

# **Assessment of SUEZ Water and Treatment Solutions' network operator's licence application**

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

**Water — Report to the Minister**  
November 2016



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# Contents

<b>1</b>	<b>Summary</b>	<b>1</b>
<b>2</b>	<b>Background</b>	<b>1</b>
2.1	The applicant	1
2.2	The scheme	3
<b>3</b>	<b>Consultation and submissions</b>	<b>3</b>
<b>4</b>	<b>Assessment of application</b>	<b>5</b>
4.1	Disqualified corporation and related entity checks	5
4.2	Capacity (including technical, financial and organisational capacity) 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	10
4.4	Appropriate arrangements with respect to insurance	12
4.5	Capacity to carry out those activities in a manner that does not present a significant risk of harm to the environment	14
4.6	Licensing principles	16
4.7	Other matters in the public interest	21
<b>5</b>	<b>Recommendations</b>	<b>21</b>
	<b>Appendices</b>	<b>23</b>
A	Draft licence	25

# 1 Summary

We recommend that the Minister grant SUEZ Water and Treatment Solutions Pty Ltd (SUEZ) a network operator's (licence number 16\_038, see Appendix A). The licence will authorise SUEZ to construct, operate and maintain non-potable<sup>1</sup> water infrastructure for the supply of non-potable water to Orica at Kooragang Island. The infrastructure is located at Mayfield West in the City of Newcastle Council Local Government Area and includes the advanced water treatment plant and an 8km pipeline to supply non-potable water to Orica on Kooragang Island. This is consistent with the application SUEZ provided to us.

The application is for the existing Kooragang Industrial Water Scheme (KIWS) facility which is owned by Hunter Water Corporation (Hunter Water). The operation of the plant is currently contracted to Veolia Water Australia (Veolia). The infrastructure is being purchased by Kooragang Water Pty Ltd (a wholly owned subsidiary of ITOCHU) who has contracted SUEZ to operate it.

In assessing SUEZ's licence application, we considered the licensing criteria set out in sections 10(3)-(4) of the *Water Industry Competition Act 2006* (NSW) (WIC Act), and had regard to the licensing principles in section 7(1) of the WIC Act.

This report is for the assessment of the application for the network operator's licence only.

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>2</sup>

## 2 Background

### 2.1 The applicant

We received an application for a network operator's and a retail supplier's licences from SUEZ in February 2016. SUEZ applied for a network operator's licence to construct, operate and maintain non-potable water infrastructure and a retail supplier's licence to supply potable and non-potable water.<sup>3</sup>

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<sup>1</sup> In the *Water Industry Competition (General) Regulation (2008)* (NSW), non-potable water means water that is not drinking water. SUEZ seeks this licence for recycled water infrastructure.

