



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW)

Retail supplier's licence

Licence no. 20_045R

Kyeema Wastewater Pty Ltd

(ACN 635 577 105)



New South Wales

Water Industry Competition Act 2006 (NSW)

Section 10

**Notice of Decision -
Application for a retail supplier's licence
by Kyeema Wastewater Pty Ltd**

I, The Hon. Melinda Pavey MP, Minister for Water, Property and Housing, have decided to grant Kyeema Wastewater Pty Ltd (**Applicant**)'s (ACN 635 577 105) application (**Application**) for a retail supplier's licence under section 10(1) of the *Water Industry Competition Act 2006 (NSW)* (**Act**) subject to the conditions set out in licence number 20_045R, the Act and the *Water Industry Competition (General) Regulation 2008 (NSW)*. The reasons for my decision are set out below.

I have considered and accepted the Independent Pricing and Regulatory Tribunal's (**IPART**)'s advice and recommendations in its report to me on the Application. I attach IPART's report (**Attachment A**).

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

- (d) I am satisfied that the Applicant is not a disqualified corporation for the purposes of section 10(3)(a) of the Act;
- (e) I am satisfied that the Applicant is not a corporation that is a related entity (within the meaning of the *Corporations Act 2001* (Cth)) of a disqualified corporation that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise (if granted), for the purposes of section 10(3)(b) of the Act; and
- (f) I am satisfied as to each of the criteria set out in section 10(4) of the Act.

I have also:

- (c) had regard to the licensing principles set out in section 7 of the Act in considering whether or not to grant the licence and what conditions should be imposed on any such licence granted; and
- (d) examined and taken into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the activity as required by section 5.5 of the *Environmental Planning and Assessment Act 1979 (NSW)* (**EPA Act**).

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



The Hon. Melinda Pavey, MP
Minister for Water, Property and Housing

Dated this 25 day of Sept 2020

Superseded

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:

Section 1 authorises the supply of non-potable water (if applicable).
Section 2 authorises the supply of drinking water (if applicable).
Section 3 authorises the supply of sewerage services (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 retail suppliers' 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 under Section 3.
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 – AUTHORISATION TO SUPPLY NON-POTABLE WATER

[Not applicable]

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

[Not applicable]

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 of 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.

Table 3.2 Person or classes of persons

Small Retail Customers.

Table 3.3 Area of operations

Refer to Schedule D.

SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

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

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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 – Water Industry Competition Act 2006*”, which is prepared by IPART and is available on IPART’s website at www.ipart.nsw.gov.au, and any other guidelines issued by IPART in relation to audits under the Act.

Authorised Person	means each person specified in, as applicable: <ul style="list-style-type: none"> a) section 1, Table 1.1; b) section 2, Table 2.1; and c) section 3, Table 3.1.
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 Kyema Wastewater Pty Ltd (ACN 635 577 105).
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 2008</i> (NSW).

Reporting Manual means the document titled “Retail Supplier’s Reporting Manual”, which is prepared by IPART and is available on IPART’s website at www.ipart.nsw.gov.au.

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

Superseded

SCHEDULE D – AREA OF OPERATIONS – SEWERAGE SERVICES

Table D.1 Vertices for area of operations

Vertex	Easting	Northing
0	160039.2	6118454
1	160025.5	6118313
2	159369	6118397
3	159386	6118546
4	159161.6	6118909
5	159149.5	6118961
6	159156.4	6119432
7	159456.4	6119401
8	159769	6118890
9	160077.3	6118850
10	160039.2	6118454

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.

