



Assessment of True Water DTR Pty  
Ltd's network operator's and retail  
supplier's licence applications

## Report to the Minister

September 2023

Water >>

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## **Tribunal Members**

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## **The Independent Pricing and Regulatory Tribunal**

IPART's independence is underpinned by an Act of Parliament. Further information on IPART can be obtained from [IPART's website](#).

## **Acknowledgment of Country**

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders both past and present.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

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# 1 Executive Summary

We recommend that the Minister for Water (**Minister**) grants True Water DTR Pty Ltd (**True Water**):

- a network operator's licence (**operator licence**), number 23\_048 (see **Attachment A**), and
- a retail supplier's licence (**retail licence**), number 23\_049R (see **Attachment B**).

The operator licence, if granted, would authorise True Water to construct, operate and maintain sewerage infrastructure for stage 1 (178 lots) of a new residential subdivision (**the Ashbourne scheme**) subject to the conditions as set out in the attached draft licence. The retail licence, if granted, would authorise True Water to supply sewerage services to stage 1 of the Ashbourne scheme.

The licences allow True Water and its partners to fast-track a new housing development in advance of a proposed sewage treatment plant upgrade by the local water utility. The scheme is located at Moss Vale in the Wingecarribee Shire Council (**Council**) local government area.<sup>i</sup> The Council is the local water utility for the area.

The application seeks to provide sewerage services by constructing and operating an interim wastewater treatment scheme (**IWTS**) that consists of a sewage collection, treatment and irrigation disposal system that involves constructing and operating:

- a reticulated sewerage network
- a sewer pump station with emergency storage to collect sewage from each lot
- a rising main from the pump station to the interim wastewater treatment plant (**IWTP**)
- a Kubota biological interim wastewater treatment plant (the IWTP)
- 2 dams to collect and store influent (untreated sewage) and effluent (treated sewage) to manage extreme wet weather events
- Effluent dispersal system through spray irrigation.

In assessing True Water's licence applications, we considered the licensing criteria set out in sections 10(3) and (4) of the *Water Industry Competition Act (2006)* (**WIC Act**) and had regard to the licensing principles in section 7(1) of the WIC Act.

We have also recommended licence conditions for the Minister to consider when granting the licences.

## 1.1 True Water application

True Water submitted the initial application for an operator licence for the Ashbourne scheme on 8 November 2022. After an initial high-level review, we requested a revised public version of the application to assist with public consultation. The revised application was submitted on 30 January 2023.

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We consulted on the operator licence application from 14 February 2023 to 20 March 2023 and received 5 submissions.

Subsequently, we advised True Water that a retail licence was also required to meet the requirements of the WIC Act. A retail licence application was received on 12 May 2023. Further information was sought from True Water for the retail licence application. We consulted on the retail licence application from 28 July 2023 to 25 August 2023 and received 2 submissions.

We include a summary of submissions received in **Attachment C**.

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## 2 Recommendations

We recommend that the Minister for Water:

- 1 Grants a network operator's licence (operator licence), number 23\_048, to True Water DTR Pty Ltd,
- 2 Grants a retail supplier's licence (retail licence), number 23\_049R, to True Water DTR Pty Ltd,

for the Ashbourne scheme subject to the conditions as set out in the attached draft licences.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the licence applications. The Minister may, if circumstances so require, seek further advice from us in relation to the licence applications.<sup>ii</sup>

The Minister is required to provide us with a Notice of Decision and of the reasons for the decision when deciding whether or not to grant the licences.<sup>iii</sup> We would then publish the notice on our website, in accordance with the requirements of the WIC Act.<sup>iv</sup>

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## 3 Background

### 3.1 The applicant

True Water DTR Pty Ltd is an Australian Proprietary Company. Equity is split between two Companies as follows:

- True Water Group Pty Ltd (81% Equity held)
- Kubota Johkasou Systems Co., Ltd (Kubota) (19% Equity held)

True Water Group owns 100% equity in True Water Solutions which provides specialist wastewater infrastructure for all projects from single households to large scale commercial projects. For the Ashbourne scheme, True Water will use Kubota wastewater treatment technologies, namely a Media Bed Biofilm Reactor (MBBR) to treat collected sewage for disposal through spray irrigation. True Water does not currently hold any WIC Act licences but has significant experience in the design, construction and operation of wastewater treatment plants throughout NSW.

### 3.2 The Ashbourne scheme

The Ashbourne scheme is a master planned residential development with design approval for 1,073 lots. To facilitate project commencement, the developer and Council agreed that an IWTS would be implemented to collect and treat sewage for disposal by irrigation within an approved effluent disposal area. The IWTS would only cater for stage 1 of the scheme, servicing the first 178 lots.

True Water proposes to construct and operate the water infrastructure for stage 1, consisting of an interim sewage collection, treatment and irrigation disposal system. The sewage pump station and emergency storage infrastructure are designed to accommodate the entire 1,073 lot yield. The site is not currently serviced by Council. Until the capacity of the Moss Vale Sewage Treatment Plant (**STP**) is increased, Council cannot provide permanent sewerage services to the site and the remaining development. The IWTS is expected to operate for around 3 years, when the Moss Vale STP is expected to be upgraded.

The IWTS is solely an effluent dispersal scheme and is not a recycled water or effluent reuse scheme. There will be no crop irrigation or agricultural use of the treated effluent.

The IWTS will consist of a reticulation network, sewer pump station and storage, interim rising main, the interim wastewater treatment plant (IWTP) and storages, and the effluent dispersal system. The land used for effluent dispersal is intended to be developed into further residential lots, once the Moss Vale STP is upgraded and the interim scheme no longer needed.

The IWTP will use Media Bed Biofilm Reactor (MBBR) technology. It will have a nominal capacity of 110kL/day (peak capacity of 137.5 kL/day). Council has approved the use of an interim treatment plant to collect and treat sewage from stage 1 of the development, the location of the interim plant and effluent dispersal area under amendments to DA 20/0227 and DA 21/772.



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True Water will provide retail services for the collection, treatment and disposal of sewage from the scheme. As the scheme is a temporary measure the developer, Prime Moss Vale Pty Ltd (Prime Moss Vale), will cover all capital and operational costs. There will be no charges, levies, or fees to the residential property owners relating to the delivery or operation of the scheme.

Developer funding for the capital and operational costs of the scheme will be guaranteed through the provision of a bank guarantee for \$1.5m from Prime Moss Vale to True Water, to be executed prior to operating the scheme, which will cover up to 5 years of scheme operation. The proposed Ashbourne scheme will receive drinking water services from Council. It is anticipated that Council will complete its upgrade works on the Moss Vale STP by mid-2026, with funding being supplied under a federal funding program.

Once the upgrade has been completed, Council will connect the sewage infrastructure at the Ashbourne scheme to its Moss Vale STP and the wastewater treatment plant and associated infrastructure will be decommissioned and removed.

## 4 Consultation and submissions

On 14 February 2023, we provided the operator licence application to, and invited submissions from, the following Ministers and their relevant departments:

- ▼ Minister administering the WIC Act and Chapter 2 of *Water Management Act 2000* (NSW) (Minister for Water)
- ▼ Minister administering the *Public Health Act 2010* (NSW) (Minister for Health)
- ▼ Minister administering the *Protection of the Environment Operations Act 1997* (NSW) (POEO Act) (Minister for Environment), and
- ▼ Minister administering the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) (Minister for Planning).<sup>v</sup>

On 12 May 2023 we also received an application for a retail licence from True Water. We invited submissions from the same Ministers and departments on 28 July 2023.