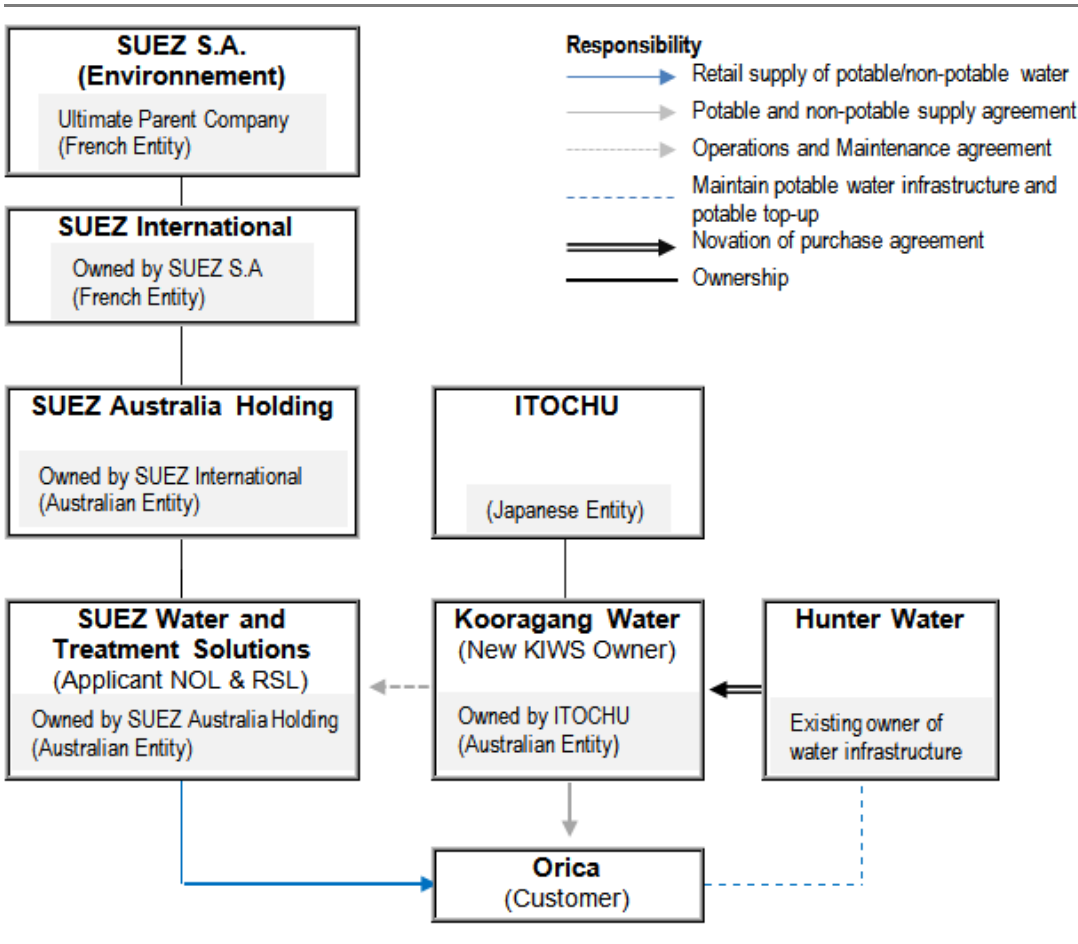
<sup>2</sup> WIC Act, section 10(2).

<sup>3</sup> SUEZ is not applying for a network operator's licence for potable water infrastructure as this will be undertaken by Hunter Water.

The applicant corporation, SUEZ, is a wholly owned subsidiary company of SUEZ Australia Holding Pty Ltd. SUEZ S.A. (formerly SUEZ (Environnement)), a French entity, is the ultimate parent company. Kooragang Water, as owner of the infrastructure, has contracted SUEZ to undertake retail functions and operate and maintain the water industry infrastructure. Figure 2.1 shows the relationship and the supply between the entities.

If a licence is granted, SUEZ will be responsible for the operation and maintenance of the KIWS. The area of operations that SUEZ proposes to service under its network operator’s licence is confined to the existing treatment plant and the associated pipe infrastructure. SUEZ has previous experience in providing water, wastewater and recycled water services in Western Australia and South Australia. SUEZ currently operates the Prospect Water Filtration Plant which supplies potable water to the Sydney area.

**Figure 2.1 KIWS ownership and responsibilities**



## 2.2 The scheme

The Advanced Water Treatment Plant at Mayfield West (KIWS) will supply up to 9 ML/day of non-potable water to Orica on Kooragang Island.

The scheme which was completed in October 2014 is currently owned by Hunter Water and operated by Veolia Water.

Secondary treated effluent is sourced from Hunter Water's Shortland wastewater treatment plant and further treated to provide non-potable water for use by Orica. The intended uses at the Orica site are for cooling towers and boilers. SUEZ will also use the water onsite at the treatment plant. Additional potable water for top up will be sourced from Hunter Water's network as required. Hunter Water has confirmed it can provide sufficient drinking water to top up the recycled water system.

