



**NEW SOUTH WALES
GOVERNMENT**

WATER INDUSTRY COMPETITION ACT 2006

RETAIL SUPPLIER'S LICENCE

**Sydney Desalination Plant Pty Ltd (ACN
125 935 177)**



New South Wales

WATER INDUSTRY COMPETITION ACT 2006

Section 10(1)

Determination of Application for a Retail Supplier's licence from Sydney Desalination Plant Pty Ltd

I, Phillip Costa MP, Minister for Water, in pursuance of section 10 (1) of the *Water Industry Competition Act 2006* (the **Act**), having considered the advice and recommendations made by IPART in its report on the licence application for a retail supplier's licence made by Sydney Desalination Plant Pty Limited (ACN 125 935 177) of Level 15, 1 Smith Street, Parramatta 2150 (the **Applicant**), advice received from the NSW Office of Water and the licensing principles set out in section 7 of the Act, determine to grant the application for a retail supplier's licence to the Applicant as set out in this notice. I hereby attach a copy of IPART's report (Attachment A).

Based on my consideration 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 clause 11 of the *Water Industry (General) Regulation*; 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 retail supplier's licence to the Applicant on the terms and subject to the conditions set out in Licence 10-011R. I hereby attach a copy of Licence 10-011R (Attachment B). The reasons for my decision are set out in Schedule 1.

A handwritten signature in black ink, appearing to read 'Phillip Costa', written over a horizontal line.

Minister for Water

Dated this

9th

day of

A handwritten signature in black ink, appearing to read 'Phillip Costa', written over the word 'August'.

2010



New South Wales

Water Industry Competition Act 2006

**Grant of Retail Supplier's Licence
Licence No. 10_011R**

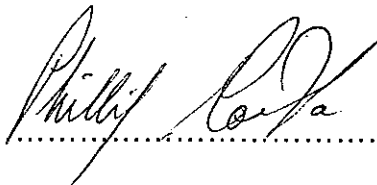
I, Phillip Costa MP, Minister for Water, under section 10 of the
Water Industry Competition Act 2006, grant a retail supplier's licence to:

Sydney Desalination Plant Pty Ltd (ACN 125 935 177)

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.

.....


Minister for Water

Dated this 9th day of August 2010

Schedule 1

Reasons for decision – section 10(5)

Having regard to IPART's report and the advice of the NSW Office of Water I am satisfied the Applicant has met all of the criteria in section 10 of the Act.

Having regard to IPART's report and the advice of the NSW Office of Water I am satisfied that regard has been had to the principles in section 7 of the Act and that the granting of a retail supplier's licence is required under the Act to enable the Applicant to retail drinking water to customers.

SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR SYDNEY DESALINATION PLANT PTY LTD RETAIL SUPPLIER'S LICENCE

This schedule sets out the 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 conditions, licensees are subject to obligations imposed by the Act, the Regulation and the standard Ministerially-imposed licence conditions set out in Schedule B. Licensees are encouraged to obtain independent advice as to the conditions and obligations of their licence.

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 production, treatment, filtration, storage, conveyance or reticulation of drinking water under Network Operator Licence no 10_010 and/or the Sydney Water Operating Licence (as the case maybe).

Table 3 Authorised purposes

Drinking water and other purposes for which drinking water could be used safely

Table 4 Specified persons or classes of persons

Any person other than a Small Retail Customer

Table 5 Specified area of operations

Sydney Water Corporation's area of operations (as defined in the Sydney Water Operating Licence)

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 |
| Sydney Water Operating Licence | means the operating licence of Sydney Water Corporation as renewed, updated, replaced or varied from time to time |

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR SYDNEY DESALINATION PLANT PTY LTD RETAIL SUPPLIER'S LICENCE

This schedule provides a comprehensive list of standard 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 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) provide a copy of each certificate of currency of insurance obtained to IPART; and
- (c) 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.

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 the 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 reputable insurer registered with the Australian Prudential Regulation Authority |
| 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 network operator's licence / retail supplier's licence authorising the Licence Holder to construct, maintain and operate water industry infrastructure / supply water or provide sewerage services by means of water industry infrastructure in accordance with section 10 of the Act |
| Licence Holder | means a person who is the holder of a 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 |