At the same time, we also notified the Council that the licence applications were available on our website and requested a submission. Council is the relevant consent authority under Part 4 of the EP&A Act for the overall development, and the appropriate regulatory authority under the POEO Act.<sup>vi</sup> Council approved an initial planning proposal with conditions to sub-divide the land in 2020.<sup>vii</sup>

We also invited submissions on the applications from the public.<sup>viii</sup>

We advertised the operator licence application on our website on 13 February 2023. The closing date for submissions was 20 March 2023.

We advertised the retail licence application on our website on 28 July 2023. The closing date for submissions was 25 August 2023.

### We considered all submissions

For the operator licence application, we received 5 submissions in total, one each from the Minister for Lands and Water, NSW Health, NSW Department of Planning and Environment (**DPE**), NSW Environment Protection Authority (**EPA**) and Council. We received no submissions from the public.

We received 2 submissions for the retail application, one each from NSW Health and DPE.

We considered all the submissions against the licensing principles and the criteria as part of our assessment of the applications. Where necessary we sought further information from True Water to satisfy ourselves that any issues raised in the submissions could be addressed and, where necessary, we have proposed that the Minister impose conditions on the licence to address any outstanding risk (should the licences be granted).

A summary of all the submissions we received is presented in **Appendix D**.

In addition to inviting submissions, we sought expert advice from Insurance and Care NSW (**icare**) to inform our assessment of appropriate insurance arrangements (see section 5.3 and Appendix C).

## 5 Assessment of application

The WIC Act sets out licensing principles which the Minister must have regard to in considering whether or not to grant a licence.<sup>x</sup> The WIC Act also prohibits a licence from being granted to a disqualified corporation or related entity<sup>x</sup> and requires the Minister to be satisfied that the applicant meets specific criteria set out in the WIC Act or the regulations in order to grant a licence.<sup>xi</sup> The Minister can consider other relevant matters, having regard to the public interest.<sup>xii</sup>

This section of our report contains our assessment of the application for an operator licence and a retail licence against:

- ▼ The eligibility of the applicant (section 5.1)
- ▼ The licensing principles (section 4.2), and
- ▼ The licensing criteria (section 5.3).

This section also includes reasons for our recommendations.

### 5.1 The applicant is eligible for a licence

We consider that True Water is not a disqualified corporation or a corporation that is a related entity of a relevant<sup>xiii</sup> disqualified corporation.

We relied on the following information:

- ▼ ASIC reports that we obtained for True Water, and for any relevant related entities, confirmed that these companies are not disqualified nor are their directors or persons concerned in the management of disqualified individuals.<sup>xiv</sup>
- ▼ Information provided by True Water regarding details of the:
  - Relevant related entities<sup>xv</sup>
  - Names of the company Directors.
- ▼ Statutory declarations<sup>xvi</sup> signed by True Water's directors, stating that:
  - True Water is not a disqualified corporation within the meaning of the WIC Act.
  - True Water is not a related entity of a disqualified corporation that would have a direct or indirect interest in, or influence on, the carrying out of activities that the licence would authorise if granted.<sup>xvii</sup>

### 5.2 The applications are consistent with the licensing principles

In considering whether or not to recommend that the Minister grants the licences, and the conditions to which the new licences should be subject (if granted), we had regard to the licensing principles set out in the WIC Act (refer Box 5.1).

### Box 5.1 Licensing principles under section 7(1) of the WIC Act

“In considering whether or not a licence is to be granted under this Part and what conditions are to be imposed on such a licence, regard is to be had to the following principles:

- a) the protection of public health, the environment, public safety and consumers generally,
- b) the encouragement of competition in the supply of water and the provision of sewerage services,
- c) the ensuring of sustainability of water resources,
- d) the promotion of production and use of recycled water,
- e) the promotion of policies set out in any prescribed water policy document,
- f) the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence,
- g) the promotion of the equitable sharing among participants in the drinking water market of the costs of water industry infrastructure that significantly contributes to water security.”

We consider that the proposed scheme to construct and operate a sewage collection, treatment and irrigation disposal system is consistent with each of the licensing principles set out in the WIC Act.

We analysed the information in the application, and additional information received from True Water. Our analysis of the activities against the licensing principles are set out below.

#### 5.2.1 Protection of public health, the environment, public safety and consumers generally (licensing principle (a))

We had regard to True Water's capacity to undertake the proposed activities in a manner that does not present a risk to public health, the environment, public safety and consumers generally.

We received 7 submissions in total from the relevant ministries and from the Council. We have addressed each of the issues identified in these submissions in Appendix C and Appendix D and considered the potential for adverse impacts below.

##### Protection of public health

We assessed True Water's capacity to manage the key risks posed to public health by the new activities to be licensed, having regard to the protection of public health in section 5.3 of this report.

##### Protection of the environment

In chapter 5 of this report, we assess whether True Water has met the requirements for environmental assessment under the EP&A Act in relation to the proposed activities. Other aspects of our environmental assessment are:

#### i. Development approvals

True Water obtained development consent, under Part 4 of the EP&A Act, to provide sewerage services for a new housing development, by constructing and operating an interim sewage collection, treatment and irrigation disposal system that involves constructing and operating:

- 
- a sewer pump station to collect sewage from each lot
  - a rising main from the pump station to the IWTP
  - a Kubota biological wastewater treatment plant (the IWTP)
  - 2 dams to collect and store influent (untreated sewage) and effluent (treated sewage) to manage extreme wet weather events
  - Effluent dispersal system through spray irrigation.<sup>xviii</sup>

The environmental impacts from the development were considered by the Council. In addition, Council addressed the larger environmental concerns with the development, namely land clearing by the developer in its assessment. No further assessment was required by us.

## **ii. Enforcement actions**

In its submission on the application, DPE confirmed that it found no record of enforcement action undertaken or carried out against True Water under the EP&A Act. Similarly, the EPA was not aware of any breaches of the POEO Act by True Water and it had not taken any actions against them.

## **iii. Other approvals**

The submission from the Minister for Lands and Water requested further information in relation to the location of the proposed infrastructure and its impact on the White's Creek floodplain, and whether True Water would need a flood work approval under section 92 of the *Water Management Act 2000*. True Water provided further information, noting that the flood planning maps included in the Water Cycle Management Study (provided with the application) confirmed that flood risk was limited to the north-western edges of the site. The infrastructure to be constructed will be located on the eastern ridge approximately 400 m to the east of the flood affected land, on land that is well above the predicted probable maximum flood level. Therefore, no flood work approval is required.

### Protection of public safety

We assessed True Water's capacity to manage key risks with regard to public health specifically and public safety in general in section 5.3 of this report.

### Protection of consumers generally

We considered whether any consumers would be disadvantaged as a result of a decision by the Minister to grant True Water a licence.

We also assessed the financial capacity of the applicant and the scheme over the next 5 years. We consider consumers will remain protected against loss of essential services (see section 5.3).

If the Minister grants a licence, we consider that consumers generally will continue to be protected in relation to the activities licensed.

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## 5.2.2 Encouragement of competition (licensing principle (b))

There is currently no public water utility sewerage connection for the development. Without a WIC Act licence, we understand that the development would either be delayed or not go ahead. The interim nature of the scheme reflects that the local public water utility (i.e. the Council) is planning an upgrade of its sewage treatment plant capacity to cope with the increase in customer numbers. The scheme residents will connect and transfer across to Council once its upgrade is completed.