SUEZ will not be operating or maintaining potable water infrastructure for the supply of drinking water directly to Orica as this will be done by Hunter Water. SUEZ will provide the customer billing associated retail services for its single industrial customer.

## 3 Consultation and submissions

On 28 April 2016, we provided the licence application to, and invited submissions from, the following Ministers and their relevant departments:

- ▼ Minister administering the *Public Health Act 2010* (NSW) (Minister for Health)
- ▼ Minister administering Chapter 2 of the *Water Management Act 2000* (NSW) (Minister for Lands and Water)
- ▼ Minister administering the *Protection of the Environment Operations Act 1997* (NSW) (Minister for the Environment), and
- ▼ Minister administering the *Environmental Planning and Assessment Act 1979* (NSW) (Minister for Planning).<sup>4</sup>

At the same time, we also provided a copy of the licence application to you as the Minister administering the WIC Act.<sup>5</sup>

We invited Hunter Water to make a submission on the licence application<sup>6</sup> because SUEZ is proposing to connect to, or use, Hunter Water's water industry infrastructure (as defined in the WIC Act).<sup>7</sup>

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<sup>4</sup> WIC Act, section 9(1)(b) and *Water Industry Competition (General) Regulation 2008*, clause 17(1).

<sup>5</sup> WIC Act, section 9(1)(a).

<sup>6</sup> Letter to Hunter Water, IPART, 26 April 2016.

<sup>7</sup> WIC Act, section 9(1)(b)(iii) and WIC Regulation, clause 17(2).

We invited the City of Newcastle Council to make a submission as the local council.<sup>8</sup>

We also called for submissions on both the network operator's and the retail supplier's licence applications from the public.<sup>9</sup> We advertised in the Newcastle Herald on 27 April 2016. The closing date for submissions was 25 May 2016.

We received six submissions from:

- ▼ The Minister for Lands and Water
- ▼ NSW Health
- ▼ Minister for the Environment
- ▼ Hunter Water
- ▼ The City of Newcastle Council
- ▼ NSW Department of Planning and Environment (DPE)

These submissions are available on our website and are summarised and discussed below.

The Minister for the Environment and the City of Newcastle Council raised no concerns in relation to the information contained in the applications.

Hunter Water advised that it supports the application and clarified technical and commercial parameters of the proposed purchase agreement and working relationship between SUEZ, Kooragang Water and Hunter Water. It also clarified the environmental aspects of the interconnection between the Hunter Water infrastructure and the KIWS scheme.

NSW Health supported the application, and requested consultation:

- ▼ during the development of the recycled water management plan, including any detailed risk assessment workshops
- ▼ during the development of the retail supply management plan to ensure that all relevant public health matters have been considered, and
- ▼ when any other significant change to the operation of the scheme or uses for recycle water are proposed.

We have guidelines and procedures in place to ensure NSW Health is consulted after a licence is granted.

DPE raised no objections to the application and indicated that it is not aware of any breaches of the *Environmental Planning and Assessment Act 1979* (EP&A Act)

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<sup>8</sup> Letter to City of Newcastle, IPART, 26 April 2016.

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



by SUEZ or Kooragang Water in relation to this project.<sup>10</sup> DPE did not provide specific comments in relation to potential environmental risks related to the licence application.

The Minister for Lands and Water advised that no water access licence or water supply approval under the *Water Management Act 2000* is required for treated effluent sourced by SUEZ.

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

- ▼ An independent financial consultant Corporate Scorecard Pty Ltd (Corporate Scorecard) 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 4.4).

## 4 Assessment of application

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

In assessing SUEZ's application to vary the licence conditions, we considered the licensing criteria set out in sections 10(3)-(4) of the WIC Act, and had regard to the licensing principles in section 7(1)(a) of the WIC Act.

