

3 July 2017

Mr Hugo Harmstorf
Chief Executive Officer
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240

Dear Mr Harmstorf

Re: Revised application under the *Water Industry Competition Act 2006* for a Network Operator Licence for Shepherds Bay

Thank you for the opportunity to comment on the revised application by Flow Systems Operations Pty Ltd (FSO) for a network operator's licence under the *Water Industry Competition Act 2006* (the WIC Act).

Sydney Water has reviewed the revised application and notes that a number of issues raised in our previous response have now been addressed. In this response, we only highlight any remaining issues.

Descriptions of infrastructure configuration

The revised application still contains some inconsistent descriptions of infrastructure configuration. We outline our position on these descriptions below. As our position has influenced our assessment of the licence application, we would appreciate if IPART could let us know if any of these assumptions are incorrect.

- **Potable water infrastructure**

Section 4.1.1 states that drinking water will be sourced from Sydney Water at the **boundary** of the development. Sydney Water does not believe this is correct.

Rather, it is our understanding that, as described in the remainder of the application, all connections to Sydney Water's infrastructure lie **within** the development.

- **non-potable water infrastructure**

Section 4.2.4 states there will be no permanent connections with any other infrastructure not part of the scheme, including interconnections with public utilities. Sydney Water does not believe this is correct.

Rather, as outlined in the remainder of the application (for example, in section 4.3.1 and section 4.3.4), it is our understanding that both waste stream, and excess sewage not required to be treated, will be discharged to Sydney Water's wastewater network. In particular, we have assumed the diagram in Appendix 4.3.1(b) that shows a direct

connection from the recycled water plant to Sydney Water's wastewater network is correct.

- **sewerage infrastructure**

Appendix 4.3.1 suggests that Flow Systems (not FSO) will be responsible for all wastewater infrastructure **within** the development. Sydney Water does not believe this is correct.

Sydney Water will be responsible for some wastewater mains within the development as well.

We note there is no reference to sewer mining in the main application. However, Appendix 4.2.1(a) indicates that there may be a sewer mining arrangement, which would require a connection to Sydney Water's wastewater network (subject to agreement). We understand that sewer mining **is** something which may occur in the future.

Servicing strategy

The developer has now advised Sydney Water they have engaged FSO for the provision of water and wastewater services. However, as Flow Systems has yet to obtain the required licences the developer is also proceeding with negotiations with Sydney Water to provide these services.

As requested by the developer, Sydney Water has now issued Section 73 Certificates of Compliance for water and wastewater servicing to stages 4 and 5 of the Shepherd's Bay development. As noted above, all water mains throughout the development including between each building are to be owned and operated by Sydney Water. There are also Sydney Water wastewater assets throughout the development providing an individual connection for bypass/overflow to Sydney Water's wastewater mains for each building.

If transfer of the ownership of the reticulation infrastructure and connection to Sydney Water's system occurs before FSO's licence is approved, this will trigger a deemed Customer Contract between Sydney Water and the property owner under section 55 of the *Sydney Water Act 1994*. If a customer subsequently wishes to become a customer of FSO, the transfer process under the WICA Act will need to be applied.

Monopoly provider

Section 3.6.1 of the application states that the proposed Shepherd's Bay scheme is not a monopoly because it lies within Sydney Water's area of operations. The presence of multiple service providers within Sydney Water's operating area does create a broadly competitive environment. However, it is unlikely that customers within the Shepherd's Bay precinct will, in practical terms, be able to choose their service provider for water or wastewater services.

As such, it is our firm view that IPART should recommend to the Minister that FSO and FS should be declared as monopoly suppliers for the Shepherds Bay developments in accordance with section 51 of the WIC Act.

Commercial agreement

The licence application states that Flow Systems will have a USA and TWA with Sydney Water. We have now begun negotiations with FSO for a USA. Agreement on site specific details may include the need for additional metering or other measures to allow calculation of a wholesale price.

Potable water top-up

Sydney Water must protect our assets to ensure the quality and safety of the drinking water supplied to our customers. Therefore, the proposed potable water top-up to the applicant's recycled water supply tank must have a **registered** air-gap installed. This was not noted in the revised application.

Capacity required in Sydney Water assets

As outlined in the section 4.3.6 of the application, the storage onsite is intended to provide a buffer for the provision of water and wastewater services but not full contingency. FSO notes:

any sewage not required to be treated to meet recycled water demand is proposed to bypass the LWC and be discharged directly into Sydney Water's sewerage network.

No provision nor agreement relating to the nature of this bypass has been made (in terms of volume, quality, quantity and frequency). As such, we note that FSO expects to fully rely on Sydney Water to provide water and wastewater backup for the entire development. Sydney Water will therefore ensure our upstream water and downstream wastewater infrastructure has sufficient capacity to provide full back up and we will manage the operating and environmental licencing risk in relation to our infrastructure that results.

Waste streams generated

Section 4.2.15 of FSO's application states that it proposes to discharge waste activated sludge and/or brine into the Sydney Water wastewater system through a TWA.

To date, FSO and Sydney Water have not commenced discussions to establish a TWA for the acceptance of the brine product from the reverse osmosis process or the impact of including stormwater into their process which may be discharged to our network. Any discharge to our wastewater system must meet our acceptance standards.

Connections and metering

As previously stated, the proposed potable water top-up to the applicant's recycled water supply tank must have a **registered** air-gap installed. The application now provides adequate information regarding the other proposed connection points for drinking water infrastructure. We note backflow containment devices (high hazard) must be installed on all connection points to prevent backflow contamination into Sydney Water's supply system. Direct connections are not permitted. The party responsible for maintaining and operating the connections to our infrastructure (either FSO or the Owner's Corporation) will be required to ensure these requirements are met to the satisfaction of Sydney Water.

It was our understanding FSO intended to install flow meters at each connection to our sewer system (including the direct overflow points from each building). However no flow meters are

shown on the revised sewer connection diagrams. We will require that these meters are installed as part of our USA with FSO.

Operator of Last Resort (OoLR)

As a potential Operator of Last Resort, Sydney Water supports and recommends that the minimum requirement for all infrastructure, including water recycling plants, should be based on WSAA standards and codes to minimise potential future Last Resort risks and costs. We also believe it would be prudent for operators to demonstrate a suitable level of financial security before scheme approval in order to reduce the likelihood and impact of a Last Resort event.

If you would like to discuss any of these matters further, please contact me on [REDACTED] by email at [REDACTED]

Yours sincerely

[REDACTED]
Danielle Francis
A/Manager Competition and Regulation