



Independent Pricing and Regulatory Tribunal  
New South Wales

# Assessment of Narara Ecovillage Co-operative Ltd's network operator's licence application

**Prepared in accordance with the  
*Water Industry Competition Act 2006 (NSW)***



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# 1 Summary

We recommend that the Minister grants Narara Ecovillage Co-operative Ltd (NEV) a network operator's licence (licence number 17\_040, see Attachment A) and name Aquacell Pty Ltd (Aquacell) as an authorised third party on the licence. The licence will authorise NEV to construct, operate and maintain drinking water, non-potable water<sup>1</sup> and sewerage infrastructure for the Narara Ecovillage development area.

The development is located at 25 Research Road, Narara, NSW in Central Coast Council's Local Government Area (LGA).<sup>2</sup> NEV's proposal includes an on-site dam, a drinking water treatment plant, an integrated sewage and recycled water treatment plant, and a drinking water, recycled water and sewerage reticulation network.

NEV intends to construct its proposed water industry infrastructure in two stages to respond to the anticipated population growth and associated system capacity. The first stage includes construction of the drinking water supply system with water sourced from an on-site reservoir (Narara Dam), a drinking water treatment plant, and an integrated sewage and recycled water treatment facility. It also includes a temporary drinking water supply connection to Central Coast Council's potable water system. The council intends to enter into an agreement with NEV to provide this temporary supply for up to 18 months after the first 30 houses are constructed and occupied.<sup>3</sup>

In assessing NEV's licence application, we considered the licensing criteria set out in sections 10(3) and (4) of the *Water Industry Competition Act 2006* (WIC Act), and had regard to the licensing principles in section 7 of the WIC Act.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the licence application. The Minister may, if circumstances so require, seek further advice from us in relation to the licence application.<sup>4</sup>

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<sup>1</sup> In the *Water Industry Competition (General) Regulation 2008* (WIC Regulation), non-potable water means water that is not drinking water. NEV seeks this licence to supply recycled water.

<sup>2</sup> We consider that the development was previously located in Gosford City Council's LGA prior to the 2016 council amalgamation between Gosford and Wyong councils.

<sup>3</sup> Letter from Central Coast Council, 15 September 2016.

<sup>4</sup> WIC Act, section 10(2).

## 2 Background

### 2.1 The applicant

We received an application for a network operator's and a retail supplier's licence from NEV on 14 December 2015. This report only considers NEV's application for a network operator's licence.<sup>5</sup> NEV's network operator's licence application is to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure.

The applicant is a self-funded co-operative registered under the *Co-operatives National Law* (CNL). We consider that a co-operative registered under the CNL may make a licence application under section 8(1) of the WIC Act.

### 2.2 The scheme

The Narara Ecovillage development is located north of Gosford at 25 Research Road, Narara, NSW in Central Coast Council's LGA.<sup>6</sup> The proposal includes a community title subdivision with approximately 100-130 dwellings. The water industry infrastructure for the development includes a dam, a drinking water treatment plant, an integrated sewage and recycled water treatment plant, and a drinking water, recycled water and sewerage reticulation network. NEV proposes to construct the water industry infrastructure in two stages.

The development is currently connected to Central Coast Council's drinking water supply system. As an interim arrangement, until the drinking water treatment plant is constructed and operational, NEV proposes to supply drinking water sourced from the Council's system.<sup>7</sup> Then, if NEV is granted a network operator's licence, it will source water from the Narara Dam, and treat up to 32kL/day at the proposed drinking water treatment plant. NEV, with the help of Aquacell, will construct the drinking water infrastructure.

In its application, NEV informs us that it will construct an integrated sewage and recycled water treatment plant in two stages. Stage one includes a temporary treatment plant that will treat up to 25kL/day. Stage two includes the construction of the ultimate treatment plant for the scheme which will treat up to 76kL/day.

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<sup>5</sup> We have prepared a separate report outlining the retail supplier's licence application.

<sup>6</sup> Lot 13 in DP 1126998.

<sup>7</sup> This arrangement is subject to entering into a Deed of Agreement with the Council.



### 3 Consultation and submissions

On 3 August 2016, we provided the licence application to, and invited submissions from, the following Ministers<sup>8</sup> and their relevant departments:

- ▼ Minister administering the WIC Act (Minister for Lands and Water at the time of consultation)<sup>9</sup>
- ▼ Minister administering the *Public Health Act 2010* (NSW) (Minister for Health)<sup>10</sup>
- ▼ Minister administering Chapter 2 of the *Water Management Act 2000* (NSW) (WMA) (Minister for Lands and Water at the time of consultation)<sup>11, 12</sup>
- ▼ Minister administering the *Protection of the Environment Operations Act 1997* (NSW) (POEO Act) (Minister for the Environment),<sup>13</sup> and
- ▼ Minister administering the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) (Minister for Planning).<sup>14</sup>

We invited Central Coast Council to make a submission on the licence application as NEV proposes to use Council's water industry infrastructure (as defined in the WIC Act) to receive potable water during stage one of the development, as part of activities in relation to which it seeks a licence.<sup>15</sup> Further, Central Coast Council is the relevant consent authority under the EP&A Act and the appropriate regulatory authority (ARA) under the POEO Act.

We also invited submissions on the application from the public.<sup>16</sup> We advertised the application in the Sydney Morning Herald, Daily Telegraph, Newcastle Herald, and our website on 3 August 2016. The closing date for submissions was 31 August 2016. We did not receive any submissions from the public.

We received five submissions from:

- ▼ Department of Planning and Environment (DP&E)
- ▼ Minister for Lands and Water
- ▼ Minister for the Environment
- ▼ Central Coast Council, and
- ▼ NSW Health.

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<sup>8</sup> Listed as at that date.

<sup>9</sup> WIC Act, section 9(1)(a).

<sup>10</sup> WIC Act, section 9(1)(b)(i).

<sup>11</sup> WIC Act, section 9(1)(b)(ii).

<sup>12</sup> Now the Minister for Energy and Utilities.

<sup>13</sup> WIC Act, section 9(1)(b)(iii) and WIC Regulation, clause 17(1)(b).

<sup>14</sup> WIC Act, section 9(1)(b)(iii) and WIC Regulation, clause 17(1)(a).

<sup>15</sup> WIC Act, section 9(1)(b)(iii) and WIC Regulation, clause 17(2) and letter to Central Coast Council, IPART, 3 August 2016.

<sup>16</sup> WIC Act, section 9(1)(c).

These submissions are available on our website and are discussed below.<sup>17</sup>

DP&E did not raise objections to the application and indicated that it is not aware of any breaches of the EP&A Act by NEV or Aquacell.<sup>18</sup> DP&E did not provide specific comments in relation to potential environmental risks related to the licence application.

The **Minister for the Environment** raised no concerns about the application.<sup>19</sup> The Minister for the Environment confirmed that NEV does not require an Environment Protection Licence (EPL) for the peak daily operating volume as it is not a scheduled activity under the POEO Act. The Minister for the Environment's submission is explained in further detail in section 4.6.2.

**Central Coast Council** raised concerns about the development consent granted to NEV under the EP&A Act.<sup>20</sup> We discuss the Council's response in further detail in section 4.6.2.

**NSW Health** supports NEV's application.<sup>21</sup> NSW Health has requested that we consult with them regarding the detailed risk assessments for drinking and recycled water, technology assessments, development of management plans for drinking and recycled water, and final compliance audits prior to NEV commencing retail supply. Further, NSW Health requests that NEV and NSW Health develop an incident notification protocol. We discuss NSW Health's response in further detail in sections 4.3 and 4.6.1.

Finally, the **Minister for Lands and Water** advised us that NEV is subject to the water access licence requirements under the WMA as NEV intends to extract drinking water from an on-site dam.<sup>22</sup> The submission confirmed that NEV currently holds a water access licence for 29ML, however NEV requires a licence to access the extra 9.07 ML required to supply stage two. The Minister for Lands and Water's response is explained in further detail in section 4.6.6.

In addition to inviting submissions, we sought expert advice from:

- ▼ Vincents Chartered Accountants (Vincents), an independent financial consultant, to inform our financial assessment (see section 4.2.2)
- ▼ Insurance & Care NSW (icare) to inform our assessment of appropriate insurance arrangements (see section 4.4), and
- ▼ Dams & Civil Technologies within NSW Public Works to inform our assessment of NEV's technical capacity in relation to the maintenance of Narara Dam (see section 4.2.1).