## 5.2.3 Ensuring the sustainability of water resources (licensing principle (c))

The scheme will provide sewerage services only. As it will not provide drinking water or recycled water to the development, the scheme would have a neutral impact on sustainability of water resources. All residences will be serviced by the local public water utility.

True Water commissioned a Land Capability Assessment report that identified an area that is sufficient to manage dispersal of treated effluent by irrigation from 385 lots, which far exceeds the requirements of the application.<sup>xix</sup> Combined with the conclusions of the other specialist reports,<sup>xx</sup> the Statement of Environmental Effects (**SEE**) has also concluded that the proposed dispersal system will not have unacceptable impacts with the adoption of the recommended mitigation measures. The development approval includes relevant and sufficient safeguards to address any environmental concerns.

## 5.2.4 Promotion of production and use of recycled water (licensing principle (d))

The scheme will provide sewerage services only. It will not provide drinking water or recycled water to the development. The effluent will be disposed of via irrigation to a dedicated irrigation area with no allowance for growing of crops or fodder.

## 5.2.5 Promotion of policies set out in any prescribed water policy document (licensing principle (e))

The Metropolitan Water Plan is the only prescribed water policy document in the WIC Regulation. The Metropolitan Water Plan outlines strategies to secure Greater Sydney's water supply now and in the future. The plan is not applicable to the scheme as the scheme is not within the plan's area of operations.

## 5.2.6 Potential for adverse financial implications for small retail customers (licensing principle (f))

**We are satisfied that if the licences are granted, there will not be adverse financial implications for small retail customers.**

True Water has indicated that the developer will pay all operating costs of the scheme for the first 5 years or until Council's STP upgrade is completed. If the upgrade works are not completed and True Water must continue to service the scheme, True Water has advised that they will use retail charges that are commensurate with those being charged by Council for its sewerage services.

If in the event that True Water does begin to charge fees that are excessive, the Minister can declare a monopoly supplier at any time. This declaration does not have to link to the grant or variation of a licence or a change in licence conditions. If the Minister declares a monopoly supplier, the Minister may then refer the monopoly services to IPART for price regulation.<sup>xxi</sup>

We have recommended a new licence condition, requiring a bank guarantee funding the operation of the scheme for the first 5 years (which is longer than anticipated before turning the scheme over to Council). We consider that True Water has the ability to continue to run the interim plant beyond that time period, if necessary, by charging the residents of stage 1 (178 lots) retail costs at rates comparable to Council's water and sewerage charges.

On balance, we consider that the potential risks for adverse financial implications for small retail customers are low, and are adequately mitigated by the licence, insurances, the proposed bank guarantee and the actions identified in True Water's risk assessment.

### 5.2.7 Promotion of equitable sharing of the costs of water industry infrastructure that significantly contributes to water security (licensing principle (g))

Not applicable as this scheme only treats and disposes of sewage.

## 5.3 The applicant would continue to meet the licensing criteria

In making our recommendation that the Minister grant the licences, and the conditions to which these licences should be subject (if granted), we considered the licensing criteria set out in the WIC Act.

### **Box 5.2 Licensing criteria under section 10(4) of the WIC Act**

"A licence may not be granted unless the Minister is satisfied as to each of the following:

- a) that the applicant has, and will continue to have, the capacity (including technical, financial and organisational capacity) to carry out the activities that the licence (if granted) would authorise,
- b) that the applicant has the capacity to carry out those activities in a manner that does not present a risk to public health,
- c) that the applicant has made, and will continue to maintain, appropriate arrangements with respect to insurance,
- d) in the case of an application for a licence to supply water, that, if such a licence is granted, sufficient quantities of the water supplied by the licensee will have been obtained otherwise than from a public water utility,
- e) such matters as are prescribed by the regulations,
- f) such other matters as the Minister considers relevant, having regard to the public interest."

We consider that the application for an operator licence and retail licence for the Ashbourne scheme meets the licensing criteria set out in the WIC Act. Our analysis of the proposed activities against the licensing criteria is set out below.

### 5.3.1 Technical capacity (licensing criteria (a))

#### **We are satisfied that True Water has the technical capacity to undertake the proposed operator licence activities**

True Water has experience delivering water infrastructure projects throughout Australia. As well as experience in design and construction, they have experience in maintaining and operating commercial schemes. For this scheme they have partnered with Kubota Johkasou System Co of Japan, who are responsible for design and manufacture of all major components of the treatment system. True Water will install all plant and equipment. Therefore, we consider that True Water has the required level of technical capacity to be granted an operator licence.

#### Evidence of technical capacity

We assessed True Water's technical capacity in relation to the operator licence. We reviewed the plans submitted in relation to this scheme, and example documents of water quality management plans and asset management plans for similar sewage treatment schemes undertaken by True Water throughout Australia. The plans and documents show an understanding of design, operation and maintenance of non-potable water infrastructure.

We have included more detail of True Water's technical capacity assessment in Appendix C.

#### Relevant experience

True Water has relevant experience to undertake the proposed activities under the operator licence. True Water has provided examples of effluent treatment systems for commercial and industrial schemes that it has designed, installed and operated.

True Water has also provided examples of various management plans (water quality and asset management), its asset management strategy, its scheme risk assessment and Australian Standard certifications for Quality (QMS), Environmental (EMS) and Occupational Health and Safety (OH&S) Management Systems.

We assessed position descriptions and professional experience of True Water's personnel nominated in the application for the operator licence. We consider that the expertise of the relevant personnel is adequate for the activities to be licensed.

#### **We are satisfied that True Water has the technical capacity to undertake the proposed retail activities.**

True Water has experience delivering water infrastructure projects throughout Australia. As well as experience in design and construction, they have experience in maintaining and operating commercial schemes, including monitoring and on-call response. True Water have an established track record of constructing and operating small wastewater treatment plants. We do not have evidence of retail servicing experience to residential customers in the traditional sense. However, this interim scheme is largely a standard 'operate and maintain' scheme with one customer, the developer Prime Moss Vale.



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True Water will provide all monitoring and maintenance, attend to residential customers complaints and operate the treatment and disposal system. We do not consider that the lack of water industry retailing experience to residential customers will affect True Water's ability to provide the necessary level of customer service for the life of this scheme. Whilst the scheme is intended to be interim only, we consider True Water would be capable of retailing directly to residents should the interim scheme be extended beyond 5 years or become permanent. True Water would only retail directly to residents if Council failed to upgrade and connect the residents within the next 5 years, which we consider to be unlikely.

### Evidence of technical capacity

True Water supplied a draft Retail Supply Management Plan (RSMP) for the scheme. The RSMP was similar to plans provided for similar sized schemes under the WIC Act umbrella. The plan shows an understanding of retailing of services, dispute resolution, and operation and maintenance of non-potable water infrastructure.

We have included more detail of True Water's technical capacity assessment in Appendix C.

### Relevant experience

In addition to the RSMP, True Water has also provided examples of various management plans (water quality and asset management), its asset management strategy, its scheme risk assessment and Australian Standard certifications for QMS, EMS and OH&S systems.

We assessed position descriptions and professional experience of True Water's personnel nominated in the application for the operator licence. We consider that the expertise of the relevant personnel is adequate for the activities to be licensed.

## 5.3.2 Financial capacity (licensing criteria (a)) – operator and retail licences

### **We are satisfied that True Water has the financial capacity to undertake the proposed activities under the proposed network and retail licences.**

We based our conclusion on the following:

- True Water's financial information.
- Review of the forecast cashflows of the scheme over the first 15 years of operation of the scheme.
- Draft agreement facilitating the funding of the day-to-day operations of True Water for the first 5-years of the scheme.
- Draft Performance Guarantee of the treatment plant.

