

Water Industry Competition Act 2006
Schedule 4, clause 10
Notice of decision – Grant of operator licence
Licence No. 25_008

The Independent Pricing and Regulatory Tribunal (**IPART**) grants Aquacell Pty Ltd (ACN 072 487 015) an operator licence under Schedule 4, clause 10(1) of the *Water Industry Competition Act 2006* (**Act**).

The operator licence takes effect on 1 March 2025.

In considering whether to grant the operator licence and what conditions to impose on the licence, IPART had regard to the objects in sections 2A and 5A of the Act.

The operator licence is attached.

23/01/2025

X



Signed by: carmel.donnelly@ipart.nsw.gov.au

Carmel Donnelly PSM
Chair

On behalf of the Independent Pricing and Regulatory Tribunal



New South Wales Government

Water Industry Competition Act 2006 (NSW)

Operator Licence no. 25_008

Aquacell Pty Ltd

(ACN 072 487 015)

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Licence Authorisation Table

Licensee	Aquacell Pty Ltd ACN 072 487 015
Licence number	25_008
Version history	Current licence in force since: 1 March 2025. Details about grant, variation, replacement, cancellation or surrender of this licence are set out in Schedule A.
Authorised activities (the Act, s 8E(a))	Construction and operation of water industry infrastructure.
Authorised classes (the Act, s 8E(b))	The classes specified in Schedule B.
Authorised maximum schemes (the Act, s 8E(c))	10 schemes.
Authorised maximum scale (the Act, s 8E(d))	The scale specified for each class in Schedule B.

LICENCE TERMS

1. Grant and authorisation

- 1.1 The Independent Pricing and Regulatory Tribunal grants this licence under the Act, Schedule 4, clause 10(1).

Note: This licence is deemed to be a licence granted under section 8C of the Act.

- 1.2 The licensee is authorised to carry out the authorised activities in connection with water industry infrastructure for which the licensee is the registered operator that:

- a. is of an authorised class,
- b. has a design capacity that does not exceed the authorised maximum scale, and
- c. does not exceed the authorised maximum schemes.

Note: This clause authorises the licensee to carry out certain activities that would otherwise be prohibited under sections 6 and 6A of the Act. This authorisation does not exempt the licensee from obligations under other laws unless expressly provided by those laws.

2. Licence conditions

- 2.1 The licensee must comply with the standard licence conditions specified in Schedule C, Item C2 and the special licence conditions specified in Schedule C, Item C3.

Note: The licensee must also comply with conditions specified in the Act and Regulations.

3. Interpretation

- 3.1 Expressions used in this licence that are defined in the Act or Regulations have the meanings set out in the Act or the Regulations unless the context otherwise requires.

- 3.2 In this licence, unless the context otherwise requires:

- a. the singular includes the plural and vice versa,
- b. a reference to this licence includes any schedule to this licence,
- c. a reference to a schedule is to a schedule to this licence, and
- d. explanatory notes and headings do not form part of this licence, but in the case of uncertainty may be relied on for interpretation purposes.

- 3.3 In this licence:

Act means the *Water Industry Competition Act 2006*.

authorised activities mean the activities specified in the licence authorisation table.

authorised class means the class specified in the licence authorisation table.

authorised maximum scale means the maximum scale of schemes specified in the licence authorisation table.

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authorised maximum schemes means the maximum number of schemes specified in the licence authorisation table.

design capacity means the capacity of the class of infrastructure as determined in accordance with the document as in force from time to time entitled *Design Capacity Guidelines*, issued by IPART and published in the Gazette and on IPART's website.

licensee means the person specified in the licence authorisation table.

Regulations means any regulations made under the Act.

Schedule A Version History

Current licence in force since	1 March 2025
Original grant date	26 July 2015
Transition date	Transitioned licence granted under the Act, Schedule 4, cl.10(1) on: 1 March 2025
Variation history	Varied under the Act, s. 10 or s. 15 (now repealed) on: <ul style="list-style-type: none">• 1 November 2020• 26 July 2021 Varied under the Act, s. 8M on: Not applicable
Replacement history	Not applicable
Cancellation or surrender	Not applicable

Schedule B Authorised Classes and Authorised Maximum Scales

Authorised classes of water industry infrastructure	Scale category	Parameter	Maximum Scale
Infrastructure for the purpose of the collection and treatment of sewage for disposal and the disposal of the treated sewage.	H1	Sewage processing capacity (kL/day)	200

Schedule C Licence Conditions

Item C1 Interpretation

1.1.1 In this schedule:

NSW Health means the Department of the Public Service responsible to the Minister administering the *Public Health Act 2010*.

reporting manual means a document published on IPART's website from time to time setting out notification, information, consultation and reporting requirements for licensed operators.