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<sup>17</sup> Submissions are accessible at <https://www.ipart.nsw.gov.au/Home/Industries/Water/Alternate-water-utilities-WICA/WICA-Licenses-Listing-pages/WICA-licence-applicants>.

<sup>18</sup> Letter from DP&E, 1 September 2016.

<sup>19</sup> Letter from the Minister for the Environment, 14 September 2016.

<sup>20</sup> Letter from Central Coast Council, 15 September 2016.

<sup>21</sup> Letter from NSW Health, 16 September 2016.

<sup>22</sup> Letter from the Minister for Lands and Water, 13 September 2016.

## 4 Assessment of application

In assessing NEV's application for a network operator's licence, we considered the relevant licensing criteria set out in sections 10(3) and (4) of the WIC Act, and had regard to the licensing principles in section 7 of the WIC Act.

This section of the report contains our assessment of NEV's licence application and our recommendations.

### 4.1 Disqualified corporation and related entity checks

**We consider that NEV is not a disqualified corporation or a corporation that is a related entity of a relevant<sup>23</sup> disqualified corporation.**

In making this recommendation, we have considered the following information:

- ▼ A statutory declaration signed by the Chief Executive Officer and an NEV Director stating that:
  - neither NEV, nor any director or person concerned in the management of NEV is, or would be, a disqualified corporation or a disqualified individual within the meaning of the WIC Act, and
  - NEV is not a related entity of a disqualified corporation that would have a direct or indirect interest in, or influence on, the carrying out of activities that the licence would authorise if granted.
- ▼ Information provided by NEV regarding details of the:
  - trustees (past and current) of any trusts in relation to which NEV is a beneficiary
  - current beneficiaries of any trusts in relation to which NEV is a trustee, and
  - names of the Chief Financial Officer and Chief Executive Officer for NEV and each of NEV's relevant related entities.
- ▼ Results of ASIC, Dun & Bradstreet and Department of Fair Trading reports that we have obtained for NEV, and for the related entities, confirmed that these companies are not disqualified corporations nor are the directors or persons concerned in the management of the companies disqualified individuals.<sup>24</sup>
- ▼ Results of our search of the WIC Act licence database showed there are currently no disqualified corporations or individuals on the register pursuant to the WIC Act, sections 16(1)(e) and 16(1)(f).

We consider that NEV should not be subject to any licence conditions in relation to the disqualified corporations checks if a licence is granted.

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<sup>23</sup> A related entity that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence, if granted, would authorise (WIC Act, section 10(3)(b)).

<sup>24</sup> The relevant searches were completed on 6 January 2016, 14 January 2016 and 20 March 2017.

## 4.2 Capacity (including technical, financial and organisational) to carry out the activities

NEV has applied for a network operator's licence to authorise it to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure.

We assessed NEV's technical, financial and organisational capacity to carry out activities that a network operator's licence would authorise. Our assessment is based on NEV's capacity at the time of making the application.

### 4.2.1 Technical capacity

**We are satisfied that NEV has the technical capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development.**

We assessed NEV's technical capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure. Our analysis of NEV's technical capacity considered its:

- ▼ **Preliminary risk assessments** for drinking water, and non-potable water and sewerage services. NEV engaged consultants to facilitate its preliminary risk workshops in consultation with stakeholders from NSW Health, IPART and Aquacell.
  - The drinking water risk assessment demonstrates that NEV has the technical capacity to identify drinking water hazards and risks, as well as issues related to water quality (public health) and the environment. The preliminary drinking water risk assessment demonstrates NEV's technical capacity to understand and implement the *Australian Drinking Water Guidelines (2011)* (ADWG).
  - Similarly, the recycled water and sewerage risk assessment demonstrates that NEV has the technical capacity to understand public health and environmental risks related to operation of the wastewater treatment system and to implement the elements of the *Australian Guidelines for Water Recycling (2006)* (AGWR).
- ▼ **Process flow diagrams (PFDs)** for drinking water, non-potable water and sewerage infrastructure from source to end use which demonstrates NEV's capacity to design and construct the water industry infrastructure, supported by Aquacell.
- ▼ **Management plans** which demonstrate NEV's technical capacity to construct, operate and maintain the drinking water, non-potable water and sewerage infrastructure in accordance with the necessary standards and guidelines.
  - **Reservoir water management plan** which outlines the source water characteristics and informs the drinking water treatment plant design.
  - **Integrated water cycle management plan** which provides details related to the water demand of the proposed scheme, and includes details about the hydraulic capacity of the dam.
  - **Land capability assessment report** which details the proposed management of effluent irrigation onto land at the development, taking into consideration daily water and nutrient balances.

- **Drinking water improvement plan** which identifies the key risks to its proposed drinking water system and how NEV intends to develop a system to address these risks.
  - **Draft drinking water management system development plan** which outlines how NEV will operate and maintain the infrastructure in line with the ADWG including the drinking water system critical control points (CCPs) given source water characteristics and proposed end-uses.
  - **Infrastructure operating plan (IOP)** prepared by Aquacell for a similar scheme.<sup>25</sup> The IOP outlines the asset lifecycle planning, system redundancy and condition monitoring for the relevant water industry infrastructure.
  - **Report on the safety inspection of Narara Dam** including a risk assessment outlining risks related to the operation and maintenance of the dam.
  - **Draft dam safety management system (DSMS)** which details the emergency management process related to the drinking water supply.
  - **Dam safety assessment and safety management plan proposal** which outlines the operation and maintenance of the permanent drinking water supply source.
- ▼ **Human resource capacity** which we assessed from the position descriptions and professional experience of specific personnel nominated to the project in the application. We also assessed the role requirements and responsibilities that were relevant to the activities the licence would authorise. We consider that the resource experience and capacity provided by Aquacell is pivotal to NEV maintaining ongoing technical capacity for the Narara Ecovillage scheme.
  - ▼ **Water reservoir sampling reports** which were used to understand the water quality in Narara Dam and check that NEV has proposed appropriate water treatment processes for the drinking water treatment plant.

We received no submissions regarding NEV's technical capacity.

We engaged Dams & Civil Technologies within NSW Public Works to provide expert advice on whether NEV has the technical capacity to maintain Narara Dam, should it get a licence. This required Public Works to comment on the suitability of NEV's draft DSMS. Public Works concluded that the draft DSMS was generally satisfactory however NEV must continue to develop the DSMS over the long term.<sup>26</sup> We consider that, if the Minister grants a network operator's licence, NEV would be required to develop an IOP for the scheme. Among other things, the IOP would detail how NEV will ensure the continued safe and reliable performance of the infrastructure.<sup>27</sup> The IOP will be subject to review as part of the Licence Plans audit prior to NEV commencing commercial operation.

We consider that Aquacell's expertise is critical to NEV's ongoing technical capacity. We recommend that Aquacell should be named as an authorised person for the construction, operation and maintenance of all infrastructure detailed on the licence, if granted.

We consider that the evidence submitted by NEV demonstrates that it has the technical capacity to construct, operate and maintain drinking water, non-potable water and sewerage

<sup>25</sup> NEV has contracted the preparation of any IOPs for the scheme to Aquacell.

<sup>26</sup> Email from Public Works to IPART, 18 March 2016.

<sup>27</sup> WIC Regulation, Schedule 1, clause 6.

infrastructure at the development. We consider that, if licensed, NEV should be required to maintain its technical capacity.

We recommend that NEV should be subject to the following special and standard licence conditions (see draft licence in Attachment A), in relation to technical capacity, if a licence is granted:

**Table 4.1 Recommended licence conditions for technical capacity**

| Licence condition | Condition details   |
|-------------------|---|
| A1.1              | If an Authorised Person ceases, proposes to cease, or receives notification to cease providing any of the services relating to the activities authorised by this Licence, the Licensee must provide IPART with written notice as soon as practicable but no later than 28 days before the date of cessation of the services. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken. |
| B1.1              | The Licensee must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licensee ceases to have this capacity, it must report this to IPART immediately in accordance with the Reporting Manual.   |

#### 4.2.2 Financial capacity

**We are satisfied that NEV has the financial capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development.**

In making our assessment of NEV's financial capacity we have considered the following information:

- ▼ report from our independent financial consultant, Vincents
- ▼ historic financial performance including profit and loss statements and balance sheets
- ▼ key financial ratios
- ▼ audited financial statements
- ▼ five-year projected CAPEX and OPEX cash flow forecasts related to the scheme
- ▼ income tax returns, and
- ▼ proposed price structure for services provided by NEV including a fixed component for all services and a volumetric charge for drinking and non-potable water.