True Water has provided a letter of intent from the developer Prime Moss Vale noting its intent to provide a Bank Guarantee of \$1.5 million to cover all operational costs for the scheme for the first 5 years. We requested this facility to minimise the risk that True Water is unable to fund the servicing of Stage 1 customers, who will then be liable for operational costs if the developer does not proceed to fund the scheme.

We recommend one additional licence condition on financial capacity, to require provision of a bank guarantee for \$1.5m prior to commercial operation being granted should the Minister grant True Water an operator licence and retail licence.

Further confidential information relating to financial capacity of the licensees is included in the briefing to the Minister accompanying this report.

We note that our financial assessment represents financial capacity at a point in time. Our recommendation to grant True Water an operator licence and retail licence should not be viewed as an endorsement of the future, ongoing viability of True Water or the True Water group of companies. The assessment is based on a combination of information sources, none of which is to be regarded as individually determinative. We undertake this assessment for our own purposes and for the Minister's purposes in making a determination on the application. Our conclusion is not to be relied upon for any other purpose or by any other person.

**Table '5.1 Recommended new licence condition for the protection of small retail customers**

Clause number	Condition
Schedule A, clause 4	<p>4.1. Before bringing any of the infrastructure the subject of this Licence into commercial operation, and at all times afterwards 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.</p> <p>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.</p>
Definitions	<p>Suitable Bank Guarantee</p> <p>means a bank guarantee which:</p> <ul style="list-style-type: none"> <li>a) is issued by a reputable financial institution;</li> <li>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</li> <li>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.</li> </ul>

### 5.3.3 Organisational capacity (licensing criteria (a)) – operator and retail licences

**We are satisfied that True Water has the organisational capacity to undertake the proposed activities.**

In making our assessment of True Water's organisational capacity we have considered the following information:

**Organisational structure** – True Water DTR Pty Ltd is an Australian Proprietary Company. Equity is split between True Water Group Pty Ltd (81 % Equity held), and Kubota Johkasou System Co (19% Equity held).

True Water Group owns 100% equity in True Water Solutions which provides specialist wastewater infrastructure for all projects from single households to large scale commercial projects.

Kubota were invited to own part of True Water DTR to ensure the manufacturer of the treatment technology holds a direct vested interest in the long-term success and operation of the infrastructure.

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**Curricula vitae of key personnel of True Water**– in particular, its General Manager, Director-Design and Consultancy, Director - Engineering works and services, Operations Manager and Risk and Compliance Officer.

**Evidence of True Water's experience** – True Water provides similar services within Australia in the water industry and has included details of the experience of the personnel nominated to the scheme.

**Risk assessment** – demonstrating that relevant risks have been identified and would be managed.

**Complaints Handling and Dispute Resolution procedures** –sets out how True Water will address complaints and disputes from its customers (i.e. the developer and residents). The dispute resolution process is suitable for the scheme as described.

True Water has agreements in place with the developer Prime Moss Vale to construct, operate and maintain all the infrastructure that forms the scheme. In addition, Prime Moss Vale has provided a letter of intent and support from the Commonwealth Bank of Australia that it will fund all capital operating expenses for the scheme. Prior to the scheme commencement the developer will deposit funds of \$1.5m (by bank guarantee) covering 5 years of operation.

True Water will utilise local sub-contractors where practicable to complete key works.

We received no submissions regarding True Water's organisational capacity in response to its application for the operator licence and retail licence.

We recommend that True Water be subject to standard licence conditions (see draft licences in Attachments A and B) in relation to organisational capacity.

Our detailed assessment of True Water's organisational capacity is in Appendix C.

#### 5.3.4 Capacity to carry out those activities in a manner that does not present a risk to public health (licensing criteria (b)) – operator and retail licences

**We are satisfied that True Water has the capacity to undertake the proposed activities in a manner that does not present a risk to public health.**

We assessed True Water's capacity to manage key risks to public health posed by the construction, operation and maintenance of the sewage collection, treatment and irrigation disposal system.

We considered a range of information and evidence to establish True Water's capacity. As noted previously, True Water has partnered with Kubota to provide the detailed design of the treatment system, and to manufacture and supply key plant and equipment. Kubota are a recognised provider of compact biological wastewater treatment systems. True Water will manage on-site installation of all plant and equipment necessary to construct, operate and maintain the infrastructure. Our detailed assessment is in Appendix C.

#### NSW Health raised no concerns on True Water's applications

We received a submission from NSW Health on True Water's capacity to protect public health. The submission is available on our website and discussed in the summary of submissions in Appendix D. NSW Health did not indicate any issues of concern with the scheme.

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NSW Health requested that IPART require True Water to undertake a detailed risk assessment with relevant stakeholders to ensure that public health risks, such as sewer overflows, access restrictions, odours and how wet weather storage will function are addressed.

We are able to require True Water to undertake further consultation with NSW Health regarding their risk assessments, development of management plans and incident management practices.<sup>xxii</sup> This requirement is imposed through a standard licence condition included in all licences and would apply to True Water's licence, if granted.

On balance, we consider that True Water has the capacity to undertake the proposed activities in a manner that does not present a risk to public health through a combination of standard licence conditions and risk mitigation measures specified in the SEE and Effluent Management Plan.

We recommend that True Water be subject to standard licence conditions (see draft licences in Attachments A and B) in relation to managing risks to public health.

### 5.3.5 Appropriate arrangements with respect to insurance (licensing criteria (c)) – operator and retail licence

#### **We are satisfied that True Water has made, and will continue to maintain, appropriate insurance arrangements for the Ashbourne scheme.**

We requested advice from Insurance and Care NSW (icare) on the adequacy of True Water's insurance arrangements. As a result of its review, icare concluded that True Water's proposed insurance arrangements should be sufficient for the proposed activities under the operator licence application.<sup>xxiii</sup> The icare review did note that since True Water carries a level of responsibility for the scheme design, it recommends that Professional Indemnity insurance be retained for a period of 6 years on a claims made basis.

Based on the advice from icare, we consider that True Water has demonstrated that it has appropriate insurance arrangements for the scheme.

Further details of our assessment of True Water's insurance arrangements are in Appendix C.

We received no submissions regarding True Water's insurance arrangements.

We recommend including a licence requirement for Professional Indemnity (PI) insurance to be retained for a period of 6 years, should the Minister grant True Water an operator licence. We consider that the existing standard conditions in Schedule B, clause 2, plus the PI requirement should adequately manage insurance risks related to the Ashbourne scheme.

### 5.3.6 Public interest considerations (licensing criterion (f)) – operator and retail licence

In addition to being satisfied of the matters discussed above, the Minister must also be satisfied of such other matters the Minister considers relevant, having regard to public interest. We consider the protection of consumers generally and environmental impacts and climate change under this criterion.

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**We are satisfied that if the licences are granted, consumers generally will continue to be protected in relation to the activities licensed.**

We have considered whether any consumers will be disadvantaged as a result of a decision by the Minister to grant True Water an operator licence and a retail supplier's licence in line with the current application.

