



**NEW SOUTH WALES
GOVERNMENT**

WATER INDUSTRY COMPETITION ACT 2006

NETWORK OPERATOR'S LICENCE

**Orica Australia Pty Ltd
ACN 004 117 828**



New South Wales

WATER INDUSTRY COMPETITION ACT 2006

Section 10(5)

**Notice of Decision -
Application for a Network Operator's and Retail Supplier's licence
from Orica Australia Pty Ltd**

I, Greg Pearce MLC, Minister for Finance and Services, under section 10(5) of the *Water Industry Competition Act 2006*, have considered and accept the advice and recommendations made by IPART in its report to me on the licence application for a Network Operator's Licence and a Retail Supplier's licence under the *Water Industry Competition Act 2006* (the Act) from Orica Australia Pty Ltd (ACN 004 117 828), Level 3, 1 Nicholson Street, East Melbourne, Victoria 3002 (the Applicant). I hereby attach a copy of IPART's report (Attachment A).

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

- (a) I am satisfied that the Applicant is not a disqualified corporation as required under section 10(3) of the Act;
- (b) I am satisfied as to each of the criteria set out in section 10(4) of the Act; and
- (c) I have had regard to the licensing principles set out in section 7 of the Act in determining whether or not to grant a licence and what conditions should be imposed on any such licence granted.

I have therefore determined to grant the application for a Network Operator's licence and a Retail Supplier's licence to the Applicant subject to the conditions set out in licences 12_016 and 12_017R. I hereby attach a copy of both licences (Attachment B).

Minister for Finance and Services

Dated this 23 day of April 2012



New South Wales

Water Industry Competition Act 2006

**Grant of Network Operator's Licence
Licence No. 12_016**

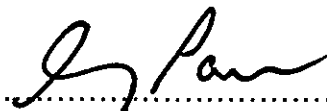
I, Greg Pearce MLC, Minister for Finance and Services, under section 10 of the *Water Industry Competition Act 2006*, grant a network operator's licence to:

Orica Australia Pty Ltd (ACN 004 117 828)

to construct, maintain and operate water industry infrastructure.

Subject to:

- a) the conditions imposed by the *Water Industry Competition Act 2006*,
- b) the conditions imposed under clause 9(a) and set out in Parts 1 and 2 of Schedule 1 of the *Water Industry Competition (General) Regulation 2008*,
- c) the conditions imposed by the Minister in the attached Schedule A, and
- d) the standard conditions imposed by the Minister in the attached Schedule B being standard Ministerially-imposed licence conditions for network operators in the water industry.

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Minister for Finance and Services

Dated this **23** day of **April** 2012

SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR ORICA AUSTRALIA PTY LTD NETWORK OPERATOR'S LICENCE

This schedule sets out the licence conditions which the Minister has determined to impose pursuant to section 13(1)(b) of the *Water Industry Competition Act 2006*. In addition to these Ministerially-imposed licence conditions, Licence Holders are subject to obligations imposed by the Act, the Regulation and the standard Ministerially-imposed licence conditions set out in Schedule B. Licence Holders are encouraged to obtain independent advice as to the conditions and obligations of their licence. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the Act or the Regulation.

A1 Activities authorised

This Licence authorises the Licence Holder and the persons specified in Table 1 to construct, operate and maintain the water industry infrastructure specified in Table 2 for the purposes as specified in Table 3 within the area specified in Table 4, subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1 Authorised persons

Not Applicable

Table 2 Specified water industry infrastructure

Infrastructure used for the extraction, treatment, filtration, storage, conveyance or reticulation of non-potable water only from a groundwater source.

Table 3 Authorised purposes

Cooling Tower makeup
Industrial process

Table 4 Specified area of operations

The City of Botany Bay Local Government Area

INTERPRETATION AND DEFINITIONS

Interpretation

In these Licence conditions, 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 these Licence conditions;
- (c) a reference to a document includes the document as modified from time to time and any document replacing it;

- (d) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (e) references to clauses are references to clauses in these Licence conditions.

Definitions

Expressions used in these Licence conditions that are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation.

In these Licence conditions:

| | |
|--------------------|---|
| Act | means the <i>Water Industry Competition Act 2006</i> |
| Authorised Purpose | means an authorised purpose listed in Table 3 of Schedule A |
| Licence Holder | means the person who is the holder of this Licence |
| Minister | means the Minister responsible for Part 2 of the Act |
| Regulation | means the <i>Water Industry Competition (General) Regulation 2008</i> |

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR ORICA AUSTRALIA PTY LTD NETWORK OPERATOR'S LICENCE

This schedule provides a comprehensive list of standard licence conditions which the Minister has determined to impose pursuant to section 13(1)(b) of the *Water Industry Competition Act 2006*. In addition to these standard Ministerially-imposed licence conditions, Licence Holders are subject to obligations imposed by the Act, the Regulation and the Ministerially-imposed licence conditions set out in Schedule A. Licence Holders are encouraged to obtain independent advice as to the conditions and obligations of their licence. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the Act or the Regulation.

B1 Ongoing capacity to operate

The Licence Holder must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licence Holder ceases to have this capacity, it must report this to IPART immediately.

B2 Obtaining appropriate insurance

B2.1 The Licence Holder must:

- (a) obtain appropriate insurance sufficient for the size and nature of the activities authorised under this Licence,
- (b) within six months of being granted this Licence, demonstrate that the insurance obtained is appropriate by providing a report to IPART from an Insurance Expert certifying that in the Insurance Expert's opinion the type and level of insurance obtained by the Licence Holder is appropriate for the size and nature of the activities authorised under this Licence, and
- (c) provide a copy of each certificate of currency of insurance obtained to IPART.