We engaged an independent financial consultant, Vincents, to assist us in assessing NEV's financial capacity and the viability of the scheme. Vincents was satisfied that NEV adequately demonstrated its ongoing financial capacity to carry out the activities that the licence would authorise (if granted). Vincents' analysis outlined that although NEV is a co-operative and has a more complex structure than a company, Vincents' considered that NEV has a "relatively low risk of financial failure" and has financial capacity.<sup>28</sup>

<sup>28</sup> Vincents Chartered Accountants, *Forensic Accountant's Report in the matter of Water Industry Competition Act Financial Capacity Review in respect of the applicant Narara Ecovillage Co-operative*, 4 August 2016.

Based on its assessment, Vincents did not recommend any special licence conditions, for NEV's licence, relating to financial capacity.<sup>29</sup>

We received no submissions regarding NEV's financial capacity.

We consider that the information submitted by NEV demonstrates that it has the financial capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the development.

Our financial assessment represents the applicant's financial capacity at a point in time. Our recommendation to grant NEV a licence should not be viewed as an endorsement of the ongoing viability of the corporation. The assessment is based on a combination of information sources, none of which is to be regarded as individually determinative. This assessment is done for our own purposes and the Minister's purposes in assessing the application. The conclusion is not to be relied upon for any other purpose by any other person.

We recommend that NEV should be subject to the following standard licence condition (see draft licence in Attachment A), in relation to financial capacity, if a licence is granted:

**Table 4.2 Recommended licence condition for financial capacity**

| Licence condition | Condition details   |
|-------------------|---|
| B1.1              | The Licensee must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licensee ceases to have this capacity, it must report this to IPART immediately in accordance with the Reporting Manual. |

### 4.2.3 Organisational capacity

**We are satisfied that NEV has the organisational capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development.**

In making our assessment of NEV's organisational capacity we have considered the following information:

▼ **Organisational diagrams** including:

- a project organisational chart identifying the relationship between NEV, Aquacell and other contractors and consultants
- NEV's current and proposed organisational structure for the project, and for NEV Water, and
- Aquacell's organisational chart.

The organisational diagrams demonstrate that NEV has an appropriate structure to manage its nominated third parties to deliver the proposed works based on contractual arrangements and agreements.

<sup>29</sup> Ibid.

- ▼ **Curricula Vitae (CV)** outlining the relevant experience of key personnel proposed to undertake the activities from NEV and Aquacell. NEV has adequate access to key personnel with relevant water industry experience.
- ▼ **Position descriptions** for key personnel related to the project. We reviewed draft position descriptions for the Reservoir and Catchment Manager, Dam Safety Manager, Water Infrastructure Network Manager, Head of NEV Water, Environment Health and Safety Officer and the Risk and Audit Committee Lead. These outline the proposed role requirements and responsibilities suitable for the activities a network operator’s licence would authorise.
- ▼ **Letter of intent and draft agreements** between Aquacell and NEV. The documents are evidence that, with the support of Aquacell, NEV will have the resources it needs to undertake the proposed licensed activities.
- ▼ **Civil Construction Tender Selection Criteria** describing how NEV will procure specialist skills. The selection criteria demonstrates that NEV has the capacity to engage suitably qualified persons to undertake authorised activities.
- ▼ **Water Access Licence (WAL)** that allows NEV to extract 29 units/year from Narara Dam.<sup>30</sup> This demonstrates that NEV has the organisational capacity to access the water extraction requirements for the potable water source for the development.

We received no submissions regarding NEV’s organisational capacity.

We consider that the information submitted by NEV demonstrates that it has the organisational capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development.

We consider that Aquacell’s expertise is critical to NEV’s ongoing organisational capacity. We recommend that Aquacell should be named as an authorised person for the construction, operation and maintenance of all infrastructure on the licence, if granted.

We recommend that NEV should be subject to the following special and standard licence condition (see draft licence in Attachment A), in relation to organisational capacity, if a licence is granted.

**Table 4.3 Recommended licence conditions for organisational capacity**

| Licence condition | Condition details   |
|-------------------|---|
| A1.1              | If an Authorised Person ceases, proposes to cease, or receives notification to cease providing any of the services relating to the activities authorised by this Licence, the Licensee must provide IPART with written notice as soon as practicable but no later than 28 days before the date of cessation of the services. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken. |
| B1.1              | The Licensee must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licensee ceases to have this capacity, it must report this to IPART immediately in accordance with the Reporting Manual.   |

<sup>30</sup> One unit is equivalent to 1 ML as at the date of this report. However, this is subject to variation if the water is classified as a high security entitlement.



### 4.3 Capacity to carry out those activities in a manner that does not present a risk to public health

We are satisfied that NEV has the capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development, in a manner that does not present a risk to public health.

We assessed NEV's capacity to manage the following key risks to public health, posed by the construction, operation and maintaining of drinking water, non-potable water and sewerage infrastructure at the development:

- ▼ **Service performance and interruption** – we consider that NEV has demonstrated the capacity to adequately manage the risk of disruption to the water supply and/or sewerage service.
  - Central Coast Council will supply NEV with potable water to NEV for a period up to 18 months after the first 30 houses are constructed and occupied. The current wording in the draft Deed limits NEV's access to the Council's water supply system between 10pm and 7am.<sup>31</sup> However, NEV will store potable water in a header tank providing approximately five days of backup potable water supply. NEV proposes to provide tankered water to development residents if required.<sup>32</sup>
  - Sewerage services – NEV has demonstrated its capacity to mitigate the risk of interruptions to the sewerage service through contingency measures including storage and tankering. Specifically, the proposed plant design includes sewage buffer capacity. Further, in the event of prolonged interruptions to the sewerage services, NEV has included provisional arrangements to tanker sewage off-site.
- ▼ **Providing non-potable water quality that is fit for purpose** – NEV has demonstrated its capacity to treat and provide non-potable water to an appropriate quality for the intended end uses.
  - NEV will source potable water from Central Coast Council via an interim water connection from the Council.
  - NEV intends to source and supply drinking water from the Narara Dam once the drinking water treatment plant is granted commercial operation. NEV has demonstrated the capacity to construct, operate and maintain the drinking water infrastructure consistent with the ADWG.
  - NEV will source and treat sewage from the development. NEV's **Sewage Production, Treatment and Reuse Report** concluded that NEV's proposed treatment train would produce a suitable quality of water for toilet flushing, domestic gardens and subsurface irrigation. NEV has demonstrated the capacity to construct, operate and maintain the non-potable water infrastructure consistent with the AGWR.

<sup>31</sup> Clause 6.1.3 of the Draft Deed of Agreement – Interim Water Connection between Central Coast Council and Narara Ecovillage Co-operative Ltd dated 30 August 2016, p6.

<sup>32</sup> Eg, if the potable water treatment plant is not operational for an extended period of time.

- ▼ **Potential inappropriate water use** – there is a risk to public health if customers use non-potable water for unauthorised purposes. We consider that NEV has technical capacity to manage inappropriate use as demonstrated through its risk assessment. NEV will undertake education campaigns and, where possible, ensure that the plumbing is constructed in accordance with the *Plumbing Code of Australia*.
- ▼ **Potential for cross connections** – NEV will minimise the risk of cross connections across its drinking water and non-potable system. This includes maintaining higher pressure in the drinking water system than the non-potable system, undertaking verification monitoring across the networks, and Aquacell’s backflow prevention procedure.

We received one submission from NSW Health regarding NEV’s capacity to protect public health. NSW Health supported the application and did not identify any specific issues related to NEV’s capacity to protect public health. In its submission, NSW Health requested that we consult with them during the:

- ▼ detailed risk assessments for drinking and recycled water
- ▼ technology assessments, and
- ▼ development of management plans for drinking and recycled water.

Further, NSW Health’s submission requested that NEV develop an Incident Notification Protocol for incidents related to the scheme. These include, but are not limited to, water quality issues, treatment plant critical control point limit exceedances, algae, recycled water issues, cross connections, and contact details of all stakeholders involved in the Narara Ecovillage scheme.<sup>33</sup>

If a licence is granted, we will direct NEV to liaise directly with NSW Health, in accordance with proposed condition B4.1, to ensure that all public health matters are adequately considered.

We reviewed NEV’s preliminary risk assessments for drinking water, and non-potable water and sewerage. We consider that NEV has demonstrated its capacity to identify and manage hazards and risks related to the drinking water, non-potable water and sewerage components of the scheme and will have reasonable mitigation measures in place for the scheme.