### 4.1 Disqualified corporation and related entity checks

**We consider that SUEZ is neither a disqualified corporation nor a corporation that is a related entity of a relevant<sup>11</sup> disqualified corporation.**

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

- ▼ A statutory declaration signed by SUEZ's CEO and Director stating that:
  - neither SUEZ, nor any director or person concerned in the management of SUEZ is, or would be, a disqualified corporation or a disqualified individual within the meaning of the WIC Act, and
  - SUEZ 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 regarding details of the:
  - trustees (past and current) of any trusts in relation to which SUEZ is a beneficiary

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<sup>10</sup> Letters from DPE, 3 and 18 August 2016.

<sup>11</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 authorises. WIC Act, section 10(3)(b).

- current beneficiaries of any trusts in relation to which SUEZ is a trustee, and
- relevant related entities.<sup>12</sup>
- ▼ Results of ASIC and Dun & Bradstreet reports that we have obtained for SUEZ, and for the relevant related entities, confirmed that these companies are not disqualified nor are their directors or persons concerned in the management disqualified individuals.<sup>13</sup>
- ▼ Results of our search of the WIC Act licence database,<sup>14</sup> confirming in part the above.

We consider that SUEZ should not be subject to any additional licence conditions in relation to disqualified corporations, if a licence is approved.

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

SUEZ has applied for a network operator's licence to authorise construction, operation and maintenance at the KIWS.

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

### 4.2.1 Technical capacity

**We are satisfied that SUEZ has the technical capacity to construct, operate and maintain non-potable water industry infrastructure for the KIWS.**

Our analysis included a review of the:

- ▼ Operation & Maintenance (O&M) Services Agreement between the Principal (Kooragang Water) and contractor (SUEZ). The Agreement is a binding agreement for the provision of services by SUEZ to Kooragang Water.
- ▼ Reports, plans and procedures that SUEZ has submitted for the KIWS and similar projects (Allwater Alliance in South Australia and the Aroona Alliance in Western Australia). These documents demonstrated SUEZ's technical understanding of the operation and maintenance of recycled water treatment plants.

<sup>12</sup> Email to IPART, Peter Segura, SUEZ 8 April 2016, indicating that SUEZ does not have any entities that are either trustees, beneficiaries of any trusts or relevant related entities.

<sup>13</sup> The relevant searches were completed October 2016.

<sup>14</sup> There are currently no disqualified corporations or individuals on the register pursuant to the WIC Act, sections 16(e) and 16(f).

- ▼ Process flow diagrams and critical control points for the KIWS and existing non-potable water schemes operated by SUEZ. This is evidence of SUEZ's capacity to identify key input and output streams and storages (eg, source materials, waste streams, etc). The critical control points and process control tables indicate technical capacity to identify monitoring points and corrective actions to maintain key water quality parameters in accordance with the proposed recycled water end-uses.
- ▼ SUEZ's preliminary risk assessment review conducted in consultation with Hunter Water and Veolia (current operator) for the non-potable water. The review included a study of the implications of the previous assessment from Hunter Water with a view to identify any additional hazards or changes impacting the hazard.<sup>15</sup>

This demonstrates SUEZ's technical capacity to identify hazards and risks related to the scheme's non-potable water infrastructure, and to implement control measures to manage these risks. The residual risks are considered acceptable, and we consider the control measures identified are appropriate. Further, the preliminary risk assessment review demonstrates technical capacity to understand and implement the Australian Guidelines for Water Recycling: Managing Health and Environmental Risks 2006 (Australian Guidelines for Water Recycling 2006).

- ▼ SUEZ's previous technical experience (within Australia), which we assessed by reviewing schemes which are currently being operated by alliances in which SUEZ is a member. We consider SUEZ's previous technical experience is appropriate to provide sufficient technical capacity to maintain and operate the infrastructure.
- ▼ SUEZ's human resources capability, which we assessed from the position descriptions and professional experience of specific personnel nominated to the project in the application. We consider the personnel and positions nominated by SUEZ are appropriate to maintain and operate the infrastructure.

