

Independent Pricing and Regulatory Tribunal
New South Wales

Assessment of Narara Ecovillage Co-operative Ltd's retail supplier's licence application

**Prepared under the
*Water Industry Competition Act 2006 (NSW)***



© Independent Pricing and Regulatory Tribunal of New South Wales 2017

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

ISBN 978-1-76049-061-4

The Tribunal members for this review are:

Dr Peter J Boxall AO, Chair

Mr Ed Willett

Ms Deborah Cope

Inquiries regarding this document should be directed to a staff member:

Narelle Berry (02) 9113 7722

Lil Cullen (02) 9290 8410

Shweta Shrestha (02) 9113 7735



Contents

1	Summary	1
2	Background	2
2.1	The applicant	2
2.2	The scheme	2
3	Consultation and submissions	3
4	Assessment of application	5
4.1	Disqualified corporation and related entity checks	5
4.2	Capacity (including technical, financial and organisational) to carry out the activities	6
4.3	Capacity to carry out those activities in a manner that does not present a risk to public health	9
4.4	Sufficient quantities of water supplied by the licensee obtained otherwise than from a public water utility	10
4.5	Appropriate arrangements with respect to insurance	10
4.6	Capacity to carry out those activities in a manner that does not present a significant risk of harm to the environment	12
4.7	Public interest considerations	13
5	Recommendations	17
A	Attachment A	18

1 Summary

We recommend that the Minister grants Narara Ecovillage Co-operative Ltd (NEV) a retail supplier's licence (licence number 17_041R, see Attachment A). The licence will authorise NEV to supply drinking water, non-potable water,¹ and sewerage services at the Narara Ecovillage development.

The development is located at 25 Research Road, Narara, NSW in Central Coast Council's Local Government Area (LGA).² 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.³

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.⁴

¹ In the *Water Industry Competition (General) Regulation 2008* (WIC Regulation), non-potable water means water that is not drinking water.

² 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.

³ Letter from Central Coast Council, 15 September 2016.

⁴ 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 considers NEV's application for a retail supplier's licence.⁵ NEV's retail supplier's licence application is to supply drinking water, non-potable water, and sewerage services through water industry infrastructure licensed under its network operator's licence (licence number 17_040), should it be granted.

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.⁶ 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. All customers at the Narara Ecovillage development would be small retail customers.

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.⁷ 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 Pty Ltd (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.

⁵ We have prepared a separate report outlining the network operator's licence application.

⁶ Lot 13 in DP 1126998.

⁷ 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 Ministers⁸ and their relevant departments:

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

We invited Central Coast Council to make a submission on the licence application as NEV proposes to use the 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.¹⁵ Further, Central Coast Council is the relevant determining 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.¹⁶ We advertised the application in the Sydney Morning Herald, Daily Telegraph, Newcastle Herald, and on 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.

⁸ Listed as at that date.

⁹ WIC Act, section 9(1)(a).

¹⁰ WIC Act, section 9(1)(b)(i).

¹¹ WIC Act, section 9(1)(b)(ii).


¹² Now the Minister for Energy and Utilities.

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

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

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

¹⁶ WIC Act, section 9(1)(c).



These submissions are available on our website.¹⁷ None of the submissions were relevant to the retail supplier's licence application. All submissions are addressed through the network operator's licence assessment process and are discussed in our network operator's licence application report to the Minister.¹⁸

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), and
- ▼ Insurance & Care NSW (icare) to inform our assessment of appropriate insurance arrangements (see section 4.5).

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

¹⁸ *Report to the Minister - Assessment of Narara Ecovillage Co-operative Ltd's network operator's licence application*, April 2017.

4 Assessment of application

In assessing NEV's application for a retail supplier'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 relevant¹⁹ 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 these companies disqualified individuals.²⁰
- ▼ Results of our search of the WIC Act licence database which showed there are currently no disqualified corporations or individuals on the register pursuant to sections 16(1)(e) and 16(1)(f) of the WIC Act.

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

¹⁹ 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)).

²⁰ 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 retail supplier's licence to authorise supply of drinking water, non-potable water and sewerage services by means of licensed water industry infrastructure.

We assessed NEV's technical, financial and organisational capacity to carry out activities to be licensed. 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 supply drinking water, non-potable water and sewerage services at the Narara Ecovillage development.