B2.2 The report from the Insurance Expert must:

- (a) identify the key risks of undertaking the activities authorised under this Licence,
- (b) set out the types and levels of insurance obtained by the Licence Holder in relation to the activities being undertaken,
- (c) provide reasons as to why the types and levels of insurance are appropriate for the size and nature of the activities being undertaken, and
- (d) if any risks arising from undertaking the activities remain uninsured, provide reasons as to why.

B3 Maintaining appropriate insurance

B3.1 The Licence Holder must maintain appropriate insurance sufficient for the size and nature of the activities authorised under this Licence.

B3.2 From time to time when requested in writing by IPART, the Licence Holder must provide a report to IPART, in the manner, form and time specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion the type and level of insurance obtained by the Licence Holder is appropriate for the size and nature of the activities authorised under this Licence.

B3.3 Whenever there is a change in the type, level or period of insurance held by the Licence Holder in relation to the activities authorised under this Licence, the Licence Holder must provide a copy of the certificate of currency to IPART within 10 days of the change being made.

B4 Complying with NSW Health requirements

The Licence Holder must carry out the activities authorised by this Licence in compliance with any requirements of NSW Health that IPART has agreed to and are notified from time to time to the Licence Holder by IPART in writing.

B5 Reporting in accordance with the Reporting Manual

The Licence Holder must prepare and submit reports in accordance with the applicable Reporting Manual.

B6 Reporting information in relation to the Register of Licences

Whenever any of the following information changes, the Licence Holder must provide the updated information to IPART within 14 days of the change:

- (a) each source from which the water handled by the water industry infrastructure is derived,
- (b) the identity of each licensed retail supplier or public water utility that has access to the infrastructure services provided by the water industry infrastructure for the purpose of supplying water to its customers,
- (c) a description of any other water infrastructure to which the water industry infrastructure is connected.

B7 Monitoring

B7.1 Any monitoring required to be undertaken by the Licence Holder for the purposes of this Licence or any Plans must be undertaken in accordance with the requirements set out below.

B7.2 The following records must be kept of any samples collected:

- (a) The date(s) on which the sample was taken,
- (b) The time(s) at which the sample was collected,
- (c) The point or location at which the sample was taken, and
- (d) The name of the person who collected the sample.

B7.3 A laboratory accredited for the specified tests by an independent body acceptable to NSW Health, such as the National Association of Testing Authorities (NATA) or equivalent, shall carry out all analyses of samples.

B8 Provision of copy of Plans

B8.1 Whenever the Licence Holder makes any change to its Plans, the Licence Holder must provide a copy of the amended Plan to IPART.

B8.2 Whenever the Licence Holder makes a significant change to its Plans, the Licence Holder must provide a copy of the amended Plan to IPART at the same time it provides a copy to the approved auditor engaged to provide a report as to the adequacy of the changed Plan as required under the Regulation.

B9 Delineating responsibilities – interconnections

B9.1 Where a water industry code of conduct under clause 25 of the Regulation has not been established by order published in the Gazette and the water industry infrastructure specified in Schedule A, clause 1, Table 2 of this Licence is connected to any other water industry infrastructure, the Licence Holder must establish a code of conduct in relation to the respective responsibilities of the Licence Holder and each licensed network operator, licensed retail supplier and/or public water utility that is responsible for the other water industry infrastructure.

B9.2 The arrangements are to be agreed in writing between the Licence Holder and the other licensed network operators, licensed retail suppliers and/or public water utilities within six months of being granted this Licence.

B9.3 The arrangements must address the following matters:

- (a) responsibility for the repair, replacement or maintenance of any pipes, pumps, valves, storages or other infrastructure connecting the water industry infrastructure specified in Schedule A, clause 1, Table 2 of this Licence to any other water industry infrastructure,
- (b) responsibility for water quality,
- (c) liability in the event of the unavailability of water,
- (d) liability in the event of infrastructure failure,
- (e) responsibility for handling customer complaints.

B10 Notification of changes to End-Use

If the Licence Holder proposes to commence distribution of water for an end-use which is not set out in the Licence Holder's Water Quality Plan, being the Water Quality Plan most recently provided to IPART, the Licence Holder must notify IPART in writing at least 3 months prior to commencing the distribution.

INTERPRETATION AND DEFINITIONS

Interpretation

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- (b) headings are used for convenience only and do not affect the interpretation of these Licence conditions;
- (c) a reference to a document includes the document as modified from time to time and any document replacing it;
- (d) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (e) references to clauses are references to clauses in these Licence conditions.

Definitions

Expressions used in these Licence conditions that are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation.

In these Licence conditions:

| | |
|-------------------|---|
| Act | means the <i>Water Industry Competition Act 2006</i> |
| Authorised Person | means an authorised person listed in Schedule A, clause 1, Table 1 |
| Gazette | means the NSW Government Gazette |
| IPART | means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> |
| Insurance Expert | means an independent insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001</i> (Cth) for the provision of insurance broking services |
| Licence | means the network operator's licence authorising the Licence Holder to construct, maintain and operate water industry infrastructure in accordance with section 10 of the Act |
| Licence Holder | means the person who is the holder of this Licence |
| Minister | means the Minister responsible for Part 2 of the Act |
| NSW Health | means the NSW Department of Health |
| Plans | means any infrastructure operating plan, water quality plan or sewage management plan required to be prepared by a Licence Holder under the Regulation |
| Regulation | means the <i>Water Industry Competition (General) Regulation 2008</i> |
| Reporting Manual | means the applicable Network Operator's Reporting Manual or Retail Supplier's Reporting Manual as produced by IPART and available on IPART's website www.ipart.nsw.gov.au |