

***Water Industry Competition Act 2006***

**Schedule 4, clause 10**

**Notice of decision – Grant of operational approval**

**Approval No. 25\_0510A**

The Independent Pricing and Regulatory Tribunal (**IPART**) grants an operational approval for the Sydney Desalination Plant scheme under Schedule 4, clause 10(1) of the *Water Industry Competition Act 2006* (**Act**).

The operational approval takes effect on 1 March 2025.

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

The operational approval is attached.

4/02/2025

X 

Signed by: Kelly.Kwan@ipart.nsw.gov.au

**Kelly Kwan**

**Executive Director, Regulation & Compliance**

As the delegate of the Independent Pricing and Regulatory Tribunal



# Operational Approval

*Water Industry Competition Act 2006  
(NSW)*

Operational Approval no. 25\_051OA  
Sydney Desalination Plant

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## Operational Approval

### APPROVAL AUTHORISATION TABLE

<b>Scheme name</b> (the Act, s 7F(2)(a))	Sydney Desalination Plant
<b>Approval number</b>	25_0510A
<b>Related scheme approval</b> (the Act, s 7F(2)(a))	25_035SA
<b>Version history</b>	Current approval in force since: 1 March 2025.  Details about grant, variation, replacement, cancellation or surrender of this approval are set out in Schedule A.
<b>Regulated scheme (retailer required)</b>	No
<b>Staged scheme</b> (the Act, s 7F(2)(c))	No
<b>Authorised purposes for drinking water infrastructure</b> (the Act, s 7F(2)(b))	Production of drinking water from sea water, Further treatment of drinking water, Filtration of drinking water, Storage of drinking water, Conveyance of drinking water, and Supply of drinking water to customers, other than a small retail customer.
<b>Authorised purposes for sewerage infrastructure</b> (the Act, s 7F(2)(b))	Not authorised
<b>Authorised purposes for recycled water infrastructure</b> (the Act, s 7F(2)(b))	Not authorised

# Approval Terms

## 1. Grant and authorisation

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

Note: This approval is deemed to be an approval granted under section 7B of the Act.

- 1.2 This approval authorises the registered operator to operate the authorised infrastructure for the authorised purposes in accordance with the specifications set out in this approval.

Note: This clause authorises the registered operator to carry out certain activities that would otherwise be prohibited under section 6A of the Act. This authorisation does not provide an exemption from obligations under other laws unless expressly provided by those laws.

## 2. Approval conditions

- 2.1 The authorisation in this approval is subject to the standard approval conditions specified in Schedule C, Item C2 and the special approval conditions specified in Schedule C, Item C3.

Note: The Act and Regulations contain additional conditions.

## 3. Interpretation

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

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

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

- 3.3 In this approval:

**Act** means the *Water Industry Competition Act 2006*.

**authorised infrastructure** means the water industry infrastructure specified in the related scheme approval.

**authorised purposes** mean the purposes specified for the relevant infrastructure in the final column of the approval authorisation table.

**Regulations** means any regulations made under the Act.

**related scheme approval** means the scheme approval identified as such in the final column of the approval authorisation table.

## Schedule A Version History

<b>Current approval in force since</b>	1 March 2025
<b>Original grant date</b>	9 August 2010
<b>Transition date</b>	Transitioned approval, granted under the Act, Schedule 4, cl. 10(1): 1 March 2025
<b>Variation history</b>	Varied under the Act, s. 7K(6) on: Not applicable
<b>Replacement history</b>	Not applicable
<b>Cancellation or surrender</b>	Not applicable

## Schedule B Staged scheme

### Item B1 Authorised Stage

Not applicable.

## Schedule C Approval conditions

### Item C1 Interpretation

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

### Item C2 Standard approval conditions

#### C2.1 Limitations on which infrastructure may be operated

2.1.1 The registered operator must operate only that authorised infrastructure which is either:

- (a) existing infrastructure; or
- (b) infrastructure that extends or expands existing infrastructure, but only if the infrastructure:
  - (i) involves the same technology as that used in connection with the existing infrastructure; and
  - (ii) is consistent with any applicable asset management plan or system, water quality management system, and sewage management plan or system for the existing infrastructure; and
  - (iii) is in the area of operations specified in Schedule H of the related scheme approval; and
  - (iv) is located in the location specified in Schedule I of the related scheme approval, unless the infrastructure is pipelines within the reticulation network.

2.1.2 In this condition C2.1, **existing infrastructure** means that authorised infrastructure which existed at 1 March 2025.

### Item C3 Special approval conditions

C3.1 [Not applicable]

C3.2 [Not applicable]

C3.3 [Not applicable]

#### C3.4 Requirement to maintain and operate

3.4.1 In order to ensure the sustainability of water resources in accordance with section 2A(d) of the Act, the registered operator must:

- (a) maintain the authorised infrastructure in accordance with good industry practice; and



(b) when it operates the authorised infrastructure, do so in accordance with good industry practice.

3.4.2 The registered operator must comply with any annual production request made by the Sydney Water Corporation under the decision framework, provided that the request is consistent with the decision framework, and:

(a) the registered operator will not be in breach of this obligation if the registered operator produces in the relevant financial year an amount of water that is not less than 90%, or more than 110%, of the annual production request;

(b) the registered operator will not be in breach of this obligation if:

(i) the breach arises from the registered operator endeavouring to comply with any request, other than an annual production request, made by the Sydney Water Corporation under the decision framework; and

(ii) it would not be possible for the registered operator to comply with both the annual production request and the other request.