Our analysis of NEV's capacity included a review of NEV's:

- ▼ **Draft Retail Supply Management Plan (RSMP)** – which addresses the supply of drinking water supply, non-potable water supply and sewerage services. We consider that the draft RSMP addresses issues related to the continuity of service during unplanned interruptions. It also details what mechanisms NEV will use to promote an awareness of the services provided to its customers.
- ▼ **Retail supply risk register and retail supply improvement plan** – these documents are evidence of NEV's capacity to identify risks and potential mitigation measures related to the retail supply activities for which it seeks a licence.
- ▼ **Complaints Handling and Dispute Resolution Policy** – which sets out how NEV will address complaints and disputes from its customers. The policy is consistent with AS 4269-1995. It includes procedures related to receiving and investigating customer complaints, responding to complaints, referring unsolved complaints, and internal structures and reporting requirements for complaints handling.
- ▼ **Principles that form its customer service supply contract** – in its application, NEV informs us that its customer contract will include conditions related to pricing, scheme education, plumbing code compliance obligations, obligations related to infrastructure, and ongoing customer obligations of the retail supplier and the customer.

We received no submissions regarding NEV's technical capacity.

We consider that the information submitted by NEV demonstrates that it has the technical capacity to supply drinking water, non-potable water and sewerage services to small retail customers. Further, we note that NEV is subject to pre-operational audits prior to commencing retail activities at the Narara Ecovillage scheme.

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

Table 4.1 Recommended licence condition for technical 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.

4.2.2 Financial capacity

We are satisfied that NEV has the financial capacity to supply drinking water, non-potable water and sewerage services 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.²¹

Based on its assessment, Vincents did not recommend any special licence conditions, for NEV's licence, related to financial capacity.²²

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 supply drinking water, non-potable water and sewerage services 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 future 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

²¹ 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,.

²² Ibid.

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 supply drinking water, non-potable water and sewerage services at the Narara Ecovillage development.

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

- ▼ **NEV’s current and proposed organisational structure** for the project, and for NEV Water. This demonstrates that NEV has an appropriate structure to undertake retail activities at the Narara Ecovillage scheme.
- ▼ **Position descriptions** for key personnel related to the project. We reviewed draft position descriptions for the Customer Relations, Communication and Education Officer and Billing and Collection Officer. These outline the proposed role requirements and responsibilities for the activities the licence would authorise.
- ▼ **Curricula Vitae (CVs)** for key personnel nominated for the project. The personnel nominated for the project demonstrate relevant technical experience for the proposed roles (Customer Relations, Communication and Education Officer, and Billing and Collection Officer). We consider that this is evidence of NEV’s organisational capacity to undertake relevant retail activities at 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 supply drinking water, non-potable water and sewerage services at the Narara Ecovillage development.

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

Table 4.3 Recommended licence condition for organisational 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.

4.3 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 supply drinking water, non-potable water and sewerage services 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 supply of drinking water, non-potable water and sewerage services at the development:

- ▼ **Source water quality** – NEV has demonstrated its capacity to provide water of an appropriate quality to meet its customers' needs at Narara Ecovillage. NEV will source potable water from Central Coast Council via a temporary water connection, subject to a Deed of Agreement being finalised between the Council and NEV. Ultimately, NEV intends to source drinking water from the Narara Dam. In its application, NEV outlined that it will treat drinking water consistent with the *Australian Drinking Water Guidelines 2011* (ADWG). Similarly, NEV will provide non-potable water that is in line with the requirements outlined in the *Australian Guidelines for Water Recycling 2006* (AGWR).
- ▼ **Potential inappropriate water use** – there is a risk to public health if customers use non-potable water for inappropriate purposes. We consider that, through its risk assessment, NEV has demonstrated that it has the capacity to manage inappropriate use. NEV will undertake education campaigns and follow the guidance outlined in the *Plumbing Code of Australia*.
- ▼ **Customer exposure through end-use** – we consider that non-potable water supply at the development could present a public health risk if customers do not use non-potable water for the appropriate purposes. In its application, NEV discusses that it will undertake education programs with its customers regarding about the appropriate uses of non-potable water.
- ▼ **Service performance and interruption** – we consider that interruptions to the potable water supply or sewerage service may pose a risk to public health. NEV's draft RSMP outlines how NEV will contact its customers in the event of a service interruption and how it will provide alternate supply, should it be required. NEV outlines in its application that this includes tankering in drinking water and tankering sewage off-site. In addition, the draft Customer Service Charter provides evidence of NEV's commitment to protecting public health at the scheme through reliable supply of services.
- ▼ **Risk assessments** – we reviewed NEV's risk assessments for the scheme. The risk assessments identified potential public health risks and proposed control measures to manage these risks.