We consider that the information submitted by NEV demonstrates that it has the capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure in a manner that does not present a risk to public health.

We recommend that NEV should be subject to the following standard licence conditions (see draft licence in Attachment A), in relation to its capacity to protect public health, if a licence is granted:

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<sup>33</sup> Letter from NSW Health, 16 September 2016.

**Table 4.4 Recommended licence conditions for the protection of public health**

| Licence condition | Condition details   |
|-------------------|---|
| B4.1              | The Licensee must carry out the activities authorised by this Licence in compliance with any requirements of NSW Health that:<br>a) IPART has agreed to; and<br>b) are notified from time to time to the Licensee by IPART in writing.  |
| B8.1              | The Licensee must undertake any monitoring that is required for the purposes of this Licence, any Plan, the Act or the Regulation in accordance with this clause B8.  |
| B8.2              | The Licensee must keep the following records of any samples taken for monitoring purposes specified in the Water Quality Plan:<br>a) the date on which the sample was taken;<br>b) the time at which the sample was collected;<br>c) the point or location at which the sample was taken; and<br>d) the chain of custody of the sample (if applicable). |
| B8.3              | The Licensee must ensure that analyses of all samples taken for the purposes of Verification Monitoring are carried out by a laboratory accredited for the specified tests by an independent body that is acceptable to NSW Health, such as the National Association of Testing Authorities or an equivalent body.                                      |
| B11.1             | If the Licensee proposes to operate the Specified Water Industry Infrastructure to supply water for an end-use which is not set out in the most recent Water Quality Plan provided to IPART, the Licensee must notify IPART in writing at least 3 months before commencing such operation.  |
| B13.1             | If the Licensee becomes aware that a customer's Plumbing is not Code Compliant, the Licensee must, within 10 days, notify the customer and the Plumbing Regulator of that fact.   |

#### 4.4 Appropriate arrangements with respect to insurance

We are satisfied that NEV has made, and will continue to maintain, appropriate insurance arrangements.

In making our assessment of NEV's insurance arrangements, we have considered:

- ▼ Risk and insurance review reports prepared by General Insurance Brokers of Australia detailing how the proposed insurance policies appropriately indemnify against key risks identified in the risk matrix.<sup>34</sup> The report includes an attached risk matrix outlining key risks to the scheme.<sup>35</sup> It also outlines how the insurances held by NEV related to assets that are the subject of this network operator's licence application.
- ▼ NEV's insurance certificates of currency for the following insurances:
  - commercial combined including material damage, and general and products liability
  - workers compensation (NSW) including contractors and deemed employees
  - commercial motor vehicles
  - voluntary workers, and
  - association liability.

<sup>34</sup> *Narara Ecovillage Co-operative Ltd- Insurance & Risk Management Review* 7th December 2016, dated 20 December 2016. *Narara Ecovillage Co-operative Ltd- Insurance & Risk Management*, dated 8 April 2016. *2015 Insurance & Risk Management Report*, dated 7 December 2015.

<sup>35</sup> Prepared by General Insurance Brokers of Australia and dated 20 December 2016.

- ▼ Aquacell’s insurance certificates of currency for the following insurances:
  - contract works
  - professional indemnity, and
  - business insurance including fire and business interruption.

We requested advice from icare on the appropriateness of NEV’s insurance arrangements, with respect to the activities to be licensed. As part of the review, icare examined NEV’s proposal and the insurance certificates of currency that both NEV and Aquacell hold. In addition, icare reviewed the insurance broker’s report and product disclosure statements for the insurance certificates. The assessment concluded that NEV and Aquacell hold adequate insurances for the purposes of NEV’s network operator’s licence application.

We received no submissions regarding NEV’s insurance arrangements.

We consider that the information provided in the application, and icare’s subsequent advice demonstrates that NEV has made, and will continue to maintain, appropriate insurance arrangements.

We recommend that NEV should be subject to the following standard licence conditions (see draft licence in Attachment A), in relation to its insurance arrangements, if a licence is granted:

**Table 4.5 Recommended licence conditions for insurances**

| Licence condition | Condition details  |
|-------------------|--|
| B2.1              | <p>Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must:</p> <ul style="list-style-type: none"> <li>a) obtain insurance that is appropriate for the size and nature of the activities authorised under this Licence;</li> <li>b) provide a copy of each certificate of currency of the insurance held to IPART; and</li> <li>c) demonstrate that the insurance obtained is appropriate for the size and nature of the activities authorised under this Licence by providing a report to IPART from an Insurance Expert that:               <ul style="list-style-type: none"> <li>i) certifies that in the Insurance Expert’s opinion, the type and level of the insurance obtained by the Licensee is appropriate for the size and nature of the activities authorised under the Licence; and</li> <li>ii) is in the form prescribed by the Reporting Manual.</li> </ul> </li> </ul> |
| B3.1              | The Licensee must maintain insurance that is appropriate for the size and nature of the activities authorised under this Licence.  |
| B3.2              | The Licensee must provide a copy of each certificate of currency of the insurance maintained by the Licensee to IPART in accordance with the Reporting Manual.   |
| B3.3              | <p>If there is, or is to be, a change in:</p> <ul style="list-style-type: none"> <li>a) the insurer or underwriting panel in respect of an insurance policy held by the Licensee; or</li> <li>b) the type, scope or limit on the amount of insurance held by the Licensee,</li> </ul> <p>in relation to the activities authorised under this Licence, the Licensee must provide a report to IPART in accordance with the Reporting Manual.</p>   |

| Licence condition | Condition details  |
|-------------------|--|
| B3.4              | <p>From time to time when requested in writing by IPART, the Licensee 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, scope or limit on the amount of the insurance held by the Licensee is appropriate for the size and nature of the activities authorised under this Licence.</p> <p><i>[Note: The circumstances in which IPART may request a report under clause B3.4 include (but are not limited to) the following:</i></p> <ul style="list-style-type: none"> <li><i>• where IPART has reason to believe that there may be a change in the type, scope or limit on the amount of insurance held by the Licensee in relation to activities authorised under this Licence;</i></li> <li><i>• where there is a change in the type or extent of activities authorised under this Licence; or</i></li> <li><i>• where IPART or an approved auditor has reason to believe that the type, scope or limit on the amount of insurance held by the Licensee may not be appropriate for the size and nature of the activities authorised under this Licence.]</i></li> </ul> |

#### 4.5 Capacity to carry out those activities in a manner that does not present a significant risk of harm to the environment

We are satisfied that NEV has the capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development, in a manner that does not present a significant risk of harm to the environment.

In making our assessment of NEV's capacity to manage key risks to the environment posed by construction, operation and maintenance of drinking water, non-potable water and sewerage infrastructure, we have considered NEV's:

- ▼ **Understanding of environmental regulations in NSW** – NEV demonstrated its understanding of the regulatory approval requirements. Gosford City Council granted NEV development approval (DA44994/2013) for the community title subdivision and associated infrastructure under Part 4 of the EP&A Act.
- ▼ **Capacity to comply with environmental regulations on existing schemes** – NEV demonstrated its capacity to comply with environmental regulations by appropriately identifying the consent approvals, preparing environmental assessments and identifying mitigation measures for the construction, operation and maintenance of the water industry infrastructure. Further Aquacell operates similar schemes (including schemes in NSW that are licensed under the WIC Act). The Minister for the Environment confirmed that neither NEV nor Aquacell have breached the POEO Act.<sup>36</sup> Similarly, DP&E confirmed that neither NEV nor Aquacell have been subject to enforcement actions under the EP&A Act.<sup>37</sup> We consider that this demonstrates the applicants' capacity to comply with key environmental regulations.

<sup>36</sup> Letter from the Minister for the Environment, 14 September 2016.

<sup>37</sup> Letter from DP&E, 31 August 2016.

- ▼ **Capacity to implement environmental management processes in relation to the activities to be licensed** – NEV demonstrated its capacity to develop and implement an environmental management system and processes for the scheme. This is evident in NEV’s risk assessments and Statement of Environmental Effects, submitted as part of the development application, related to the construction and operation of the drinking water, non-potable water and sewerage infrastructure. NEV also provided a role description for an Environment Health and Safety Officer that would be responsible for compliance with environmental regulations.