Note: For example, if the annual production request is for 90,000 ML but a few months into the year the Sydney Water Corporation requests the registered operator under the decision framework to reduce production by 80% due to heavy rainfall, the registered operator would not be in breach of condition 3.4.2 due to endeavouring to reduce production.

(c) despite condition 3.4.2(a), if the Sydney Water Corporation varies an annual production request during a financial year then the registered operator will not be in breach of this obligation for that financial year unless:

(i) as of the day before the varied annual production request taking effect, had the registered operator produced an amount of water equal to the capacity of the authorised infrastructure for the plant during every day remaining in the financial year, the registered operator would have produced less than 90% of the amount of water required to be produced by the annual production request before it was varied, or

(ii) the registered operator produces, during the period between (and including) the day upon which the varied annual production request takes effect and the last day of the financial year, an amount of water which is less than 90%, or more than 110%, of the amount of water required to be produced during that period under the varied annual production request.

Note: As an example of the intended operation of condition 3.4.2(c)(i), consider a hypothetical scenario where the capacity of the authorised infrastructure for the plant is 250ML per day and there are 366 days in a financial year. If Sydney Water's initial annual production request for that financial year was for 90,000ML, but it made a varied annual production request for a lower amount of water with effect from the 184th day of the financial year, the registered operator would be in breach of conditions 3.4.2 if it had only produced 10,000ML during the first 183 days of the financial year. That is because, even if the registered operator produced 250ML per day of water during each of the remaining 183 days of the financial year, it would have produced less than 90% of the amount of water required under the initial annual production request.

Note: As an example of the intended operation of condition 3.4.2(c)(ii), consider a hypothetical scenario where the capacity of the authorised infrastructure for the plant is 250ML per day and there are 366 days in a financial year. Assume that:

- the Sydney Water Corporation's initial annual production request was for 20,000ML;

- in the first half of the financial year the registered operator produced 10,000ML; and
- with effect from the 184th day of the financial year, the Sydney Water Corporation made a varied annual production request, specifying that the registered operator is to produce 50,000ML for the entire financial year, including 40,000ML in the period between (and including) the 184th day of the financial year and the end of the financial year.

In that scenario, the registered operator would not be in breach of condition 3.4.2 if it produced between 36,000ML and 44,000ML of water in the period between (and including) the 184th day of the financial year and the end of the financial year.

3.4.3 The registered operator must use its best endeavours to comply with any request, other than an annual production request, made by the Sydney Water Corporation under the decision framework, provided that the request is consistent with the decision framework.

Note: Condition 3.4.3 applies to requests such as monthly production requests and 7-day production requests.

3.4.4 The registered operator is not required to comply with conditions 3.4.2 and 3.4.3 during the time and to the extent that such compliance is prevented wholly or predominantly by an event outside the reasonable control of the registered operator.

3.4.5 For the avoidance of any doubt, the registered operator will not be in breach of condition 3.4.2 or 3.4.3 solely because it complies with a request made by the Sydney Water Corporation that is not consistent with the decision framework.

3.4.6 In this condition C3.4:

(a) **annual production request** means a request made by the Sydney Water Corporation by 1 May each year for the supply of water from the registered operator over the following financial year, of the type referred to in section 4.2.2 of the decision framework, and includes a six monthly modification of such a request and any other request agreed between the registered operator and the Sydney Water Corporation from time to time, provided that the modification:

- (i) complies with the decision framework; and
- (ii) is notified by the Sydney Water Corporation to IPART and the registered operator, in writing, before it takes effect.

(b) **capacity of the authorised infrastructure** means:

- (i) in respect of the desalination plant, 250 megalitres per day for the desalination plant as existing on 9 August 2010 or between 250 megalitres per day and 500 megalitres per day for an expanded desalination plant, in both cases measured as a rolling average over 365 days; and
- (ii) in respect of the pipeline, an annual daily average of up to 500 megalitres per day.

(c) **decision framework** means a framework for the Sydney Water Corporation to determine the quantities of drinking water to be supplied from Sydney Desalination Plant, which the Minister, from time to time:

- (i) consults the registered operator about;
- (ii) endorses;
- (iii) publishes; and
- (iv) brings to the attention of the registered operator and IPART, in writing.

Note: The intention behind paragraphs (i)-(iv) of this definition is that, if a framework is remade or amended from time to time, it will not take effect for the purposes of this approval, until the requirements of those paragraphs are met.

- (d) **good industry practice** means the exercise of that degree of skill, diligence, prudence and foresight that reasonably would be expected from a prudent desalination plant operator acting in accordance with good industry practice and applicable Australian and internationally recognised standards having regard to the capacity of the authorised infrastructure, its duty, age and technological status.
- (e) **pipeline** means the pipeline system running from Lot 2 in DP 1077972 in the suburb of Kurnell up to, but not including, the connection valve at Shaft 11C on the City Tunnel at Bridge Street in Lot A in DP 365407 in the suburb of Erskineville and consisting of the following infrastructure:
  - (i) sections of buried and overland pipeline running from the drinking water pumping station at the desalination plant to Silver Beach,
  - (ii) buried, micro tunnelled and overland pipeline running from Cook Park, Kyeemagh up to the connection valve at Shaft 11C on the City Tunnel at Bridge Street, Erskineville,
  - (iii) a marine pipeline running from Silver Beach to a point 800 metres offshore from Silver Beach, and
  - (iv) twin marine pipelines running from 800 metres offshore of Silver Beach to Cook Park, Kyeemagh.