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.²³

²³ NSW Health, letter dated 16 September 2016

We consider that the information submitted by NEV demonstrates that it has the capacity to supply drinking water, non-potable water and sewerage services 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:

Table 4.4 Recommended licence condition 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: a) IPART has agreed to; and b) are notified from time to time to the Licensee by IPART in writing.

4.4 Sufficient quantities of water supplied by the licensee obtained otherwise than from a public water utility

We are satisfied that NEV will obtain sufficient quantities of water not from a public water utility.

NEV will initially source drinking water from Central Coast Council. NEV will ultimately source drinking water from Narara Dam. In addition, NEV proposes to collect and treat sewage from the development and supply the development with non-potable water for the purposes of toilet flushing and irrigation.

We received no submissions regarding whether NEV will obtain sufficient quantities of water from otherwise than a public water utility.

We consider that the information submitted by NEV demonstrates that it will obtain sufficient quantities of water from otherwise than a public water utility.

We recommend that NEV should not be subject to any licence conditions in relation to its source water, if a licence is granted.

4.5 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.²⁴ The report includes an attached risk matrix outlining key risks to the scheme.²⁵ It also outlines how the insurances held by NEV related to the retail activities that are the subject of this 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.

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 holds adequate insurances for the purposes of NEV's retail supplier'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
B2.5	<p>Before commencing to supply water and provide sewerage services through the Specified Water Industry Infrastructure under this Licence, the Licensee must:</p> <ul style="list-style-type: none"> 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 obtained 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: <ul style="list-style-type: none"> 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.

²⁴ *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.

²⁵ Prepared by General Insurance Brokers of Australia and dated 20 December 2016.

Licence condition	Condition details
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 to be a change in: <ul style="list-style-type: none"> 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. <p><i>[Note: The situations 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"> • <i>when IPART has reason to believe that there may be a change in the type or level of insurance held by the Licensee in relation to activities authorised under this Licence;</i> • <i>where there is a change in the type or extent of activities authorised under this Licence; or</i> • <i>when IPART or an approved auditor has reason to believe that the type or level of insurance held by the Licensee may not be appropriate for the size and nature of the activities authorised under this Licence.]</i>

4.6 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 supply drinking water, non-potable water and sewerage services at the Narara Ecovillage development, in a manner that does not present a significant risk of harm to the environment.

We assessed NEV's capacity to manage key risks to the environment posed by the supply of drinking water, non-potable water and the provision of sewerage services to the Narara Ecovillage development:

- ▼ **Non-potable water end uses** – in its application and RSMP, NEV commits to educating its customers about the appropriate and safe use of non-potable water at the development. NEV will also enter into a residential water supply contract (customer contract) with customers of its scheme which outlines the safe use of recycled water.
- ▼ **Sewerage system** – we consider that there are minimal risks to the environment posed by supplying sewerage services to the development given its 'ecovillage' philosophy. Further, we consider that NEV has demonstrated that it has the capacity to extend its proposed customer education program to include the appropriate use of the sewerage system, including information on what should and shouldn't be disposed into the system.

We recommend that NEV should not be subject to any licence conditions in relation to its source water, if a licence is granted.

4.7 Public interest considerations

Our consideration of the public interest includes having regard to each of the licensing principles in the following sections. Our recommendation in relation to these criteria includes our consideration as to whether or not the retail supplier's licence should be granted, and if so, what conditions to impose.

4.7.1 Protection of public health

We had regard to protection of public health through our assessment of NEV's capacity to supply drinking water, non-potable water and sewerage services 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 licence and did not identify any specific risks to public health.

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

4.7.2 Protection of the environment

We had regard to the protection of the environment through our assessment of NEV's capacity to supply drinking water, non-potable water and provide sewerage services to customers at the Narara Ecovillage development in a manner that does not present a significant risk of harm to the environment. As outlined in section 4.5 of this report, we assessed NEV's capacity to manage key risks posed to the environment by the activities to be licensed.