1.1.2 If any condition, or part of any condition, is unlawful, that condition, or part of the condition, is severable and does not affect the validity of the licence or the balance of the conditions or condition.

Item C2 Standard licence conditions

C2.1 Maintaining appropriate insurance

2.1.1 The licensee must hold insurance of an appropriate type, scope and limit for the activities it carries out under this licence.

2.1.2 The licensee must provide a copy of each certificate of currency of the insurance held by the licensee to IPART in accordance with the reporting manual.

2.1.3 The licensee must notify IPART in accordance with the reporting manual of a change to:

- (a) the insurer or underwriters for an insurance policy held by the licensee; or
- (b) the type, scope or limit of insurance held by the licensee.

2.1.4 The licensee must provide a report to IPART in accordance with the reporting manual from an insurance expert certifying that in the insurance expert's opinion the type, scope and limit of the insurance held by the licensee is appropriate for the activities the licensee carries out under this licence:

- (a) before commencing to operate water industry infrastructure for a scheme under an operational approval; or
- (b) when requested by IPART.

2.1.5 In this condition C2.1, **insurance expert** means an insurance broker that holds an Australian financial services licence under Part 7.6 of the *Corporations Act 2001* (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.

Note: The circumstances in which IPART may request the licensee provide a report under condition 2.1.4 include (but are not limited to) the following:

- where IPART considers that there may have been or may be a change in the type, scope or limit of the insurance held by the licensee; or
- where IPART considers that there may have been or may be a change in the activities the licensee carries out under this licence; or
- where IPART or an approved auditor considers that the type, scope or limit of the insurance held by the licensee may not be appropriate for the activities the licensee carries out under this licence.

C2.2 NSW Health requirements

- 2.2.1 The licensee must consult with NSW Health each time it develops or proposes to make a material change to any of the following:
- (a) a water quality management system for water industry infrastructure constructed or operated by the licensee for drinking water or recycled water, including:
 - (i) a detailed risk assessment; or
 - (ii) a technology assessment;
 - (b) a sewage management plan or system for water industry infrastructure constructed or operated by the licensee for the disposal of treated effluent, including a detailed risk assessment;
 - (c) a protocol to notify NSW Health of health-related incidents or complaints relating to drinking water, recycled water, non-potable water or treated effluent, as applicable.
- 2.2.2 The licensee must provide NSW Health with a copy of any report on an operational approval application audit under section 7E(2) of the Act at the same time it provides the report to IPART.
- 2.2.3 The licensee must provide documents to and consult with NSW Health in accordance with the reporting manual.

Note: Condition C2.7 requires the licensee to notify NSW Health when it commences operating water industry infrastructure.

C2.3 Complying with audit guidelines

- 2.3.1 The licensee must undertake audits of its authorised activities in accordance with any audit guidelines issued by IPART and published on IPART's website.

C2.4 Reporting in accordance with the reporting manual

- 2.4.1 The licensee must prepare and submit the following reports in accordance with the reporting manual:
- (a) an annual compliance report, including:
 - (i) the extent to which the licensee has or has not complied with the Act, the Regulations, this licence and approvals;
 - (ii) for each failure to comply with the Act, Regulations, this licence or an approval:
 - a. the particulars of the non-compliance;
 - b. the reasons for the non-compliance;
 - c. the actions taken, or to be taken, to mitigate the effects of the non-compliance or to prevent a recurrence of the non-compliance;
 - (b) reports on performance indicators and other data specified in the reporting manual; and
 - (c) any other report required by the Act, the Regulations, this licence or an approval.
- 2.4.2 The licensee must give notices, undertake consultation, and provide information required by the Act, the Regulations, this licence or an approval in accordance with the reporting manual.

C2.5 Monitoring

- 2.5.1 The licensee must undertake any monitoring that is required for the purposes of any of the following plans or systems, as applicable to the licensee's schemes, in accordance with this condition C2.5:
- (a) water quality management system;
 - (b) sewage management plan or system.
- 2.5.2 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 collected;
 - (c) the point or location at which the sample was taken; and
 - (d) the chain of custody of the sample (if applicable under the relevant plan or system).
- 2.5.3 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 the National Association of Testing Authorities or an equivalent body that is acceptable to NSW Health.
- 2.5.4 In this condition C2.5, **verification monitoring** means verification monitoring as described in the national safety guidelines, as applicable.