**We are satisfied that if the licences are granted, climate change risks have been satisfactorily addressed.**

Climate change is long-term shifts in temperatures and weather patterns. NSW's climate is projected to change with increasing frequency, duration and intensity of extreme weather events such as bushfires, floods and changing weather patterns.<sup>xxiv</sup>

The Ashbourne scheme is a sewage treatment and effluent disposal scheme, utilising storage ponds and an irrigation field. We assessed the risk of excess water during periods of wet weather affecting irrigation and the potential for run-off. True Water is taking an extremely conservative approach to irrigation. Modelling suggests that with suitable storage the land can sustain the irrigation of up to 3mm/day. However, True Water has designed the scheme to only require irrigation of treated effluent at 1mm/day, reducing the potential for runoff. Similarly, ponds were designed with storage capacity of more than 10 days at 5 times the average daily dry weather flowrate (i.e. 10 times peak wet weather flow), which we consider to be sufficient for this type of system. We do not anticipate excessive infiltration due to the sealed nature of a pressure (pumped) sewerage system.

A Water Cycle Management Study of the precinct notes flood risk is limited to the north-western edge of the site. The treatment plant and irrigation area are located on the eastern edge of the site, approximately 400m to the east of the affected land, on land that is well above the predicted maximum flood level. The proposed infrastructure contains provision for the storage of treated effluent during periods of rainfall to avoid the need for irrigation during or within 24hrs of rainfall.

We also note that this is an interim sewage disposal scheme only, expected to be in use for no more than 5 years. It does not really address climate change resilience (i.e. there is no recycled water) but this is not considered to outweigh the public interest of facilitating the creation of housing stock earlier in time whilst the STP upgrade is being undertaken.

### Protection of public safety

We have had regard to the protection of public safety through our assessment of True Water's technical capacity to construct, operate and maintain water infrastructure for the scheme. We consider the risks to public safety are low because:

- The scheme will only irrigate treated sewage to a defined irrigation zone, well away from the nearest residence.
- Modelling suggests that with suitable storage the land can sustain the irrigation of up to 3mm/day. However, True Water are taking a very conservative approach and reducing that to 1mm/day.
- There will be no crop irrigation or agricultural use.
- The area will be fenced off to prevent unauthorised access to the spray irrigation area.

We did not receive any submissions regarding protection of public safety.

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If the Minister grants the licences, we consider that public safety will be protected in relation to the activities licensed.

#### Other matters in the public interest

We have had regard to this principle through our assessment of True Water's financial capacity.

We acknowledged (section 5.2.6) that there are minor risks for the scheme, namely the potential for the Council upgrade of Moss Vale STP being delayed. However, we consider this risk to be low. There are benefits to the local community of the interim scheme going ahead to enable housing to come available sooner. The Council STP upgrade is being progressed because of a federal funding grant and supported by the need for additional capacity for the new subdivision.

The risk to customers of the scheme is mitigated by the provision of a bank guarantee of \$1.5 million to cover operational costs for the first 5 years (which is a longer period than anticipated before Council would take over the scheme customers and infrastructure). True Water also has the ability to continue to run the interim plant beyond that time period, if necessary, with operational costs covered by the stage 1 residents. It has noted that it can adequately service the scheme at rates equivalent to those from Local Government water utilities in NSW, accounting for inflation over the 5-year period.

On balance, we consider that the potential risks for adverse financial implications for small retail customers are low, and are adequately mitigated by the licence, insurances, the proposed bank guarantee and the actions identified in True Water's risk assessment.

## 5.4 Environmental assessment of the Ashbourne scheme

### 5.4.1 Protection of the environment

In having regard to protection of the environment, we considered the approvals required and obtained under the EP&A Act for the operation and maintenance of water industry infrastructure for the scheme. We consider that the key risks to the environment have been identified and relevant controls will be implemented by True Water. Council is the appropriate regulatory authority for the scheme and has provided consent for the overall development and the IWTS. EP&A Act is the central legislation that controls planning and development in NSW.

#### Part 5 of the EP&A Act

We assessed whether True Water's operator licence application requires a Part 5 infrastructure and environmental assessment to be undertaken. We concluded that IPART does not need to assess and consider the environmental impacts of the IWTS under Part 5 of the EP&A Act. This is because the interim IWTS is development that *requires* development consent under Part 4 of the EP&A Act.

We note that development consent has been obtained by the applicant under Part 4 of the EP&A Act for the IWTS from Council. Therefore, the construction and use of that infrastructure is not an 'activity' for the purposes of Division 5.1 of Part 5 of the EP&A Act. This means that separate consideration and assessment of the environmental impacts of the infrastructure would not be required under Part 5 of the EP&A Act when the Minister determines the operator licence.



# Appendices

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# A Draft Network Operator's Licence



# **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:

**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 by the Licence.

**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

**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**

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

- |   |
|---|
| <ul style="list-style-type: none"><li>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:<ul style="list-style-type: none"><li>a) production of treated non-potable water from sewage;</li><li>b) treatment of sewage;</li><li>c) filtration of sewage</li><li>d) storage of sewage; and</li><li>e) conveyance of sewage.</li></ul></li><br/><li>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:<ul style="list-style-type: none"><li>a) production of treated non-potable water from sewage;</li><li>b) treatment of sewage;</li><li>c) filtration of sewage;</li><li>d) storage of sewage;</li><li>e) conveyance of sewage; and</li><li>f) disposal of treated non-potable water through the irrigation of land.</li></ul></li></ul> |
|---|

**Table 3.3 Area of operations**

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](http://www.ipart.nsw.gov.au), and any other guidelines issued by IPART in relation to audits under the Act.

Construction Environmental Management Plan	<p>means a site or project specific plan which:</p> <ul style="list-style-type: none"> <li>a) complies with the basic structure detailed in the Environmental Management Plan Guidelines; and</li> <li>a) identifies how the Licensee will implement the environmental risk mitigation measures identified in the SEE to the extent they relate to construction.</li> </ul>
Code Compliant	has the meaning given to that term under section 7 of the <i>Plumbing and Drainage Act 2011</i> (NSW).
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</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).
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.

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"> <li>a) downstream of the customer's connection point to a water main, where the water main is Specified Water Industry Infrastructure;</li> <li>b) upstream of a customer's connection point to a sewer main, where the sewer main is Specified Water Industry Infrastructure; or</li> <li>c) upstream of a customer's connection point to a stormwater drain, where the stormwater drain is Specified Water Industry Infrastructure.</li> </ul>
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 <a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> .



Specified Water Industry Infrastructure	<p>means the water industry infrastructure specified in, as applicable:</p> <ul style="list-style-type: none"> <li>a) section 1, Table 1.2;</li> <li>b) section 2, Table 2.2; and</li> <li>c) section 3, Table 3.2.</li> </ul>
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"> <li>a) is issued by a reputable financial institution;</li> <li>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</li> <li>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.</li> </ul>
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**

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

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.



## B Draft Retail Supplier's Licence



# **NEW SOUTH WALES GOVERNMENT**

***Water Industry Competition Act 2006 (NSW)***

**Retail supplier's licence**

Licence no. 23\_049R

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 supplying water, or providing a sewerage service, by means of 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:

<b>Section 1</b> authorises the supply of non-potable water (if applicable).
<b>Section 2</b> authorises the supply of drinking water (if applicable).
<b>Section 3</b> authorises the supply of sewerage services (if applicable).
<b>Schedule A</b> sets out special Ministerially-imposed licence conditions that are specific to this Licence.
<b>Schedule B</b> sets out Ministerially-imposed licence conditions that generally apply to retail suppliers' licences granted under the Act.
<b>Schedule C</b> sets out definitions and interpretation provisions.
<b>Schedule D</b> sets out the area of operations for the activities authorised by the Licence
<b>Schedule E</b> 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 – AUTHORISATION TO SUPPLY NON-POTABLE WATER

**Table 1.1 Authorised Persons**

[Not applicable]

**Table 1.2 Person or classes of persons**

[Not applicable]

**Table 1.3 Area of operations**

[Not applicable]

**Table 1.4 Authorised purposes for non-potable water**

[Not applicable]



## SECTION 2 – AUTHORISATION TO SUPPLY DRINKING WATER

**Table 2.1 Authorised Persons**

[Not applicable]

**Table 2.2 Person or classes of persons**

[Not applicable]

**Table 2.3 Area of operations**

[Not applicable]

### SECTION 3 – AUTHORISATION TO PROVIDE 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 provide sewerage services:

- a) to the persons or classes of persons specified in Table 3.2; and
- b) within the area of operations specified in Table 3.3.