If the Minister grants a retail supplier's licence to NEV, we consider the environment will continue to be protected in relation to the activities to be licensed.

4.7.3 Protection of public safety

We had regard to the protection of public safety through our assessment of NEV's technical capacity to supply drinking water, non-potable water and sewerage services. As outlined in section 4.3 of this report, we have assessed NEV's capacity to manage key risks to public safety by the retail activities that are the subject of this licence.

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

4.7.4 Protection of consumers generally

We had regard to the protection of consumers through our assessment of NEV's technical capacity to supply drinking water, non-potable water and sewerage services. As outlined in

section 4.2, we assessed NEV's capacity to protect consumers through its RSMP, risk assessment and relevant policies.

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.²⁶

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 IPART for price regulation.²⁷ We note that no such declaration or referral has been made to date.

In its application, NEV outlines that the rules of the Narara Ecovillage Co-operative require lot owners to be a member of the co-operative. Therefore, 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.²⁸ For these reasons, should you declare any monopoly services at the Narara Ecovillage scheme, we are of the view that there is currently no need to refer these monopoly services to IPART for price regulation.

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

4.7.5 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 development. Further, the Council's existing drinking water infrastructure can only supply stage one of the development, and not future stages. If granted, this retail supplier'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.

4.7.6 Ensuring sustainability of water resources

As outlined in section 4.7.5, Central Coast Council does not currently have the infrastructure to provide drinking water services to the proposed future stages of the Narara Ecovillage development. NEV proposes to source and treat drinking water from an on-site reservoir - Narara Dam. The Minister for Lands and Water's²⁹ 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.³⁰

²⁶ WIC Act, section 51.

²⁷ Determination of the pricing and/or periodic review of the policies. WIC Act, section 52(1).

²⁸ We consider that Central Coast Council can augment its existing system, should members of the co-operative collectively choose the Council as its service provider.

²⁹ The relevant Minister at the time of consultation in August 2016.

³⁰ Letter from the Minister for Lands and Water, 7 September 2016.

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

4.7.7 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.³¹ 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 potable water across the development, in line with its organisational and community philosophies.

4.7.8 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.³² 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. In relation to recycled water it notes that there are continuing actions, including:

...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.³³

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

³¹ This is evident on NEV's website at <http://nararaecovillage.com/>.

³² WIC Regulation, clause 28A.

³³ NSW Department of Finance and Services, *Lower Hunter Water Plan*, January 2014, p 3.

4.7.9 Potential for adverse financial implications for small retail customers

We have had regard to the potential for adverse financial implications for small retail customers through our assessment of NEV's technical and financial capacity to supply drinking water, non-potable water and sewerage services to its customers.

In its application, NEV stated that its pricing policy is to limit water and sewerage service charges such that they do not exceed prices set by Central Coast Water by more than 25% for equivalent services. Further, the proposed pricing structure is based on:

- ▼ a fixed charge component for all three services provided at the development, and
- ▼ a volumetric charge component for potable and recycled water.

If the Minister grants a retail supplier's licence, we consider that NEV can adequately mitigate the risk of potential adverse financial implications to small retail customers in relation to the licensed activities.

4.7.10 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.

4.7.11 Other matters in the public interest

We did not identify any additional matters with regard to the public interest in relation to NEV supplying drinking water, non-potable water and sewerage services 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 retail supplier's licence is granted.

5 Recommendations

We recommend that the Minister for Energy and Utilities:

- 1 grants retail supplier's licence (licence number 17_041R) 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.³⁴

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.³⁵ We will make the information in the notice available to the public on our website, in accordance with the requirements of the WIC Act.³⁶

³⁴ WIC Act, section 10(2).

³⁵ WIC Act, section 10(5).

³⁶ WIC Act, section 10(6).