We received one submission from Central Coast Council regarding NEV’s capacity to carry out the activities to be licensed, in a manner that does not present a significant risk of harm to the environment. The Council’s response indicated that NEV did not have development consent for the relevant water industry infrastructure.<sup>38</sup> However, following subsequent discussions with the Council and our own assessment, we have concluded NEV has development consent for the water industry infrastructure that is the subject of their licence application.<sup>39</sup>

We consider that the information submitted by NEV demonstrates that it has the capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure in a manner that does not present a significant risk of harm to the environment.

We consider that NEV should not be subject to any licence conditions in relation to its capacity to not present a significant risk of harm to the environment, if a licence is granted.

## **4.6 Public interest considerations**

We had regard to each of following licensing principles related to the public interest. Our recommendation in relation to this criterion includes our consideration as to whether or not the network operator’s licence should be granted, and if so, what conditions to impose.

### **4.6.1 Protection of public health**

We have had regard to protection of public health through our assessment of NEV’s capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development in a manner that does not present a risk to public health. As outlined in section 4.3 of this report, we assessed NEV’s capacity to manage the key risks posed to public health by the activities to be licensed.

NSW Health supports NEV’s application for a network operator’s licence and did not identify any specific risks to public health. In its submission, NSW Health requested that we consult with them during the:

- ▼ detailed risk assessments for drinking and recycled water
- ▼ technology assessments, and
- ▼ development of management plans for drinking and recycled water.

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<sup>38</sup> Letter from Central Coast Council, 15 September 2016.

<sup>39</sup> DA44994/2013.

Further, NSW Health's submission requested that NEV develop an Incident Notification Protocol for incidents related to the scheme. These include, but are not limited to, water quality issues, treatment plant critical control point limit exceedances, algae, recycled water issues, cross connections, and contact details of all stakeholders involved in the Narara Ecovillage scheme.<sup>40</sup>

We will direct NEV to liaise directly with NSW Health prior to ensure that all public health matters are adequately considered, should a network operator's licence be granted.

If the Minister grants a network operator's licence to NEV, we consider that public health will be protected in relation to the activities licensed by the conditions outlined in section 4.3 of this report.

#### **4.6.2 Protection of the environment**

In having regard to protection of the environment, we considered the approvals required and obtained under the EP&A Act for the construction, operation and maintenance of water industry infrastructure to service the Narara Ecovillage development. The EP&A Act is the central legislation that controls planning and development in NSW.

We concluded that NEV has obtained development consent under Part 4 of the EP&A Act from Central Coast Council for the water industry infrastructure that is the subject of their licence application.

Regarding protection of the environment, we also considered the following information:

- ▼ **Statement of Environmental Effects (SEE)** - the SEE covers the proposed integrated water management system. This includes construction, operation and maintenance of the drinking water, non-potable and sewage infrastructure. The SEE included an Integrated Water Cycle Management Plan, Odour Impact Assessment Report, Noise Impact Assessment Report, and a Noise and Vibration Management Plan. The SEE concluded that the proposal is unlikely to significantly affect the environment. Relevant specialist reports are discussed below:
  - **Odour Impact Assessment** - analysed potential odour emissions associated with NEV's proposed sewage treatment plant. The report concluded that NEV's proposal will not result in unacceptable impacts to air quality.
  - **Noise Impact Assessment** - analysed the acoustic impacts of the proposed sewage treatment plant. The report concluded that the proposed design for the sewage treatment plant would not unacceptably impact on the environment in relation to acoustics.
  - **Integrated Water Cycle Management Plan and Addendum to the Integrated Water Cycle Management Plan** - included demand predictions, land capability assessment, analysis of the Narara Dam for drinking water supply. The reports concluded that the soil profiles in the proposed irrigation areas are suitable for effluent irrigation.
- ▼ **Submissions made in relation to the protection of the environment:**

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<sup>40</sup> Letter from NSW Health, 16 September 2016.

- **DP&E** could not comment on the project as it did not assess the project. DP&E's submission outlined that NEV and Aquacell have not been subject to enforcement actions under the EP&A Act.
- **Minister for the Environment** informed us that NEV does not require an EPL for the Narara Ecovillage development. The Minister's submission recommended licence conditions related to the operation and maintenance of the proposed water industry infrastructure. We consider that these proposed conditions are captured by the licence condition that requires NEV, if granted a licence, to prepare and implement a sewage management plan. This plan is in relation to the conveyance, treatment and disposal of sewage by means of the infrastructure and must indicate the manner in which health and ecological assessments will be undertaken and any concerns arising from any such assessment addressed, and the arrangements for the disposal of waste from the infrastructure.<sup>41</sup> If granted a licence, we would require NEV to have its sewage management plan audited for adequacy before it commences commercial operation of sewage infrastructure.

We consider that any risks to the environment would be managed through the licence conditions requiring NEV to prepare and implement water quality plans,<sup>42</sup> an infrastructure operating plan,<sup>43</sup> and a sewage management plan.<sup>44</sup> If granted a licence, we would require NEV to have these plans audited for adequacy before commencing commercial operation of the relevant infrastructure.

In having regard to protection of the environment, we recommend that the following activities authorised by the licence (if granted) should be described in a specific manner:

- ▼ **Recycled water and sewage treatment plant** - the area of operation for this infrastructure should be limited to Lot 13 in DP 1126998 (licence scope S1.1(a) and S3.1(a)). This is to ensure that any future development for the purpose of recycled water treatment or sewage treatment by NEV cannot be conducted without assessment under the EP&A Act (unless it is exempt development).<sup>45</sup>

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<sup>41</sup> WIC Regulation, schedule 1, clause 14.

<sup>42</sup> WIC Regulation, Schedule 1, clause 7.

<sup>43</sup> WIC Regulation, Schedule 1, clauses 6 and 13.

<sup>44</sup> WIC Regulation, Schedule 1, clause 14.

<sup>45</sup> Clause 106 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) allows network operators licensed under the WIC Act to carry out development for the purpose of sewage treatment plants and water recycling facilities without consent on land in a prescribed zone. Therefore, if the licence included an area of operation for such development that included land of a prescribed zone, NEV could carry out development without consent. We understand that if no further approvals were required from a public authority (to trigger environmental assessment under Part 5 of the EP&A Act), NEV could carry out the development without any assessment under the EP&A Act.



- ▼ **Recycled water and sewerage reticulation network** – the infrastructure should be limited to that which has been granted development consent or is exempt development under the EP&A Act (licence scope S1.1(b) and S3.1(b)). This is to ensure that any future development for the purpose of recycled water or sewerage reticulation by NEV cannot be conducted without assessment under the EP&A Act (unless it is exempt development).<sup>46</sup>

### 4.6.3 Protection of public safety

We had regard to the protection of public safety through our assessment of NEV's technical capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development.

We consider that the risks assessments (outlined in section 4.2) undertaken by NEV for drinking water and non-potable water and sewerage demonstrate that NEV will implement public safety protections prior to undertaking activities for which it seeks a licence. These risk assessments will be subject to review as part of the Licence Plans audit if the Minister grants a network operator's licence.

We did not receive any submissions regarding NEV's capacity to protect public safety.

If the Minister grants a network operator's licence to NEV, we consider that public safety will be protected in relation to the activities licensed.

### 4.6.4 Protection of consumers generally

We had regard to the protection of consumers through our assessment of NEV's technical capacity to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Narara Ecovillage development. As outlined in section 4.2, we assessed NEV's technical expertise in constructing, operating and maintaining water infrastructure with the support of Aquacell. We consider NEV will develop appropriate operating processes and procedures that will be subject to an IPART audit, should the Minister grant it a network operator's licence.

We note that the Minister *may* declare a licensed retail supplier or licensed network operator to be a monopoly supplier in relation to a specified water supply or sewerage service in a specified area of to a specified class of customers.<sup>47</sup>

The Minister can declare a monopoly supplier at any time. This declaration does not have to be made at the time a licence is granted or varied. If the Minister declares a monopoly supplier, the Minister may then refer the monopoly services to us for price regulation.<sup>48</sup> We note that the Minister has not made any such declaration or referral to date.

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<sup>46</sup> Clause 106 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) allows network operators licensed under the WIC Act to carry out development for the purpose of sewerage reticulation systems (which includes recycled water reticulation) without consent on any land. Therefore, if the licence authorised development for the purpose of sewerage reticulation systems that did not already have consent, NEV could carry out development without consent. We understand that if no further approvals were required from a public authority (to trigger environmental assessment under Part 5 of the EP&A Act), NEV could carry out the development without any assessment under the EP&A Act.

<sup>47</sup> WIC Act, section 51.