We received a submission from Hunter Water regarding SUEZ's technical capacity. Hunter Water raised no concerns with the information provided in the application.

We consider that the information submitted by SUEZ demonstrates that it has the technical capacity to construct, operate and maintain water industry infrastructure.

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

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<sup>15</sup> SUEZ, *Recycled Water Management Plan - Kooragang Industrial Water Scheme*, submitted to IPART, August 2016.

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 SUEZ has the financial capacity to construct, operate and maintain non-potable water industry infrastructure for the KIWS.**

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

- ▼ Reports from our expert consultants, Corporate Scorecard
- ▼ SUEZ's summarised profit and loss statements
- ▼ SUEZ's summarised balance sheets
- ▼ SUEZ's key financial ratios
- ▼ SUEZ's corporate structure, and
- ▼ The risk profile of the scheme.

To assist us we engaged an independent financial consultant, Corporate Scorecard to assess the financial capacity of SUEZ and the viability of the scheme. Since SUEZ is a 100% owned subsidiary of the international parent company SUEZ (Environnement), Corporate Scorecard assessed both companies.<sup>16</sup>

Corporate Scorecard's assessment of SUEZ notes the company has strong financial liquidity, good levels of working capital and positive operating cash flows and that SUEZ is expected to recognise a profit on the scheme in the first year. It also notes that the overall company's financial capacity is dependent on the support of its corporate group. Corporate Scorecard concluded SUEZ has financial capacity and a low level of financial risk, but that this is heavily dependent on continued support of its parent corporate group. The report recommended a number of risk mitigating strategies including that a cross company guarantee be obtained.

In our assessment of SUEZ financial capacity to carry out the activities of the licence we considered Corporate Scorecard's financial assessments conducted on SUEZ and its parent company. When reviewing the applicant's financial capacity, we also considered the risk profile of the activities the licence would authorise. In the case of the network operator's licence, the activities are the construction, maintenance and operation of non-potable infrastructure.

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<sup>16</sup> Corporate Scorecard, *Comprehensive Financial Capacity Assessment Suez Water & Treatment Solutions Pty Ltd*, August 2016.  
Corporate Scorecard, *Advanced Financial Assessment (AFA) Suez Environnement SA*, August 2016.

We consider that SUEZ has the financial capacity to carry out the activities the licence would authorise. We are satisfied because SUEZ obtains revenue to cover the operation and maintenance (O&M) costs for the KIWS. The revenue is guaranteed from Kooragang Water under the O&M Agreement.

However, consistent with Corporate Scorecard's assessment, we consider there is a risk to the ongoing financial capacity of the applicant, to carry out the activities a licence would authorise, if the parent company ceases financial support to SUEZ.

However, we consider that the risk is adequately controlled by:

- ▼ SUEZ being part of a large multi-national group which has the financial capacity to support SUEZ in its activities, as assessed by Corporate Scorecard.
- ▼ SUEZ (Environnement) corporate group having a strong incentive to ensure the other schemes operated by SUEZ continue; such as Prospect Water Filtration Plant, Allwater Alliance and Aroona Alliance. All of these projects are for state government water utilities. The failure of these projects would have significant reputational impact on the SUEZ (Environnement) corporate group.

We also consider that the consequences if there is a loss of financial capacity are minor as there is only one large industrial customer. The scheme is not an essential service and supply could be met by Hunter Water.

We have considered the risk controls described above and have concluded that the residual risk related to the application is sufficiently low to consider SUEZ has the financial capacity to carry out the network activities that a licence would authorise. We consider a cross company guarantee does not need to be obtained to be satisfied that SUEZ has and will continue to have the financial capacity.