A Attachment A



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW)

RETAIL SUPPLIER'S LICENCE Licence no. 17_041R

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 supply

S1.1 This Licence authorises the Licensee and any Authorised Persons specified in Table 1.1 to supply non-potable water:

- a) to the persons or classes of persons specified in Table 1.2; and
 - b) within the area of operations specified in Table 1.3,
- 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

None

Table 1.2 Person or classes of persons

Any person

Table 1.3 Area of operations

The land situated under Lot 13 in DP 1126998

S2 Activities authorised – drinking water

S2.1 This Licence authorises the Licensee and any Authorised Persons specified in Table 2.1 to supply drinking water:

- a) to the persons or classes of persons specified in Table 2.2; and ,
- b) within the area of operations specified in Table 2.3,

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

None

Table 2.2 Person or classes of persons

Any person

Table 2.3 Area of operations

The land situated under Lot 13 in DP 1126998

S3 Activities authorised – sewerage services

S3.1 This Licence authorises the Licensee and any Authorised Persons specified in Table 3.1 to provide sewerage services:

- a) to the persons or classes of persons specified in Table 3.2; and
- b) within the area of operations specified in Table 3.3,

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

None

Table 3.2 Person or classes of persons

Any person

Table 3.3 Area of operations

The land situated under Lot 13 in DP 1126998

**SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS
FOR NARARA ECOVILLAGE CO-OPERATIVE LTD’S RETAIL SUPPLIER’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.

No conditions apply to this Licence.

SCHEDULE B – STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR LICENSED RETAIL SUPPLIERS UNDER THE ACT

This schedule sets out the standard conditions which the Minister imposes on the Licensee and other licensed retail suppliers 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 [Not applicable]

B2.2 [Not applicable]

B2.3 [Not applicable]

B2.4 [Not applicable]

B2.5 Before commencing to supply water and provide sewerage services through 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 obtained 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.

B2.6 [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 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 situations in which IPART may request a report under clause B3.4 include (but are not limited to) the following:

- *when IPART has reason to believe that there may be a change in the type or level 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*
- *when IPART or an approved auditor has reason to believe that the type or level of insurance held by the Licensee may not be appropriate for the size and nature of the activities authorised under this Licence.]*

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 licensed network operator or public water utility from whose water industry infrastructure the Licensee supplies water to its customers;
- b) any source from which the water handled by the water industry infrastructure referred to in clause B7.1(a) is derived;
- c) whether or not any of the Licensee's customers are Small Retail Customers;
- d) any order under section 54 of the Act by which the Licensee is declared to be a retailer of last resort; and
- e) any licensed network operator or public water utility by means of whose sewerage infrastructure the Licensee provides sewerage services to its customers.

B8 Provision of copy of Plan

B8.1 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.

B9 Delineating responsibilities

- B9.1 If a code of conduct has not been established under clause 25 of the Regulation, the Licensee must establish a code of conduct (**Licensee's Code of Conduct**) in accordance with this clause B9.
- B9.2 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, 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.
- B9.3 The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause B9.2 by, at a minimum, providing for:
- a) who is responsible for repairing, replacing or maintaining any pipes, pumps, valves or 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.
- B9.4 Before commencing to supply water or provide sewerage services through the Specified Water Industry Infrastructure under this Licence 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 B9.2(b).
- B9.5 [Not applicable]
- B9.6 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.

B10 Infrastructure to be used

B10.1 The Licensee must only source and supply water by means of water industry infrastructure maintained and operated by a licensed network operator or public water utility.

B10.2 The Licensee must only provide sewerage services by means of water industry infrastructure maintained and operated by a licensed network operator or public water utility.

B11 Notification of supply or provision of sewerage services

B11.1 This clause B11 applies each time the Licensee has commenced to supply water or provide sewerage services through any of the Specified Water Industry Infrastructure under this Licence.

B11.2 The Licensee must:

- a) notify IPART in accordance with the Reporting Manual that it has commenced to supply water through the relevant Specified Water Industry Infrastructure; and
- b) provide such notification within 10 days after such commencement.

B11.3 The Licensee must:

- a) notify IPART in accordance with the Reporting Manual that it has commenced to provide sewerage services through the relevant Specified Water Industry Infrastructure; and
- b) provide such notification within 10 days after such commencement.

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, 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.

Insurance Expert means an insurance broker which holds an Australian financial services licence under Part 7.6 of the *Corporations Act 2001* (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 retail supplier'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 B9.1.
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.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Reporting Manual	means the document entitled "Retail Supplier's Reporting Manual," which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au .
Small Retail Customer	has the meaning given to that term in the Regulation.
Specified Water Industry Infrastructure	means the water industry infrastructure through which the non-potable water, drinking water and/or sewerage services under this Licence is supplied.