

Mr Hugo Harmstorf
Chief Executive Officer
IPART
PO Box K35
Haymarket Post Shop NSW 1240
By email

Our ref: SF18/104036
Your ref: D18/19109

Dear Mr Harmstorf

Your Ref: D18/19109 Cooranbong Water Pty Ltd Variation of Operations Licence Application (Licence Number 15_033)

I refer to your letter to the Hon Anthony Roberts MP, Minister for Planning dated 31 October 2018, regarding an application by Cooranbong Water Pty Ltd for a variation to its network operators licence number 15_033, granted under the *Water Industry Competition Act 2006* (NSW).

Cooranbong Water Pty Ltd will hold the IPART Network Operator Licence (NOL), while delivery and operation of the Cooranbong Water utility scheme will be supported by Flow Systems Pty Ltd, the parent company of Cooranbong Water Pty Ltd.

NOL 15_033 was granted to Cooranbong Water Pty Ltd by the Minister on 6 August 2015. The Department had provided advice to IPART in 27 April 2015 in relation to the initial licence application.

Cooranbong Water Pty Ltd now proposes to service the North Cooranbong Development with drinking water, recycled water and sewerage services. To do so, Cooranbong Water Pty Ltd has collated a number of development consents to seek the NOL area variation in one application for expansion of the current operational area to enable servicing of several of the subdivided lots.

The licence variation seeks approval to bring new infrastructure into commercial operation is being sought on a phased basis in association with the infrastructure staging.

To address the questions in your letter:

1. *Has Cooranbong Water Pty Ltd and/ or Flow Systems Pty Ltd been subject to any of the following enforcement actions under the EP&A Act: negotiated outcome, warning letter, enforceable undertaking, order from the Minister, court order or successful prosecution? If so, please provide details of the enforcement action(s).*

No.

2. *Do you consider that our understanding of the approvals that have been obtained and are required to be obtained, under the EP&A Act (as outlined in Attachment A) is correct for the activities the network operator's licence variation would authorise, if granted? If not, in your opinion, what approvals have been or are required to be obtained?*

As identified by IPART, the works incorporate the provision of utility works variously requiring development consent under Part 4 and approvals under Part 5, Division 5.1 of the *Environmental Planning and Assessment Act 1979*.

The Department notes that works for the purposes of the North Cooranbong Development are permissible under either Part 4 or Part 5, if consistent with an approved Part 3A concept plan (MP 07_0147). This concept plan approval overrides the land use zoning, and provisions of the ISEPP, that would otherwise determine permissibility of works on the site. Part 4 Development applications under the concept plan are determined by Council, rather than the Minister for Planning.

In particular we are seeking your views on:

- a) *Do the development approvals for Areas A to D provide consent for the proposed water, recycled water and sewerage infrastructure that is adequate under the EP&A Act?*

The Applicant's documentation asserts that development consents granted by Lake Macquarie City Council provide consent to utility works in these precincts. IPART may wish to confirm with Council its view on the Applicant's intention to rely on those consents to undertake the future phases of work.

In recommending this, note that the development consents provided by the Applicant in relation to Areas A-D, as referred to in Appendix 1 of your letter, provide consent to subdivision of the relevant areas, and require the Applicant to 'service all lots in the subdivision with water, sewer, underground electricity and underground telecommunications facilities to the requirements of and by arrangements with the relevant supply authorities and company.'

- b) *Do the development approvals for Area G provide consent for proposed water, recycled water and sewerage services?*

IPART may wish to confirm with Council its view on the Applicant's intention to rely on those consents to undertake the future phases of work.

The Department notes that DA/1725/2017 also provides the requirement in to provided service to each lot on the terms above. The Department has viewed the Council's Application Tracking website, and notes that — as of the date of this letter — that website reports that DA/2234/2017 remains under assessment.

3. *Are you aware of any unacceptable risks to the environment posed by the activities to be licensed? If so, what are these risks?*

Based on the information provided, the Department is unaware of any unacceptable risks.

4. *If granted, should the network operator's licence variation contain any specific conditions in relation to protection of the environment? If so, what conditions do you recommend?*

The Department does not recommend any conditions.

Should you have any questions in relation to the matters raised in this letter, please contact Dominic Crinnion, Team Leader, at the Department on [REDACTED]

Yours sincerely,

[REDACTED]

Karen Harfagon
Director

Social and Other Infrastructure Assessments

19/12/2018