<sup>48</sup> Determination of the pricing and/or periodic review of the policies. WIC Act, section 52(1).

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In its application, NEV outlines the rules of the Narara Ecovillage Co-operative require lot owners to be a member of the co-operative. Therefore, we consider that the customers of the scheme will collectively determine pricing policy, and the conditions and contract terms related to water services and sewerage supply. Further, we consider that the co-operative can collectively choose another service provider in the future. Should you declare any monopoly services at the Narara Ecovillage scheme, we are of the view that there is currently no need for to refer these monopoly services to us for price regulation.

If the Minister grants a network operator's licence to NEV, we consider that consumers generally will continue to be protected in relation to the activities licensed.

#### **4.6.5 Encouragement of competition**

Historically, Central Coast Council provided monopoly drinking water services at Narara. However, the Council's sewerage services are not available for connection at the Narara Ecovillage. Further, the Council's existing drinking water infrastructure can only supply stage one of the Narara Ecovillage, and not future stages. If granted, this network operator's licence will allow a new entity to supply drinking water, non-potable water and sewerage services to the development. Therefore, we consider the licence will promote competition in the provision of these services.

#### **4.6.6 Ensuring sustainability of water resources**

As outlined in section 4.6.5, Central Coast Council does not currently have the infrastructure to provide drinking water services to the proposed future stages of the Narara Ecovillage development. Therefore NEV proposes to source and treat drinking water from an on-site reservoir - Narara Dam. The Minister for Lands and Water's<sup>49</sup> submission identified that "NEV currently holds a water access licence for 29ML (water access licence 16886)" under the WMA (ie, 29ML/year). The Minister's submission also identified that NEV will require a supplementary water access licence to extract additional raw water required by the scheme.<sup>50</sup>

However, in its application, NEV identifies that the peak demand for potable water is 27.7ML/year once the development is at full capacity. NEV's application also explains that this demand will only be realised when backup potable water supply is required, during times of extended interruption to the production of recycled water. Therefore we consider that NEV has access to sufficient raw water for the scheme.

In addition, we consider that NEV will provide drinking water services that would have otherwise been provided by Central Coast Council, from a new source (Narara Dam). This will offset the need to use potable water sourced from the Council.

Further, NEV will supply non-potable water to the Narara Ecovillage development by collecting and treating sewage that would have otherwise been treated and discharged into the environment. The non-potable water supply will replace drinking water demand for

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<sup>49</sup> The relevant Minister at the time of consultation in August 2016.

<sup>50</sup> Letter from the Minister for Lands and Water, 7 September 2016.

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toilet flushing and irrigation, contributing to the sustainability of water resources at the development.

#### **4.6.7 Promotion of production and use of recycled water**

The promotion and production of recycled water is fundamental to the proposed scheme. NEV's organisational and community philosophies promote all aspects of sustainable living.<sup>51</sup> If granted a licence, NEV will supply non-potable water (including recycled water) to the development for toilet flushing and irrigation. Further, NEV will actively promote the use of recycled water as a substitute for drinking water across the development, in line with its organisational and community philosophies.

#### **4.6.8 Promotion of policies set out in any prescribed water policy document**

The Metropolitan Water Plan (MWP) is the only prescribed water policy document in the WIC Regulation.<sup>52</sup> The MWP outlines strategies to secure greater Sydney's water supply now and in the future. The Narara Ecovillage development is not located in the greater Sydney area. Therefore the policies set out in the MWP do not apply.

However, the NSW Government Lower Hunter Water Plan is in place, and it is a package of water supply and demand management measures to ensure the region can withstand extreme drought. Although this is not a prescribed water policy document, we considered whether NEV's provision of services at Narara Ecovillage is consistent with the document. The Lower Hunter Water Plan includes actions to supply, save and substitute water and notes that:

...private sector suppliers are likely to play a bigger role in providing water supply, wastewater and recycled water services to new developments, particularly in areas remote from urban centres.<sup>53</sup>

NEV will supply recycled water to the development. This is in line with Lower Hunter Water Plan.

#### **4.6.9 Potential for adverse financial implications for small retail customers**

We have had regard to this principle through our assessment of NEV's technical capacity to supply drinking water, non-potable water and sewerage services to its customers.

We have assessed this principle in detail in our assessment of NEV's application for a retail supplier's licence at the development.<sup>54</sup>

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<sup>51</sup> This is evident on NEV's website at <http://nararaecovillage.com/>.

<sup>52</sup> WIC Regulation, clause 28A.

<sup>53</sup> NSW Department of Finance and Services, *Lower Hunter Water Plan*, January 2014, p 3.

<sup>54</sup> *Report to the Minister - Assessment of Narara Ecovillage Co-operative Ltd's retail supplier's licence application*, April 2017.

#### **4.6.10 Promotion of equitable sharing of the costs of water industry infrastructure that significantly contributes to water security**

NEV's proposed scheme is located in Central Coast Council's area of operations for drinking water. We consider that there is currently no significant water industry infrastructure in the Council's area of operations that contributes to water security. Therefore, the Council's customers currently do not pay any water security charges.

We do not recommend the collection of charges in relation to the promotion of equitable sharing among participants in the drinking water market related to the cost of water industry infrastructure that significantly contributes to water security.

#### **4.6.11 Other matters in the public interest**

**We did not identify any additional matters with regard to the public interest in relation to NEV constructing, operating and maintaining water industry infrastructure at the Narara Ecovillage development.**

We consider that NEV should not be subject to any licence conditions in relation to the public interest, if the network operator's licence is granted.

## 5 Recommendations

We recommend that the Minister for Energy and Utilities:

- 1 grants network operator's licence (licence number 17\_040) to NEV, subject to the conditions as set out in the attached draft licence, and
- 2 does not declare NEV a monopoly supplier in relation to the services to be licensed.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the licence application. The Minister may, if circumstances so require, seek further advice from us in relation to the licence application.<sup>55</sup>

The Minister is required to provide us with a notice of the decision and of the reasons for the decision on making a decision whether or not to grant the licence.<sup>56</sup> We will make the information in the notice available to the public on our website, in accordance with the requirements of the WIC Act.<sup>57</sup>

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<sup>55</sup> WIC Act, section 10(2).

<sup>56</sup> WIC Act, section 10(5).

<sup>57</sup> WIC Act, section 10(6).



## A Attachment A



# **NEW SOUTH WALES GOVERNMENT**

## *Water Industry Competition Act 2006 (NSW)*

### **NETWORK OPERATOR'S LICENCE Licence no. 17\_040**

Narara Ecovillage Co-operative Ltd  
(Registration No. NSWC29882)

## LICENCE SCOPE

### ACTIVITIES AUTHORISED UNDER THE LICENCE AND AREA OF OPERATIONS

#### **S1 Activities authorised - non-potable water**

S1.1 This Licence authorises the Licensee and any Authorised Persons specified in Table 1.1 to construct, maintain and operate the water industry infrastructure specified in:

- a) Table 1.2A:
  - i) for one or more of the authorised purposes specified in Table 1.3A; and
  - ii) within the area of operations specified in Table 1.4, and
- b) Table 1.2B that has been granted development consent under the EP&A Act or is exempt development under the EP&A Act which may be carried out without development consent under section 76(3)(a) of the EP&A Act:
  - i) for one or more of the authorised purposes specified in Table 1.3B; and
  - ii) within the area of operations specified in Table 1.4,

subject to the conditions imposed by or under the Act, the Regulation and Schedules A and B of this Licence.

S1.2 The non-potable water referred to in this section S1 may only be used for one or more of the following authorised purposes:

- a) toilet flushing; and
- b) irrigation.

#### **Table 1.1 Authorised Persons**

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Aquacell Pty Ltd (ACN 072 487 015)

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**Table 1.2A Water industry infrastructure**

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A treatment plant for non-potable water and other water infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or other water infrastructure may also be used for one or more of the following:

- 1) production of non-potable water;
  - 2) treatment of non-potable water;
  - 3) filtration of non-potable water;
  - 4) storage of non-potable water; and
  - 5) conveyance of non-potable water.
- 

**Table 1.2B Water industry infrastructure**

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A reticulation network for non-potable water and other water infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or other water infrastructure may also be used for one or more of the following:

- 1) storage of non-potable water;
  - 2) conveyance of non-potable water;
  - 3) filtration of non-potable water; and
  - 4) treatment of non-potable water.
- 

**Table 1.3A Authorised purposes**

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- 1) Production of non-potable water.
  - 2) Treatment of non-potable water.
  - 3) Filtration of non-potable water.
  - 4) Storage of non-potable water.
  - 5) Conveyance of non-potable water.
-

**Table 1.3B Authorised purposes**

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- 1) Storage of non-potable water.
  - 2) Conveyance of non-potable water.
  - 3) Filtration of non-potable water.
  - 4) Treatment of non-potable water.
- 

**Table 1.4 Area of operations**

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The land situated under Lot 13 in DP 1126998.

