



**NEW SOUTH WALES  
GOVERNMENT**

**WATER INDUSTRY COMPETITION ACT 2006**

**NETWORK OPERATOR'S LICENCE**

**SPI Rosehill Network Pty Limited  
(ACN 131 213 691)**



New South Wales

## WATER INDUSTRY COMPETITION ACT 2006

### Section 10(5)

#### **Notice of Decision - Application for a Network Operator's licence from SPI Rosehill Network Pty Ltd (ACN 131 213 691)**

I, Phillip Costa MP, Minister for Water, 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 under the *Water Industry Competition Act 2006* (the Act) from SPI Rosehill Network Pty Ltd (ACN 131 213 691), of registered office 321 Ferntree Gully Road, Mount Waverley Victoria 3149 (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 licence to the Applicant, subject to the conditions set out in licence number 09\_002. I hereby attach a copy of the licence (Attachment B).]

  
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Minister for Water

Dated this 27<sup>th</sup> day of April 2009



## New South Wales

### Water Industry Competition Act 2006

#### Grant of Network Operator's Licence Licence No.09\_002

I, Phillip Costa MP, Minister for Water, under section 10 of the *Water Industry Competition Act 2006*, grant a network operator's licence to

SPI Rosehill Network Pty Limited (ACN 131 213 691) and

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.

  
.....  
Minister for Water

Dated this 27<sup>th</sup> day of April 2009



## **SCHEDULE A - MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR SPI ROSEHILL NETWORK PTY LIMITED 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 or 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 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 third parties**

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#### **Authorised persons**

Jemena Limited (ACN 052 167 405) and its subsidiary Jemena Asset Management Pty Ltd (ACN 086 013 461)

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**Table 2 Specified water industry infrastructure**

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#### **Water industry infrastructure**

Infrastructure used for the treatment, storage, conveyance or reticulation of non-potable water

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**Table 3 Authorised purposes**

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#### **Purposes**

Cooling tower make-up  
Industrial process  
Wash-down  
Fire fighting  
Irrigation  
Toilet flushing  
Washing machine (cold water tap only)

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**Table 4 Specified persons or classes of persons (Retail Supplier's licence only)**

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#### **Persons or classes of persons**

Not applicable

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**Table 5 Specified area of operations**

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**Area of operations**

Auburn, Bankstown, Fairfield, Holroyd, Liverpool and Parramatta Local Government Areas

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**A2 Project support**

A2.1 The authority of the Licence Holder and the third parties identified in Table 1 of Schedule A to carry out the activities set out in condition A1 of this licence is conditional on the Licence Holder entering into and maintaining an agreement with Jemena Limited ("Jemena") under which Jemena will provide financial, technical and organisational support to the Licence Holder on terms satisfactory to IPART (a "Project Support Deed").

A2.2 Without limiting condition A2.1 above, the Project Support Deed must include at least the following provisions:

(a) Subject to condition A2.2(b), Jemena will, on request by the Licence Holder promptly provide the Licence Holder with the following support on reasonable terms:

(i) make funds available to the Licence Holder to the amount necessary; and

(ii) supply, or otherwise procure for the Licence Holder, personnel with the technical skills and expertise and other management and support services,

to the extent necessary for the Licence Holder to complete the construction of the network identified as the foundation project (as depicted in the first diagram in Appendix 7 of the Licence Holder's licence application dated 29 October 2008) of the water industry infrastructure set out in Table 2 of Schedule A of this licence and its associated works, and to otherwise commission, operate, maintain and repair that infrastructure and its associated works.

(b) Jemena will not be obliged to provide the support identified in condition A2.2(a) unless the Licence Holder has first used reasonable endeavours to obtain the requested funding, technical or organisational support under any other arrangements the Licensee has in place for such funding, technical or organisational support.

(c) The Licence Holder and Jemena must not vary the Project Support Deed without the consent of IPART.

(d) The Project Support Deed is binding upon the parties until the earlier of:

(i) the revocation of this licence to the Licence Holder by the Minister; or

(ii) the third anniversary of the completion of the construction of the network identified as the foundation project (as depicted in the first diagram in Appendix 7 of the Licence Holder's licence application dated 29 October 2008) of the water industry infrastructure set out in Table 2 of Schedule A of this licence and its associated works.

A2.3 The Licence Holder must exercise its rights under the Project Support Deed to request financial, technical and organisational support from Jemena to the extent this is necessary for it to undertake the activities set out in condition A1 of this licence.



A2.4 If Jemena does not provide the Licence Holder with the financial, technical or organisational support requested under the Project Support Deed, the Licence Holder must inform IPART in accordance with condition B1 of this 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 a person who is the holder of a licence                         |
| Minister       | means the Minister responsible for the Act                            |
| Regulation     | means the <i>Water Industry Competition (General) Regulation 2008</i> |

## **SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR NETWORK OPERATORS' LICENCES**

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* (the Act). In addition to these standard Ministerially-imposed licence conditions, Licence Holders are subject to obligations imposed by the Act, the Regulation or 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 capacity (including 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 Insurance**

B2.1 Before commencing to carry out activities authorised under this licence, the Licence Holder must:

- (a) obtain appropriate insurance sufficient for the size and nature of the activities authorised under this licence,
- (b) 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 in accordance with condition B2.2, and
- (c) provide a copy of each certificate of currency of insurance obtained to IPART.

B2.2 The report 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 issued by IPART.

#### **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 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 infrastructure for the purpose of supplying water to its customers,
- (c) a description of any other water infrastructure to which the 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 required under the Regulation 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**

Whenever the Licence Holder makes a significant change to its infrastructure operating plan, water quality plan, sewage management plan or retail supply management plan (as the case may be), the Licence Holder is to provide a copy of the 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 Table 2 of Schedule A of this licence is connected to any other water industry infrastructure, the Licence Holder must establish arrangements 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 prior to commencing commercial operation of the water industry infrastructure specified in Table 2 of Schedule A of 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 Table 2 of Schedule A 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 is proposing to commence supply or 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 supply or distribution.

## **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 or an |

|                  |  |
|------------------|--|
|                  | independent reputable insurance broker registered under the <i>Insurance (Agents and Brokers) Act 1984 (Cth)</i>   |
| 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 Holder   | means a person who is the holder of a licence  |
| Minister         | means the Minister responsible for the Act   |
| NSW Health       | means the NSW Department of Health   |
| Plans            | means any water quality plan, sewage management plan or infrastructure operating plan as defined under the Regulation  |
| Regulation       | means the <i>Water Industry Competition (General) Regulation 2008</i>  |
| Reporting Manual | means the applicable Network Operators Reporting Manual or Retail Suppliers Reporting Manual as produced by IPART and available on IPART's website<br><a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> |