**Table 3.1 Authorised Persons**

None
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**Table 3.2 Person or classes of persons**

Small retail customers.
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**Table 3.3 Area of operations**

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

No special Ministerially-imposed licence conditions apply to this Licence.

## 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 any of the activities authorised by this Licence, the Licensee must demonstrate that the insurance held is appropriate for the size and nature of the 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 the 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) whether or not any of the Licensee's customers are Small Retail Customers;
  - d) any order under section 54 of the Act by which the Licensee is declared to be a retailer of last resort; and
  - e) any licensed network operator or public water utility by means of whose sewerage infrastructure the Licensee provides sewerage services to its customers.

## **7. Delineating responsibilities**

[Not Applicable]

## **8. Infrastructure to be used**

8.1. [Not Applicable].

8.2. The Licensee must only provide sewerage services by means of water industry infrastructure, if that water industry infrastructure is maintained and operated by a licensed network operator or public water utility.

## **9. Notification of supply of water or provision of sewerage services**

9.1. [Not Applicable].

9.2. Each time the Licensee commences to provide sewerage services under this Licence, the Licensee must:

- a) notify IPART in accordance with the Reporting Manual that it has commenced to provide sewerage services to customers by means of the relevant Licensed Water Industry Infrastructure; and
- b) provide such notification within 10 days after such commencement.

## 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](http://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"> <li>d) section 1, Table 1.1;</li> <li>e) section 2, Table 2.1; and</li> <li>f) section 3, Table 3.1.</li> </ul>
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 retail supplier's licence granted under section 10 of the Act.
Licensed Water Industry Infrastructure	means the water industry infrastructure by means of which the non-potable water, drinking water and/or sewerage services (as applicable) under this Licence are supplied.
Licensee	Means True Water DTR Pty Ltd (ACN 606 141 557).
Licensee's Code of Conduct	has the meaning given in Schedule B, clause 7.1.
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.
Regulation	means the <i>Water Industry Competition (General) Regulation 2021</i> (NSW).



Reporting Manual means the document titled “Network Operator’s Reporting Manual and Retail Supplier’s Reporting Manual under *Water Industry Competition Act 2006*”, which is prepared by IPART and is available on IPART’s website at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au).

Small Retail Customer has the meaning given to that term in the Regulation.

## SCHEDULE D – AREA OF OPERATIONS – SEWERAGE SERVICES

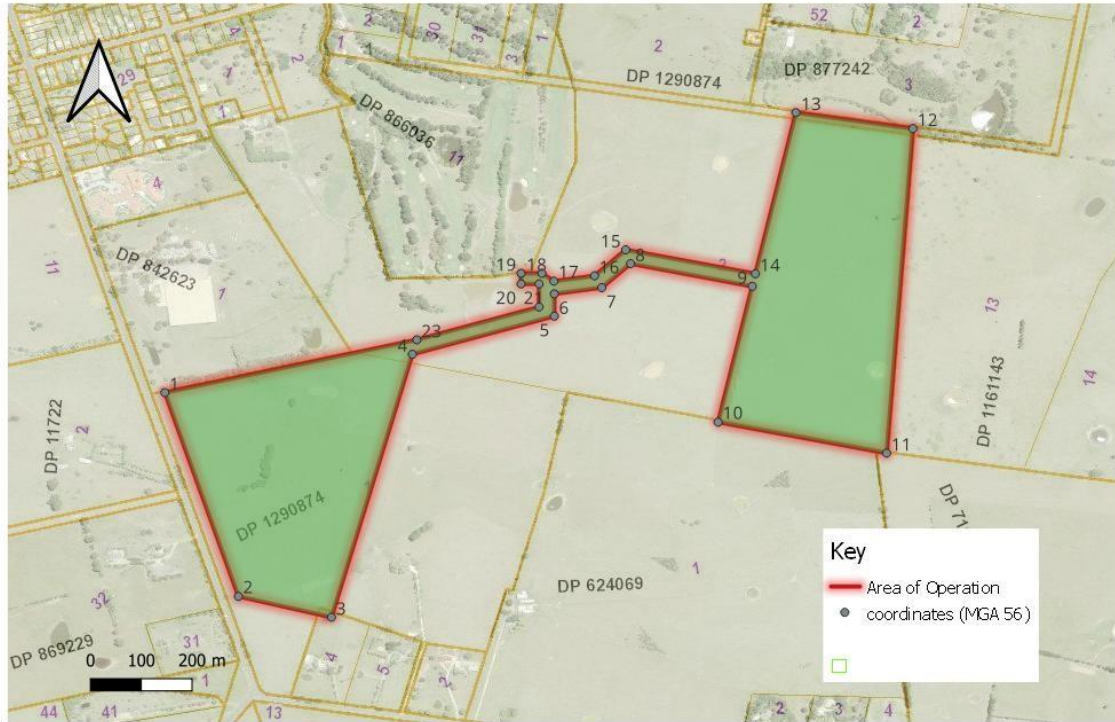
**Table D.1 Vertices for area of operations for sewerage services**

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

Note: Coordinate reference system is MGA 56.

## SCHEDULE E – AREA OF OPERATIONS – MAPS

Schedule E contains a map of the area of operations for Sewerage services



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## C Detailed capacity analysis of True Water's application

As part of our assessment, we considered:

### Evidence of technical capacity

- ▼ **Reports, plans and procedures that True Water prepared for similar projects it had undertaken:** These documents demonstrated that True Water has a technical understanding of design, operation and maintenance of sewage reticulation and treatment infrastructure.
- ▼ **Process flow diagrams for the sewage treatment and effluent disposal systems:<sup>xxv</sup>** The diagrams identify the relevant processes, influent and effluent streams, and remedial options for off-specification flows. In addition, information on removal efficiencies for key pathogens (i.e., virus, protozoa and bacteria) for the proposed end-use was provided.

This is evidence of True Water's capacity to design an effective multi-barrier treatment system for constructing and operating the proposed scheme that is consistent with the *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks (Phase 1) (2006)* (AGWR).<sup>xxvi</sup>

- ▼ **Preliminary risk assessment for the sewerage infrastructure:<sup>xxvii</sup>** The risk assessment provided demonstrates True Water's technical capacity to identify hazards and risks related to the scheme's sewerage infrastructure, and to develop control measures to manage these risks. We also consider the risk assessment demonstrates True Water's technical capacity to understand and implement the requirements of AGWR.

Additionally, we required amendments to the risk assessment to address the issue of business risk if the developer was unable or unwilling to provide the financial support required to operate and maintain the IWTS, or if the Council did not upgrade the Moss Vale STP as required. True Water were able to address these risks and noted that it would continue to provide retail services to the residents on an ongoing basis if required. True Water noted that its financial modelling indicated that it could maintain the IWTS based on average local water utility rates and fees.