Our financial assessment represents the applicant's financial capacity at a point in time. Our recommendation to grant SUEZ a licence should not be viewed as an endorsement of the future 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 for 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 SUEZ should be subject to the following standard licence condition (see draft licence in Appendix A), in relation to financial capacity, if a licence is granted:

- 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 SUEZ has the organisational capacity to construct, operate and maintain non-potable water industry infrastructure for the KIWS.**

Our analysis showed that, SUEZ demonstrated its organisational capacity to construct, operate and maintain the KIWS by

- ▼ Having an appropriate organisational structure to manage its nominated third parties to deliver the proposed work based on their contractual arrangements and agreements.
- ▼ Having previous experience (within Australia) in the water industry and specific personnel nominated to the project, as shown by the CVs of its key personnel provided to us in its application form.
- ▼ Having demonstrated that business risks have been identified and will be managed, through the risk assessment provided to us after the application submission.
- ▼ SUEZ has established business practices and will draw on the organisations demonstrated continued organisational capacity.

We received no submissions regarding SUEZ's organisational capacity.

We consider that the information submitted by SUEZ demonstrates that it has the organisational capacity to construct, operate and maintain water industry infrastructure.

We note that the supply of secondary effluent for use at the KIWS is covered under a contract between Kooragang Water and Hunter Water and not directly with SUEZ. We do not consider that this will impact on the organisational ability of SUEZ to undertake its licensed activities as it has a contract to operate the infrastructure from Kooragang Water.

We recommend that SUEZ 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:

- 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 SUEZ has the capacity to construct, operate and maintain non-potable water industry infrastructure, in a manner that does not present a risk to public health.**

We assessed SUEZ's capacity to manage the following key risks to public health, posed by operating and maintaining water industry infrastructure, in a manner that does not present a risk to public health:

- ▼ **Source water quality:** Non-potable water will be produced from treated effluent sourced from Hunter Water. The quality of effluent provided to SUEZ is defined, under the contract between Kooragang Water and Hunter Water ensuring a consistent supply of source water for the plant.
- ▼ **Service performance and interruption:** The scheme is currently operational and the results of routine performance testing demonstrate that the plant is capable of operating reliably to achieve output water quality targets that satisfy the scheme's level of service.
- ▼ **Provide non-potable water quality fit for purpose:** SUEZ has demonstrated its capacity to treat and provide non-potable water to an appropriate quality given the proposed specific uses. SUEZ has extensive experience operating and maintaining water industry infrastructure for the production of non-potable water.
- ▼ **Potential for inappropriate water use:** The risk to public health caused by the potential for inappropriate water use is limited to the exposure by industrial workers at the Orica site and the treatment plant. The intended uses at the Orica site are for cooling tower and boilers, both of which do not involve direct exposure to workers. SUEZ will also use the water onsite at the treatment plant. Both sites are industrial sites with extensive Operational Health and Safety requirements.
- ▼ **Potential for cross connections:** The public health risks from cross connections are controlled by the supply of product water through one pipeline from the scheme and the control of plumbing by Orica at the site.

We were also able to review SUEZ's preliminary risk assessment for KIWS and we consider that SUEZ has demonstrated its capacity to identify and manage hazards and risks of the recycled water scheme, to acceptable levels of risk, and will have in place reasonable control and mitigation measures.

We received one submission regarding SUEZ's capacity to protect public health.

NSW Health generally supported the application to grant SUEZ's licence but identified that the Hazard Analysis and Critical Control Point Plans should be reviewed to ensure public health risks are controlled.<sup>17 18</sup>

NSW Health requested that it be consulted during risk assessment workshops, the development of the Recycled Water Management Plan and the Retail Supply Management Plan. NSW Health also requested it be consulted on any changes to the operation of the scheme.

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<sup>17</sup> Letter from NSW Health, 26 May 2016.

<sup>18</sup> SUEZ completed a review of the Hazard Analysis and Critical Control Point Plans after the NSW Health submission.

As is our current practices, NSW Health will be consulted at various stages throughout the development and auditing of the licence's management plans.

