Competition Act 2006

Such an arrangement to have the TSC supply drinking water to the Applicant as previously mentioned would also be contrary to Section 10(4)(d) of the *Water Industry Competition Act 2006* (“the WICA”) in that sufficient quantities of the water will not have been obtained otherwise than from a public water utility. The TSC is defined in the dictionary to the WICA as a public water utility being “a council or county council exercising water or sewerage functions.” On this basis a licence to supply water should not be granted to the Applicant.

C. Competition and Benefit to the Small Retail Customer

1. One of the stated purposes of the WICA is “...to encourage competition in relation to the supply of water and the provision of sewerage services ...”

2. There will be no competition in the supply of water and the provision of sewerage services for the end user if the Licence Application is granted, as presumably NWS will be the sole provider of such services at the end of the day to consumers/residents of the Development.
3. The construction of a WWTP will be an unnecessary duplication of infrastructure for both water supply and sewerage treatment which may ultimately lead to higher cost at retail point of sale for consumers/residents of the Development than if the Development was supplied directly by the TSC system. This duplication is evidenced by the following:
 - a. Drinking water will be supplied by the TSC and then passed on by the Applicant to consumers after storing on the grounds of the WWTP (see Paragraph 5.1.2 page 81 of the Application for Network Operator and Retail Supplier Licence (“the Licence Application”) and Paragraph 5.1.6 page 85 of the Licence Application).
 - b. The Applicant also proposes that an “emergency discharge point” for waste/recycled water be provided into the TSC system” see paragraph 4.3.4 on page 70 and *Emergency Waste Water Discharge* on page 73 of the Licence Application. If the Applicant has to rely on the TSC system as the sole source of drinking water and as a backup for waste water discharge in time of emergency then why should not the TSC be responsible for delivering those services to the Development in the first place.
 - c. In regard to recycled water, NWS is also relying on an agreement with TSC for “...drinking water back up/top up in an emergency (see Paragraph 5.1.6 page 86 of the Application for Network Operator and Retail Supplier Licence).
 - d. NWS further states in the Licence Application that it is relying on “... the experience and support of the Tweed Shire Council...” to provide “... drinking water and offsite waste water treatment for excess treated effluent...” (see paragraph 6.1.2 on page 92 of the Licence Application).
 - e. It is also noted that the Licence Application states that the water and sewerage system of the Tweed Shire Council will run up to the boundary of Cobaki Lakes Development: see paragraph 3.4.2 on page 19 of the Licence Application.
 - f. NWS proposes a specific start date for construction of the WWTP in October 2017. It is further proposed that the subdivision in the development be ready to take place from September/October 2017. Presumably marketing and sale of the first land lots in the Development will take place following this. It is however further stated that completion of the WWTP would not be expected until December 2018. In the interim, and presumably so Leda Holdings can start the marketing and sale of lots in the Development as soon as possible, it is proposed that water and sewerage servicing of the first 500 lots until the WWTP comes on-line be the responsibility of the Tweed Shire Council: see paragraph 3.2.5 on page 13 of the Licence Application. **This again would seem to be contrary to Section 10(4)(d) of the *Water Industry Competition Act 2006* (“the WICA”).**
 - g. It is also presumably unlikely that the changing over of the water and sewerage services from the Tweed Shire Council to Leda Holdings’ private

water utility in December 2018 will be accomplished without interruption and inconvenience to the end users of Cobaki Lakes Development.

4. In regard to the supply of drinking water the Applicant is simply seeking to interpose itself between the TSC reticulated system and the end users in the Development. Rather than drinking water being supplied directly to the Development by the TSC the Applicant will buy water from the TSC, store the water in holding tank/s on the grounds of the WWTP and then on-sell it to consumers in the Development. There is no demonstrated benefit in regard to costs/pricing for the end user in such an arrangement and in fact over time it may result in increased cost to the end user.

D. Water Security and the Impact on the Environment

1. The Applicant's proposal for supplying water and sewerage services to the Development will result in a situation less secure than if such services were supplied directly by the TSC.
2. The supply of water and sewerage services by the TSC will involve the reticulation of such services to and from the development in the contained system of the TSC. The headworks of the TSC system are located away from the area and not subject to any extreme weather events which may befall the precincts of the proposed WWTP.
3. The Applicant proposes the gathering together of the storage/reticulation of drinking water, recycled water and untreated/treated sewerage all in close proximity to each other on the grounds of the WWTP. It is submitted that on a macro level and from a water security point of view this is a serious and fundamental flaw in the Applicant's plan.
4. The proposed siting of the WWTP at 425 Piggabeen Road is on a relatively low lying area nearby to the Piggabeen Creek. This area has become subject to severe weather events (i.e. flooding) on a more frequent and severe basis over recent years. The recent rains in March 2017 resulted in falls of between 15 and 18 inches in a 48 hour period in the Piggabeen Valley. Such rainfall resulted in flooding not only in the Piggabeen Creek catchment but also short lived and severe runoff and micro flooding of areas not normally subject to any water flow.
5. The consequences for such severe weather events to compromise the security of the WWTP in its proposed location through water inundation and damage is serious and real. This is particularly so having regard to the fact that drinking water and sewerage will be in close proximity in the confines of the WWTP and the potential for cross contamination of these items is great. Such potential also exists in the event of any other disaster or accident which may befall the WWTP.
6. The existence of a concrete bund at the WWTP will presumably only help to minimise leaks/egress from the holding tanks etc. but will not necessarily prevent ingress of local flooding due to an extreme weather event.
7. The effect on the surrounding environment of any failure in the integrity of the WWTP due to such events is great. Piggabeen Creek flows into Cobaki Creek which in turn flows into Terranora Creek which then runs into the Tweed River. These waters flow past a number of residential developments and canal estates as well as the

waters near Tweed Heads itself which are heavily trafficked by recreational boat users.