- ▼ **True Water's Design Proposal:<sup>xxviii</sup>** True Water has provided an overarching Effluent Management Plan that describes the proposed treatment system, and relevant controls. In addition, True Water has provided relevant drawings, the SEE<sup>xxix</sup> and Sewer Servicing Strategy<sup>xxx</sup> documents to accompany the application. These documents and accompanying design drawings, demonstrate True Water's technical capacity to design, construct and operate sewerage infrastructure in accordance with the project demands.

- ▼ **The water balance calculations include forecasts for wastewater production at each stage of the development**<sup>xxxii</sup> The MEDLI water balance report demonstrates True Water's technical capacity to forecast demand and usage parameters (eg, sewage production, storage and irrigation volumes), and to consider key information such as weather conditions and system losses. Importantly it provides storage capacity calculations to prevent wet weather overflow from stage 1 of the scheme. The water balance calculations are supported by a Land Capability Assessment report<sup>xxxiii</sup> for the development, which notes the potential for flooding of the irrigation zone is low.
- ▼ **True Water's effluent management plan:** The plan describes the conceptual basis of the sewerage system, how the system would be operated and maintained, details of the proposed effluent management strategy, and ongoing monitoring for environmental and health impacts. We would audit the adequacy of the Effluent Management Plan in relation to consistency with the AGWR prior to True Water commencing commercial operation of the scheme.
- ▼ **True Water's construction and operating plans**<sup>xxxiii</sup> True Water were able to provide sufficient documentation (plans, drawings and schedules) to show its capacity to develop an adequate infrastructure operating plan (IOP). An IOP outlines the asset lifecycle planning, system redundancy and condition monitoring for water industry infrastructure, amongst other infrastructure management considerations.
- ▼ **True Water's RSMP**<sup>xxxiv</sup> True Water were able to provide a suitable level of expertise in the development of a draft RSMP. The draft document addressed the relevant areas of complaints, dispute resolution, risk assessment and addressing service interruptions. Although the draft RSMP did not include reference to billing experience, we are satisfied that, if the scheme lifespan was extended for any reason, True Water has the capacity to directly retail to lot owners.
- ▼ **True Water's Irrigation Management Strategy**<sup>xxxv</sup> The proposed disposal strategy is through on-site irrigation with provision for wet weather storage. The treated effluent will be irrigated onsite via spray irrigation system (<1mm/day). Specific controls include preventing public access, no irrigation for 24 hours after a rain event, spray drift control and hours of operation limited to 8pm to 4am. Modelling suggests that the land can sustain the irrigation of up to 3mm/day.

## Evidence of financial capacity

**Confidential** – provided as part of the Briefing to the Minister.

## Evidence of organisational capacity<sup>xxxvi</sup>

- ▼ **The organisational structure:** True Water will manage the delivery and installation of the proposed works. The plant and equipment will be designed and manufactured by Kubota, a recognised provider of wastewater treatment technologies worldwide.
- ▼ **An outline of the experience of key personnel:** namely the Directors of True Water and its technical staff which matched the role descriptions.
- ▼ **Curricula vitae of its key personnel:** provided to us in the licence applications which outlines previous experience (within Australia) in the water industry and the specific personnel nominated to the Ashbourne scheme.

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- ▼ **The risk assessment** provided to us in the operator licence application, and subsequently amended following our request for further information demonstrated that critical control and business risks have been identified and would be managed.
  - ▼ **Evidence of True Water's experience:** evidence was provided of True water's experience delivering services to several similar schemes in Australia. True Water also has a history of constructing, operating and maintaining wastewater treatment plants, indicating the capability to provide both operating and retail services to the developer initially, and the residential customers if required.
  - ▼ **Bank guarantee and lease document**<sup>xxxvii</sup> providing comfort that residents will not be disadvantaged by relying on True Water to operate and maintain the scheme infrastructure.

Due to the interim nature of the scheme, we required True Water and its partners to provide assurance that the residents of the scheme will not be unfairly disadvantaged if one or all of the developers were to withdraw funding from the ongoing operational costs of the scheme. True Water were able to provide a letter of intent from the developer, supported by the Commonwealth Bank, that a bank guarantee would be executed to make funds available to be withdrawn on a monthly basis to cover all ongoing operational costs of the scheme, up until Council's STP is upgraded to provide sewerage services to the scheme. A draft lease was also provided to ensure True Water's ongoing access to the site to service the infrastructure.

The bank guarantee would be in place for a minimum of 5 years. This also addresses the risk that Council does not meet its completion timeline of mid-2026 and connection of stage 1 residents to its sewerage system is delayed. Whilst the scheme is intended to be interim only, we consider True Water would be capable of retailing directly to residents should the interim scheme be extended beyond 5 years or become permanent. This issue is addressed in its Risk Assessment.

True Water will provide all monitoring and maintenance, attend to residential customers complaints and operate the treatment and disposal system. We do not consider that the lack of water industry retailing experience to residential customers will affect True Water's ability to provide the necessary level of customer service for the life of this scheme. True Water would only retail directly to residents if Council failed to upgrade and connect the residents within the next 5 years, which we consider to be unlikely.

As a requirement for granting commercial operation, we will require signed copies of these executed documents to be provided to us.

## Capacity to carry out those activities in a manner that does not present a risk to public health

- ▼ **Source water quality:** Sewage will be sourced from up to 178 residential lots in the Ashbourne development. Fluctuation of the quality of sewage from residential lots is expected to be minimal. Log reduction values for the treatment system and irrigation strategy are adequate for the intended end-use.
- ▼ **Fit for purpose end-use quality:** The technology proposed is suitable for treating sewage to meet the log reduction values required by AGWR, True Water has demonstrated its capacity to treat sewage and provide fit for purpose non-potable water for the proposed use of irrigation across several similar schemes in Australia.

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- ▼ **Sewerage service interruption:** True Water has demonstrated its capacity to mitigate this risk through its preliminary risk assessment, sewerage network design and sewage management plan. True Water has indicated that should short term interruption to sewerage services occur, sufficient storage would be available within the on-site storage lagoons. The treatment system will also have system redundancy (duty/standby equipment).
  - ▼ **Risk management method:** we reviewed True Water's preliminary risk assessment and consider that True Water has demonstrated its capacity to identify and manage hazards and risks regarding the sewage treatment and effluent irrigation system to acceptable levels of risk and would have in place reasonable control and mitigation measures.

## Appropriate arrangements with respect to insurance

We requested advice from Insurance and Care NSW (icare) on the adequacy of True Water's proposed insurance arrangements. As a result of its review, icare concluded that True Water's insurance arrangements would be sufficient for the proposed activities under the network operator's licence subject to review of the final certificates of currency conditions relating to descriptions and time periods within each policy.<sup>xxxviii</sup> Additionally, icare noted that since True Water carries a level of responsibility for the scheme design, it recommends that Professional Indemnity insurance be retained for a period of 6 years on a claims made basis. We will include this requirement in the operator licence Schedule B, clause 2, standard conditions.

We will review these conditions when certificates of currency become available and before an approval to commence operations is made.

- ▼ **icare review:** As part of its review, icare examined:
  - True Water's licence application
  - The preliminary risk assessment for network activities
  - Insurance experts' report
  - True Water's corporate structure
  - Regulatory approvals for the Ashbourne scheme.
- ▼ **Insurances included in insurance proposal:**
  - Professional indemnity (design and construct)
  - Public liability
  - Motor vehicle, Corporate travel, Marine Transit
  - General and business property
  - Construction insurance
  - Risk management assessment and control plan.

