



Our reference: MD15/5002-01 and MD15/4972-04
Contact: Jacinta Hanemann (02) 9995 6867

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

Dear Mr Harmstorf,

I refer to your letters of 23 September 2015 to the Minister for the Environment. The letter invites the Environment Protection Authority (EPA) to make a submission in regards to Flow Systems Operations Pty Ltd (FSO)'s application to apply for a network operator's licence under the *Water Industry Competition Act 2006* (NSW) (WIC Act) and outlines four specific questions in regard to that application.

The Minister has referred your letter to the EPA for consideration and direct response. Please accept this letter as a response to all correspondence.

The EPA has considered your request and provides the following comments.

The EPA regulates sewage treatment systems through the *Protection of the Environment Operations Act 1997* (POEO Act). Schedule 1 of the POEO Act requires that sewage treatment systems, including the treatment plant and reticulation system, with a processing capacity of 750KL/day or 2500 equivalent persons be licensed. FSO does not currently hold an Environment Protection Licence (EPL) for the proposed Box Hill development. With a proposed population of 13,335 equivalent persons, this will be required.

1. *Has Flow Systems Operations Pty Ltd, Flow Systems Pty Ltd, Celestino Developments Pty Ltd (formerly EJC Development PTY Ltd) or Celestino Corporate Services Pty Ltd (formerly ECJ Corporate Services Pty Ltd) breached the EP&A Act? If so, please provide details of any breaches relevant to the applications for a licence under the WICA Act.*

The *Environmental Planning and Assessment Act 1979* is not administered by the EPA; this inquiry should be referred to the Department of Planning and Environment.

2. *It is our understanding of the approvals that have been and/or are required to be obtained under the EP&A Act correct (as outlined in Attachment A) for the activities the license would authorise, if granted? If not, what approvals are required to be obtained?*

The *Environmental Planning and Assessment Act 1979* is not administered by the EPA; this inquiry should be referred to the Department of Planning and Environment.

3. *Has Flow Systems Operations Pty Ltd, Flow Systems Pty Ltd, Celestino Developments Pty Ltd (formerly EJC Development PTY Ltd) or Celestino Corporate Services Pty Ltd (formerly ECJ Corporate Services Pty Ltd) breached the POEO Act? If so, please provide details of any breaches relevant to the applications for a licence under the WICA Act.*

There is no record that Flow Systems Operations Pty Ltd, Flow Systems Pty Ltd, Celestino Developments Pty Ltd (formerly EJC Development PTY Ltd) or Celestino Corporate Services Pty Ltd (formerly ECJ Corporate Services Pty Ltd) have breached the Protection of the Environment Operations Act 1997.

4. *It is our understanding of the approvals that have been or are required to be obtained under the POEO Act correct (as outlined below) for the activities the license would authorise, if granted? If not, what approvals are required to be obtained?*

At present the EPA has received no licence applications from the above mentioned corporations. Under the POEO Act, an Environment Protection Licence will be required to work as the proposed development includes a scheduled activity under the Act. Under Schedule 1 of the POEO Act any system which services more than 2,500 persons equivalent or 750 kilolitres per day requires an EPL.

5. *Do the proposed activities to be licenced pose any unacceptable risk to the environment? If so, what are these risks? Is an Environment Protection Licence required for the works described in the application.*

The reticulation and treatment of sewage has the potential to impact on the environment; untreated discharge from both the reticulation system and sewage treatment plant – and the associated nutrients and pollutants being released overland and into waterways – may result in environmental harm. In recognition of the potential risk associated with larger sewage reticulation systems and treatment plants, larger scale sewage treatment plants require an environment protection licence under the POEO Act.

6. *If granted, Should the network operator's licence contain any specific conditions in relation to the protection of the environment? If so, what should these conditions be?*

As outlined above, the sewage infrastructure proposed by FSO would require an environment protection licence under the POEO Act. This licence will include legally enforceable conditions with the objective to protect and minimise harm to the environment and public health from sewage discharges. These licence conditions are likely to include environmental performance requirements for the sewerage systems, including the required level of sewage treatment for the plants and limits on pollutants permitted to be discharged to the environment, and a range of monitoring and reporting requirements.

Given this, the EPA does not consider there is a need for similar conditions to be duplicated on the network operator's licence.

As per s.45 of the POEO Act, in determining whether to issue an environment protection licence, the EPA must consider a range of matters including practical measures that could be taken to prevent, control, abate or mitigate the pollution. This may include consideration of minimising stormwater ingress into the sewage infrastructure and maximising reuse of effluent. Consideration of these matters by the operator during planning of the sewage infrastructure has the potential to result in improved environmental outcomes. It may be appropriate to include conditions relevant to these matters in the network operator's licence.

If you have queries regarding this matter please contact Ms Jacinta Hanemann, Unit Head, Metropolitan Infrastructure on [REDACTED] or [REDACTED].

Yours Sincerely,

[REDACTED]

Frank Garofalo
Manager Metropolitan Infrastructure
Environment Protection Authority