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**S2 Activities authorised – drinking water**

S2.1 This Licence authorises the Licensee and any Authorised Persons specified in Table 2.1 to construct, maintain and operate the water industry infrastructure specified in:

- a) Table 2.2A:
  - i) for one or more of more the authorised purposes specified in Table 2.3A;
  - ii) within the area of operations specified in Table 2.4, and
- b) Table 2.2B:
  - i) for one or more of the authorised purposes specified in Table 2.3B;
  - ii) within the area of operations specified in Table 2.4, and
- c) Table 2.2C:
  - i) For one or more of the authorised purposes specified in Table 2.3C;
  - ii) within the area of operations specified in Table 2.4,

subject to the conditions imposed by or under the Act, the Regulation and Schedules A and B of this Licence.

**Table 2.1 Authorised Persons**

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Aquacell Pty Ltd (ACN 072 487 015)

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**Table 2.2A Water industry infrastructure**

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A treatment plant for drinking water and other water infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or other water infrastructure may also be used for one or more of the following:

- 1) production of drinking water;
  - 2) treatment of drinking water;
  - 3) filtration of drinking water;
  - 4) storage of drinking water; and
  - 5) conveyance of drinking water.
- 

**Table 2.2B Water industry infrastructure**

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A reticulation network for drinking water and other water infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or other water infrastructure may also be used for one or more of the following:

- 1) storage of drinking water;
  - 2) conveyance of drinking water;
  - 3) filtration of drinking water; and
  - 4) treatment of drinking water.
- 

**Table 2.2C Water industry infrastructure**

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A dam for drinking water and other water infrastructure used, or to be used, in connection with the dam, where components of the dam or other water infrastructure may also be used for one or more of the following:

- 1) storage of drinking water;
  - 2) production of drinking water; and
  - 3) treatment of drinking water.
-

**Table 2.3A Authorised purposes**

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- 1) Production of drinking water.
  - 2) Treatment of drinking water.
  - 3) Filtration of drinking water.
  - 4) Storage of drinking water.
  - 5) Conveyance of drinking water.
- 

**Table 2.3B Authorised purposes**

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- 1) Storage of drinking water.
  - 2) Conveyance of drinking water.
  - 3) Filtration of drinking water.
  - 4) Treatment of drinking water;
- 

**Table 2.3C Authorised purposes**

---

- 1) Storage of drinking water.
  - 2) Production of drinking water.
  - 3) Treatment of drinking water.
- 

**Table 2.4 Area of operations**

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The land situated under Lot 13 in DP 1126998.

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### **S3 Activities authorised – sewerage services**

S3.1 This Licence authorises the Licensee and any Authorised Persons specified in Table 3.1 to construct, maintain and operate the water industry infrastructure specified in:

- a) Table 3.2A:
  - i) for one or more of the authorised purposes specified in Table 3.3A; and
  - ii) within the area of operations specified in Table 3.4, and
- b) Table 3.2B that has been granted development consent under the EP&A Act or is exempt development under the EP&A Act which may be carried out without development consent under section 76(3)(a) of the EP&A Act:
  - i) for one or more of the authorised purposes specified in Table 3.3B; and
  - ii) within the area of operations specified in Table 3.4,

subject to the conditions imposed by or under the Act, the Regulation and Schedules A and B of this Licence.

#### **Table 3.1 Authorised Persons**

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Aquacell Pty Ltd (ACN 072 487 015)

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#### **Table 3.2A Water industry infrastructure**

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A treatment plant for sewage and other sewerage infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or other sewerage infrastructure may also be used for one or more of the following:

- 1) production of treated non-potable water from sewage;
  - 2) treatment of sewage;
  - 3) filtration of sewage;
  - 4) storage of sewage; and
  - 5) conveyance of sewage.
-

**Table 3.2B Water industry infrastructure**

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A reticulation network for sewage and other sewerage infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or other water infrastructure may also be used for one or more of the following:

- 1) storage of sewage;
  - 2) conveyance of sewage;
  - 3) filtration of sewage; and
  - 4) treatment of sewage.
- 

**Table 3.3A Authorised purposes**

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- 1) Production of treated non-potable water from sewage.
  - 2) Treatment of sewage.
  - 3) Filtration of sewage.
  - 4) Storage of sewage.
  - 5) Conveyance of sewage.
- 

**Table 3.3B Authorised purposes**

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- 1) Storage of sewage.
  - 2) Conveyance of sewage.
  - 3) Filtration of sewage.
  - 4) Treatment of sewage.
- 

**Table 3.4 Area of operations**

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The land situated under Lot 13 in DP 1126998.

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**SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS  
FOR NARARA ECOVILLAGE CO-OPERATIVE LTD’S NETWORK OPERATOR’S  
LICENCE**

This schedule sets out the conditions which the Minister imposes pursuant to section 13(1)(b) of the Act. In addition to these special Ministerially-imposed conditions, the Licensee is subject to obligations imposed by the Act, the Regulation and the standard Ministerially-imposed licence conditions set out in Schedule B. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the conditions imposed on the Licensee by the Act or the Regulation.

**A1            Notification of changes to Authorised Person**

A1.1            If an Authorised Person ceases, proposes to cease, or receives notification to cease providing any of the services relating to the activities authorised by this Licence, the Licensee must provide IPART with written notice as soon as practicable but no later than 28 days before the date of cessation of the services. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken.

## **SCHEDULE B – STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR LICENSED NETWORK OPERATORS UNDER THE ACT**

This schedule sets out the standard conditions which the Minister imposes pursuant to section 13(1)(b) of the Act. In addition to these standard Ministerially-imposed conditions, the Licensee is subject to obligations imposed by the Act, the Regulation and the special Ministerially-imposed licence conditions set out in Schedule A. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the conditions imposed on the Licensee by the Act or the Regulation.

### **B1 Ongoing capacity to operate**

B1.1 The Licensee must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licensee ceases to have this capacity, it must report this to IPART immediately in accordance with the Reporting Manual.

### **B2 Obtaining appropriate insurance**

B2.1 Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must:

- a) obtain insurance that is appropriate for the size and nature of the activities authorised under this Licence;
- b) provide a copy of each certificate of currency of the insurance held to IPART; and
- c) demonstrate that the insurance obtained is appropriate for the size and nature of the activities authorised under this Licence by providing a report to IPART from an Insurance Expert that:
  - i) certifies that in the Insurance Expert's opinion, the type and level of the insurance obtained by the Licensee is appropriate for the size and nature of the activities authorised under the Licence; and
  - ii) is in the form prescribed by the Reporting Manual.

B2.2 [Not applicable]



### **B3 Maintaining appropriate insurance**

B3.1 The Licensee must maintain insurance that is appropriate for the size and nature of the activities authorised under this Licence.

B3.2 The Licensee must provide a copy of each certificate of currency of the insurance maintained by the Licensee to IPART in accordance with the Reporting Manual.

B3.3 If there is, or is to be, a change in:

- a) the insurer or underwriting panel in respect of an insurance policy held by the Licensee; or
- b) the type, scope or limit on the amount of insurance held by the Licensee, in relation to the activities authorised under this Licence, the Licensee must provide a report to IPART in accordance with the Reporting Manual.

B3.4 From time to time when requested in writing by IPART, the Licensee 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, scope or limit on the amount of the insurance held by the Licensee is appropriate for the size and nature of the activities authorised under this Licence.

*[Note: The circumstances in which IPART may request a report under clause B3.4 include (but are not limited to) the following:*

- *where IPART has reason to believe that there may be a change in the type, scope or limit on the amount of insurance held by the Licensee in relation to activities authorised under this Licence;*
- *where there is a change in the type or extent of activities authorised under this Licence; or*
- *where IPART or an approved auditor has reason to believe that the type, scope or limit on the amount of insurance held by the Licensee may not be appropriate for the size and nature of the activities authorised under this Licence.]*

B3.5 [Not applicable]

### **B4 Complying with NSW Health requirements**

B4.1 The Licensee must carry out the activities authorised by this Licence in compliance with any requirements of NSW Health that:

- a) IPART has agreed to; and
- b) are notified from time to time to the Licensee by IPART in writing.