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## D Summary of submissions



**Table D.1 True Water’s application for a network operator’s licence for the Ashbourne scheme – Comprehensive summary of stakeholder submissions**

Summary of Submission	Our response
<b><i>Environment Protection Authority (EPA) – operator application only</i></b>	
<p>EPA is not aware of any breaches of the <i>Protection of Environment Operations Act 1997</i> (POEO Act) and has not taken any regulatory action against True Water.</p>	Noted
<p>No further approvals are required under POEO Act. The capacity of the sewage treatment plant is below the Schedule 1 threshold and does not trigger the need for an EPL.</p>	Noted
<b><i>NSW Health (2 submissions – one each for operator and retail applications)</i></b>	
<p>NSW Health notes that the scheme should be consistent with the requirements of the AGWR.</p> <p>The risk assessment should be reviewed in consultation with stakeholders including NSW Health, IPART and EPA. The risk assessment should be specific to the source, treatment processes and end uses for the scheme, considering the public health risks such as sewer overflows, access restriction, impact to residents such as odour and how wet weather storage will function to protect public health.</p>	<p>A revised preliminary risk assessment was submitted largely addressing these concerns. We note however that, prior to commercial operation, the licensee will be required to undertake a fuller risk assessment in consultation with NSW Health and other relevant parties, as well as in the development of management plans and incident notification protocols.</p>
<b><i>Wingecarribee Shire Council - operator application only</i></b>	
<p>Council noted that 2 DAs were included in the application. It is their opinion that DA20/O227 should not be included in the licence as Council will lose its ability to enforce approvals for reticulation infrastructure that will ultimately be donated to Council.</p>	<p>We agree with Council's request and have limited the scheme to the interim infrastructure under DA 21/772 only. We have received the applicant's consent to limit the infrastructure in the licence accordingly.</p>

Council further noted that it is opposed to any extension of the scheme beyond stage 1 due to potential environmental and health risks. If expansion of the Moss Vale STP is delayed, a full review of alternatives and potential risks should be undertaken before an expansion of the scheme is considered.

We agree with Council and any expansion would require a new licence application and full assessment of the scheme.

**NSW Minister for Planning (2 submissions – one each for operator and retail applications)**

The Department is not aware of any enforcement action against True Water under the EP&A Act

No further action is required.

The Department considers approvals True Water has obtained, including provision of an interim wastewater treatment plant and operation, is consistent with activities the operator licence would authorise, if granted. The interim system is required to fulfil further approvals under the *Local Government Act 1993* and *Environmental Planning and Assessment Act 1979* prior to operation commencement.

**NSW Minister for Lands and Water - operator application only**

DPE-Water notes that the north-eastern boundary of the proposed area of operations of the operator licence may intercept a first order stream. However, a licensed operator is exempt from a controlled activity approval under section 43 of the *Water Management (General) Regulation 2000*.

The Water Cycle Management Study provided with the submission provides relevant detail on Whites Creek and the management of the Whites Creek floodplain. Flood risks are limited to the north-western edges of the site. The IWTP will be located 400 m to the east of this flood affected area. As the infrastructure is located more than 400m from the flood plain, on land which is well above the predicted PMF flood level, and will not discharge effluent during rainfall events, the proposed infrastructure will not impact upon the floodplain or be impacted by the operation of the floodplain. Therefore, a flood works approval is not required.

As the location of the proposed infrastructure lies within the area covered by the Whites Creek Floodplain Management Plan, it may have an effect on the distribution or flow of floodwater in times of flood. Consequently, True Water may need to apply for a flood work approval under section 92 of the WM Act. It is recommended that True Water contact DPE Water Licensing & Approvals for information regarding flood work approvals

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- i True Water submitted a DA modification request for DA 21/772 (for the interim wastewater treatment plant) to Wingecarribee Shire Council on 10 February 2023. A modification was granted on 9 June 2023.
  - ii WIC Act, section 10(2).
  - iii WIC Act, section 10(5).
  - iv WIC Act, section 10(6).
  - v WIC Act, section 9(1)(b) and *Water Industry Competition (General) Regulation 2008* (WIC Regulation), clause 17(1).
  - vi POEO Act, section 6 (2).
  - vii Wingecarribee Shire Council issued development consent DA 20/0227 approving a concept proposal for a 1,073 lot subdivision. The description of works for stage 1 includes Public utility infrastructure comprising water and sewer work (subject to further approvals and licensing). One of the conditions requires the granting of a licence under the WIC Act.
  - viii WIC Act, section 9(1)(c).
  - ix Section 7 of the WIC Act.
  - x Section 10(3) of the WIC Act.
  - xi Section 10(4)(a) to 10(4)(e).
  - xii Section 10(4)(f).
  - xiii A related entity that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence authorises. WIC Act, section 10(3)(b).
  - xiv The relevant searches were completed on 23 August 2023
  - xv The related entities are True Water Group Pty Ltd, True Water Solutions Pty Ltd, True Water Australia Pty Ltd.
  - xvi Signed statutory declarations dated 20 October 2022.
  - xvii WIC Act, section 10(3)(b).
  - xviii Wingecarribee Council granted development consent 20/0277 for the sewerage scheme on 14 June 2022.
  - xix The application is for managing wastewater from 178 lots.
  - xx The MEDLI modelling reports notes that the land can sustain irrigation of up to 3 mm/day. However, True Water is taking a conservative approach and will only irrigate treated effluent at 1 mm/day.
  - xxi Determination of the pricing and/or periodic review of the pricing policies. *Water Industry Competition Act 2006* (NSW), section 52(1).
  - xxii This requirement is set out in condition B3.1 of the current standard network operator's licence.
  - xxiii Emails to IPART, icare Reinsurance Strategy Manager, 24 April 2023 and 22 May 2023. The advice noted, among other things, that True Water should be required to maintain Professional Indemnity insurance for a period of 6 years, and that certificates of currency are provided before commencement of commercial operation. IPART undertakes these activities prior to issuing approval to commence commercial operations.
  - xxiv NSW Department of Planning, Industry and Environment, *Climate Risk Ready NSW Guide, Practical guidance for NSW Government sector to assess and manage climate change risks*, 2021, p7.
  - xxv Effluent Management Plan, True Water DTR, Attachment B.2 to application.
  - xxvi WIC Regulation, Sch. 1 cl. 7(1)(b) and 7(3).
  - xxvii Risk management Plan, True Water DTR, Attachment B.3 to application.
  - xxviii Effluent Management Plan, True Water DTR, Attachment B.2 to application.
  - xxix Statement of Environmental Effects, Attachment D.2 and D.3 to the application.
  - xxx Sewer Servicing Strategy, Attachment D.13 to the application
  - xxxi MEDLI report (Water Balance), True Water DTR, Attachment A.20 to application.
  - xxxii Land Capability Assessment report, SEEC 2020, Attachment C 3.5 to application.
  - xxxiii Infrastructure plans, True Water DTR, Attachment A.19 and example Works Execution Plan (Oakey Creek Wastewater Treatment Plant upgrade) Attachment B.6.
  - xxxiv Attachment A.1, version 3, supplied with retail supplier's licence application, 12 May 2023.
  - xxxv Information included in Attachment A.1, version 1, as well as Land Capability Assessment Report (attachment C3.5) and Effluent Management Plan (Attachment B.2).
  - xxxvi Key information is included in Attachment A.1, A.4 (position descriptions), and B.3 (Risk assessment report).
  - xxxvii True Water's response to our request for information, dated 21 July 2023 (Refer RFI response, True Water, 21 July 2023 (D23/22098)
  - xxxviii Email to IPART, icare Insurance and Reinsurance Strategy manager, 24 April and 22 May 2023.

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**ISBN** 978-1-76049-686-9