C2.6 Delineating responsibilities under a code of conduct

- 2.6.1 The licensee must establish, and provide to IPART, a code of conduct for each scheme for which it is the registered operator:
- (a) before commencing to operate the scheme's water industry infrastructure under an operational approval; or
 - (b) by another date nominated by the licensee and approved by IPART.
- 2.6.2 Subject to condition 2.6.3, the licensee must obtain agreement to the code of conduct from:
- (a) the registered retailer for the scheme; and
 - (b) each licensed operator, licensed retailer and public water utility that:
 - (i) supplies water or provides sewerage services in the same area of operations as the scheme (unless advised otherwise by IPART in writing); or
 - (ii) constructs, maintains or operates any water industry infrastructure that is connected to the licensee's water industry infrastructure.
- 2.6.3 The code of conduct must set out the roles and responsibilities of the entities specified in condition 2.6.2, including by specifying as relevant:
- (a) who is responsible for repairing, replacing or maintaining the water industry infrastructure;
 - (b) who is liable in the event of the unavailability of water;
 - (c) who is liable in the event of failure of the water industry infrastructure;
 - (d) who is responsible for sharing information and data and in what circumstances;

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- (e) who is responsible for communicating with customers or dealing with customer complaints and how complaints will be handled;
- (f) who is responsible for managing incidents and how incidents will be managed;
- (g) who is responsible for managing water quality and preventing cross-connections; and
- (h) who is liable for the fees and charges payable in respect of the use of the water industry infrastructure.

2.6.4 The licensee must comply with its obligations and responsibilities under the code of conduct.

2.6.5 Where the licensee has established a code of conduct in accordance with condition 8 of Schedule B to Licence No. 15_032 granted under section 10 of the Act (now repealed), that code of conduct is deemed to:

- (a) have been established in accordance with condition 2.6.1; and
- (b) comply with conditions 2.6.2 and 2.6.3, until it is first amended or replaced following the grant of this licence.

2.6.6 In this condition C2.6, **code of conduct** means a utility service agreement or other agreement or document, however described, that includes a protocol for dealing with the matters set out in condition 2.6.3, as relevant.

Note: The objective of a code of conduct is to minimise risks to public health, safety and customers through the establishment of a protocol of efficient and effective day-to-day working arrangements between the licensee and a public water utility, licensed operator or licensed retailer in relation to the matters covered by the code, which include information sharing and handling customers, incidents or other events.

C2.7 Notification of commencing operation of water industry infrastructure

2.7.1 Within 10 days after commencing to operate water industry infrastructure for a scheme under an operational approval or variation to an operational approval, the licensee must notify the following entities that it has commenced operating the infrastructure in accordance with the reporting manual:

- (a) IPART;
- (b) NSW Health;
- (c) any public water utility operating in the area of operations of the scheme; and
- (d) the local council in which the scheme is located.

C2.8 Notification of material change to plans or systems

2.8.1 If a material change is made to the licensee's asset management plan or system, water quality management system, or sewage management plan or system, the licensee must notify IPART within 10 days in accordance with the reporting manual.

C2.9 Notification of non-compliant plumbing

2.9.1 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; and

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- (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.

2.9.2 In this condition C2.9:

- (a) **code compliant** has the meaning given to that term under the *Plumbing and Drainage Act 2011*;
- (b) **plumbing** means any pipe, fitting or apparatus that is located:
 - (i) downstream of a customer's connection point to a water main that is part of the licensee's water infrastructure;
 - (ii) upstream of a customer's connection point to a sewer main that is part of the licensee's sewerage infrastructure; or
 - (iii) upstream of a customer's connection point to a stormwater drain that is part of the licensee's water infrastructure; and
- (c) **plumbing regulator** has the meaning given to that term under the *Plumbing and Drainage Act 2011*.

Note: Without limiting condition 2.9.1(b), an example of plumbing that is not code compliant which must be notified to the plumbing regulator, is plumbing through which non-potable water can come into contact with drinking water.

Item C3 Special licence conditions

C3.1 [Not applicable]

C3.2 [Not applicable]