### **B5 Complying with Audit Guidelines from IPART**

B5.1 The Licensee must comply with any Audit Guidelines issued by IPART.

**B6 Reporting in accordance with the Reporting Manual**

B6.1 The Licensee must prepare and submit reports in accordance with the Reporting Manual.

**B7 Reporting information in relation to the register of licences**

B7.1 The Licensee must notify IPART, and provide IPART with details, of any change in relation to the following, in accordance with the Reporting Manual, within 14 days of the change:

- a) any source from which the water handled by the Specified Water Industry 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 Specified Water Industry Infrastructure for the purpose of supplying water to its customers;
- c) any other water infrastructure to which the Specified Water Industry Infrastructure is connected;
- d) the identity of each licensed retail supplier or public water utility that has access to infrastructure services provided by the Specified Water Industry Infrastructure for the purpose of providing sewerage services to its customers;
- e) any other sewerage infrastructure to which the Specified Water Industry Infrastructure is connected;
- f) the arrangements for the disposal of waste from the water industry infrastructure specified in clause S3, Tables 3.2A and Table 3.2B.

**B8 Monitoring**

B8.1 The Licensee must undertake any monitoring that is required for the purposes of this Licence, any Plan, the Act or the Regulation in accordance with this clause B8.

B8.2 The Licensee must keep the following records of any samples taken for monitoring purposes specified in the Water Quality Plan:

- a) the date on which the sample was taken;
- b) the time at which the sample was collected;
- c) the point or location at which the sample was taken; and
- d) the chain of custody of the sample (if applicable).

B8.3 The Licensee must ensure that analyses of all samples taken for the purposes of Verification Monitoring are carried out by a laboratory accredited for the specified tests by an independent body that is acceptable to NSW Health, such as the National Association of Testing Authorities or an equivalent body.

**B9 Provision of copy of Plan**

B9.1 Whenever the Licensee makes a significant amendment to a Plan, the Licensee must provide a copy of the amended Plan to IPART at the same time that it provides a copy to the approved auditor engaged to prepare a report as to the adequacy of the amended Plan, as required under the Regulation.

**B10 Delineating responsibilities – interconnections**

B10.1 If a code of conduct has not been established under clause 25 of the Regulation, the Licensee must (by a date specified by IPART) establish a code of conduct (**Licensee's Code of Conduct**) in accordance with this clause B10.

B10.2 The Licensee's Code of Conduct must set out the respective responsibilities of:

- a) the Licensee; and
- b) each licensed network operator, licensed retail supplier and/or public water utility that:
  - i) supplies water or provides sewerage services by means of any water industry infrastructure that is connected to the Specified Water Industry Infrastructure; or
  - ii) constructs, maintains or operates any water industry infrastructure that is connected to the Specified Water Industry Infrastructure.

B10.3 The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause B10.2 by, at a minimum, providing for:

- a) who is responsible for repairing, replacing or maintaining any pipes, pumps, valves, storages or other infrastructure connecting the Specified Water Industry Infrastructure to the other water industry infrastructure;
- b) who is responsible for water quality
- c) who is liable in the event of the unavailability of water;
- d) who is liable in the event of failure of any water industry infrastructure;
- e) the fees and charges payable in respect of the use of the water industry infrastructure; and
- f) who is responsible for handling customer complaints.

B10.4 Before the Licensee brings the Specified Water Industry Infrastructure into commercial operation or by a later date specified by IPART (if any), the Licensee's Code of Conduct must be agreed in writing between the Licensee and the other licensed network operators, licensed retail suppliers and/or public water utilities referred to in clause B10.2(b).

B10.5 [Not applicable]

B10.6 The Licensee must not contravene the Licensee's Code of Conduct to the extent that it makes the Licensee responsible or liable for the matters set out in it.

**B11 Notification of changes to end-use**

B11.1 If the Licensee proposes to operate the Specified Water Industry Infrastructure to supply water for an end-use which is not set out in the most recent Water Quality Plan provided to IPART, the Licensee must notify IPART in writing at least 3 months before commencing such operation.

**B12 Notification of commercial operation**

B12.1 This clause B12 applies each time the Licensee has brought any of the Specified Water Industry Infrastructure into commercial operation.

B12.2 The Licensee must:

- a) notify IPART in accordance with the Reporting Manual that it has brought the relevant Specified Water Industry Infrastructure into commercial operation; and
- b) provide such notification within 10 days after it has brought the relevant Specified Water Industry Infrastructure into commercial operation.

**B13 Notification of non-compliant Plumbing**

B13.1 If the Licensee becomes aware that a customer's Plumbing is not Code Compliant, the Licensee must, within 10 days, notify the customer and the Plumbing Regulator of that fact.

## INTERPRETATION AND DEFINITIONS

### 1. Interpretation

1.1. In this Licence, 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 this Licence;
- c) a reference to a document includes the document as modified from time to time and any document replacing it;
- d) a reference to a person includes a natural person and any body or entity whether incorporated or not;
- e) a reference to a clause is to a clause in this Licence;
- f) a reference to a schedule is to a schedule to this Licence;
- g) a reference to a law or statute includes regulations, rules, codes and other instruments under it, and consolidations, amendments, re-enactments or replacements of them; and
- h) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

### 2. Definitions

2.1. Expressions used in this Licence that are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation.

2.2. In this Licence:

Act means the *Water Industry Competition Act 2006* (NSW).

Audit Guidelines means the document entitled "*Audit Guideline – Water Industry Competition Act 2006*" which is prepared by IPART and is available on IPART's website at [www.ipart.nsw.gov.au](http://www.ipart.nsw.gov.au), and any other guidelines issued by IPART in relation to audits under the Act.

Authorised Person means the Authorised Persons specified in, as applicable:

- a) clause S1, Table 1.1;
- b) clause S2, Table 2.1; and
- c) clause S3, Table 3.1.

Code Compliant has the meaning given to that term under section 7 of the *Plumbing and Drainage Act 2011* (NSW).

EP&A Act means the *Environmental Planning and Assessment Act 1979* (NSW).

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| Insurance Expert           | means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001</i> (Cth) that authorises the broker to provide financial product advice for, and deal in, contracts of insurance within the meaning of Chapter 7 of that Act.   |
| IPART                      | means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> (NSW).  |
| Licence                    | means this network operator's licence granted under section 10 of the Act.   |
| Licensee                   | means Narara Ecovillage Co-operative Ltd (Registration No. NSWC29882).   |
| Licensee's Code of Conduct | has the meaning given in Schedule B, clause B10.1.   |
| Minister                   | means the Minister responsible for Part 2 of the Act.  |
| NSW Health                 | means the Water Unit of NSW Ministry of Health and any of the local health districts as defined by the NSW Ministry of Health.   |
| Plan                       | means any infrastructure operating plan, water quality plan or sewage management plan that the Licensee is required to prepare under the Regulation.   |
| Plumbing                   | means any pipe, fitting or apparatus that is situated: <ul style="list-style-type: none"> <li>a) downstream of the customer's connection point to a water main, where the water main is Specified Water Industry Infrastructure;</li> <li>b) upstream of a customer's connection point to a sewer main, where the sewer main is Specified Water Industry Infrastructure; or</li> <li>c) upstream of a customer's connection point to a stormwater drain, where the stormwater drain is Specified Water Industry Infrastructure.</li> </ul> |
| Plumbing Regulator         | has the meaning given to that term under section 3 of the <i>Plumbing and Drainage Act 2011</i> (NSW).   |
| Regulation                 | means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).   |
| Reporting Manual           | means the document entitled "Network Operator's Reporting Manual," which is prepared by IPART and is available on IPART's website at <a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> .  |

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| Specified Water Industry Infrastructure | <p>means the water industry infrastructure specified in, as applicable:</p> <ul style="list-style-type: none"> <li>a) clause S1, Table 1.2A and Table 1.2B;</li> <li>b) clause S2, Table 2.2A, Table 2.2B and Table 2.2C; and</li> <li>c) clause S3, Table 3.2A and Table 3.2B.</li> </ul> |
| Verification Monitoring                 | <p>means verification monitoring as described in the document entitled "<i>Australian Drinking Water Guidelines</i>" or the document entitled "<i>Australian Guidelines for Water Recycling</i>" as the case may be.</p>   |
| Water Quality Plan                      | <p>means the water quality plan that the Licensee is required to prepare under the Regulation.</p>   |