8. The Piggabeen Valley is a picturesque rural area located 10 minutes' drive from the urban centre of Tweed Heads. The area is comprised of a mix of acreage rural, residential and life style properties along with properties practising animal husbandry and some agriculture. A country market is held on the third Sunday of each month at the historic Piggabeen Hall located just a short drive up the Valley from the proposed site of the WWTP. The existing and future tourist potential of the Valley, particularly for day-trippers, is enormous.
9. The property where the WWTP is proposed to be constructed was occupied by a picturesque golf driving range which was enjoyed by locals and visitors to the area alike. The golf driving range has recently been closed and the gates locked, presumably after it was purchased by the Developer Leda Holdings for siting of the WWTP.
10. The siting of a "sewerage farm" and waste water treatment plant at the gateway to the Valley will have a serious detriment on the amenity and tourist potential of the area. This is in marked contrast to approvals for other WWTP where it is understood the WWTP have been located in less conspicuous places in the local community.
11. It is noted that on or about Thursday 4th May, 2017 workmen began clearing the land including vegetation etc. on the western end of 425 Piggabeen Road near Sandy Lane on the proposed site of the WWTP.

E. Suitability of the Applicant as a Licence Holder

1. It is also respectfully submitted that the Applicant has not demonstrated as a corporation the skills, experience and qualifications required to operate a WWTP as proposed.
2. It is stated in the Licence Application that the proposed operator, NWS, is "... a new clean skin company that is a wholly owned subsidiary of Leda Holdings Pty Ltd" (see paragraph 6.1.2 on page 93 of the Licence Application). Leda Holdings is of course the developer of the Cobaki Lakes Estate. It is further stated that NWS has the support and backing of Leda Holdings (see again paragraph 6.1.2 on page 93 of the Licence Application).
3. However any experience that Leda Holdings may have in the construction of shopping centres, housing estates etc. is not the same as running the specialised and complex systems of a water recycling or sewerage plant.
4. As a corporate entity it appears that NWS has no demonstrated experience in the operation or running of such infrastructure.
5. It appears from the Application that NWS has been set up by Leda Holdings to act as a Network Operator and Retail Supplier for Leda Holdings in its various developments around New South Wales.
6. The 13,000 customers mentioned in paragraph 6.1.2 on page 92 of the Licence Application will presumably be the residents etc. of the developments of Leda Holdings, of which NWS is a subsidiary company.
7. The Licence Application states that "... selected Directors and CEO and other personal (*sic*) that have formed the executive management team ..." have "collective experience" in the "Water Industry" (see paragraph 6.1.2 on page 92 of the Licence

Application). However, this does not demonstrate the Applicant's ability here and now to establish and operate on a daily basis the infrastructure for which it is seeking a licence, including infrastructure to provide recycled water.

8. Appendix 6.1.3A of the Licence Application does not name any key personnel involved in construction, maintenance and operation but simply gives selection criteria to be used presumably when these people are hired. The only name that seems to actually appear is that of the CEO, Wayne Williamson.
9. It does not appear to be clear from the Application documentation as to whether any of these personnel have as yet been hired.
10. The Applicant has therefore not demonstrated as a corporate entity that it has any personnel (experienced or not) who have worked over any length of time whatsoever **together as a team** in the venture for which it is seeking a Licence.
11. In any event, as opposed to this are the years of expertise and experience offered by the management and staff of the TSC itself to supply water and sewerage services to the Development as apparently Leda Holdings was originally happy to do.

F. The Waste Water Treatment Plant and the Local Piggabeen Valley Community

1. The Applicant appears to imply in its documentation that the WWTP may one day service the local community as well as the Cobaki Lakes Development. It is extremely unlikely that this will ever happen.
2. As previously stated in these submissions, the residences located in Piggabeen Valley are on properties varying from one or two acres up to several acres, interspersed with larger rural properties. Thus the population is dispersed and scattered throughout the Valley which would be why the area is not connected to the water and sewerage systems of the Tweed Shire Council. The area relies on septic systems and rainwater tanks.
3. The cost and practical restraints which have prevented a public utility such as the Tweed Shire Council from connecting the area to its systems would also no doubt work against a private utility operator such as the Applicant from doing the same thing.
4. There is therefore no benefit whatsoever to the existing local community from construction of a WWTP in the area.

G. Conclusion

In summary then the following factors should be taken into account in considering the Licence application:

1. That the Applicant's proposal for supply of drinking water from the Tweed Shire Council, particularly until completion of any proposed Waste Water Treatment Plant by the Applicant, contravenes Section 10(4)(d) of the *Water Industry Competition Act 2006*.
2. That there will be no competition created in the supply of drinking water and the provision of sewerage services for the end user
3. That there is no demonstrated benefit to the small retail customer

4. That water security for the Cobaki Lakes Development will be better served by being serviced directly by the systems of the Tweed Shire Council
5. That the potential impact of the proposed Waste Water Treatment Plant on the local environment and amenity of the existing local community does not justify the construction of such a Plant
6. That the Applicant is not suitable to be a Network Operator and Retail Supplier due to not having demonstrated the requisite experience, skills, knowledge and expertise.
7. That it is accordingly in the interests of the small retail customers and other end users within the Cobaki Lakes Development to be supplied with water and sewerage services by the Tweed Shire Council rather than the Applicant.

It is therefore respectfully submitted that the Applicant has not made its case for the granting of a Licence for either a Network Operator or a Retail Supplier in this matter and such Licences should be refused.