



**NEW SOUTH WALES
GOVERNMENT**

WATER INDUSTRY COMPETITION ACT 2006

RETAIL SUPPLIER'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 Retail Supplier's Licence
Licence No. 12_017R**

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

Orica Australia Pty Ltd (ACN 004 117 828)

to supply water by means of water industry infrastructure.

Subject to:

- a) the conditions imposed by the *Water Industry Competition Act 2006*,
- b) the conditions imposed under clause 13(a) and set out in Parts 1 and 2 of Schedule 2 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 retail suppliers 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 RETAIL SUPPLIER'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 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 supply water by means of water industry infrastructure specified in Table 2 for the purposes as specified in Table 3 to the persons or classes of persons specified in Table 4 within the area specified in Table 5, 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 persons or classes of persons

Any person other than a Small Retail Customer

Table 5 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>
Licence Holder	means the person who is the holder of this Licence
Minister	means the Minister responsible for Part 2 the Act
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i>
Small Retail Customer	has the meaning given to that term in the Regulation

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR RETAIL SUPPLIER'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 licensed network operator or public water utility from whose water industry infrastructure the Licence Holder supplies water to its customers,
- (b) each source from which the water handled by the water industry infrastructure is derived,
- (c) whether or not any of the Licence Holder's customers are small retail customers,
- (d) details of any order under section 54 of the Act by which the Licence Holder is declared to be a retailer of last resort.

B7 Provision of copy of Plan

B7.1 Whenever the Licence Holder makes any change to its Plan, the Licence Holder must provide a copy of the amended Plan to IPART.

B7.2 Whenever the Licence Holder makes a significant change to its Plan, 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.

B8 Sufficient quantities

The Licence Holder must ensure that sufficient quantities of the water supplied by the Licence Holder to its customers have been obtained otherwise than from a public water utility.

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>
Gazette	means the NSW Government Gazette
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
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i>
Licence	means the retail supplier's licence authorising the Licence Holder to supply water by means of 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
Plan	means any retail supply 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