As this is a brownfield scheme and is currently operational there is no requirement for Ministerial approval before commercial operation. However, SUEZ is required to have management plans developed from the date of the commencement of the licence.<sup>19</sup> Development of the plans and compliance with the Australian Guidelines for Water Recycling 2006 require engagement with NSW Health. We will direct SUEZ to have the management plans audited for adequacy within 6 months of the licence being granted.<sup>20</sup>

We consider that the information submitted by SUEZ demonstrates that it has the capacity to construct, operate and maintain water industry infrastructure, in a manner that does not present a risk to public health.

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

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.

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.

#### **4.4 Appropriate arrangements with respect to insurance**

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

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

- ▼ Combined Business Liability Insurance, including Public Liability, Sudden and Accidental Pollution Products Liability and Professional Indemnity (Financial Loss arising from a Wrongful Act) insurance policy
- ▼ Workers Compensation insurance policy, and

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<sup>19</sup> WIC Regulation Schedule 1(7)(3).

<sup>20</sup> WIC Regulation Schedule 1(7)(5).



- ▼ Specific information on the activities proposed to be undertaken, such as the containment of potential spillages, long term pollution control measures and methods and risk management.

We requested advice from icare self insurance on the appropriateness of SUEZ's insurance arrangements, with respect to the activities to be licensed.

As part of the review, icare self insurance examined SUEZ's proposed scope of work, the risk assessment, insurance coverage in the areas of professional indemnity, pollution and public liability and product liability, as shown in the applicant's insurance certificates. In addition they reviewed the product disclosure statements for each insurance certificate.

At icare self insurance's request SUEZ provided specific information on the activities proposed to be undertaken, such as the containment of potential spillages, long term pollution control measures and methods and risk management.

The assessment from icare self insurance found the insurances held by SUEZ to be adequate for the purposes of its network operator's licence application. They did recommend the addition of a licence clause related to maintaining professional indemnity for six years from the date of the completion of the design. However, we have not included this as a licence condition. This is a brownfield scheme and the scope of the licence requires the authorised activities to be substantially consistent with the Kooragang Industrial Water Scheme Review of Environmental Factors (REF) and the Kooragang Industrial Water Scheme Addendum REF (AREF) where relevant.<sup>21</sup> We considered there will be no significant design undertaken by SUEZ and that the standard licence conditions are adequate.

We received no submission regarding SUEZ's insurance arrangements.

We consider that the information submitted by SUEZ demonstrates that it has made, and will continue to maintain, appropriate insurance arrangements.

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

## B2 Obtaining appropriate insurance

### B2.2 The Licensee must:

- a) on the date on which this Licence is granted for the Specified Water Industry Infrastructure under this Licence:

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<sup>21</sup> See section 4.5 and 4.6.2 for details on the REF and AREF.

- ii) hold insurance that is appropriate for the size and nature of the activities authorised under this Licence; and
- iii) provide a copy of each certificate of currency of the insurance obtained to IPART; and
- b) within 6 months of the date on which this Licence is granted or by a later date specified by IPART (if any), demonstrate that the insurance held 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 held 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

### **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.

## **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 SUEZ has the capacity to construct, operate and maintain water industry infrastructure, in a manner that does not present a significant risk of harm to the environment.**

In making our assessment of SUEZ's capacity to manage key risks to the environment posed by construction, operation and maintenance of water industry infrastructure, we have considered SUEZ's:

- ▼ **Capacity to comply with environmental regulations:** The Minister for the Environment confirmed that SUEZ has not breached the *Protection of the Environment Operations Act 1997* (NSW) (POEO Act).<sup>22</sup> The DPE confirmed that SUEZ has not breached the EP&A Act.<sup>23</sup> We consider that this is evidence of SUEZ's capacity to comply with these key environmental regulations.
- ▼ **Understanding of environmental regulations in NSW.** SUEZ demonstrated its understanding of the POEO Act by identifying its need for an environmental protection licence (EPL) in its licence application. SUEZ also outlined the process it is following to obtain an EPL. This involves Hunter Water applying to vary the existing EPL for the purpose of creating stand alone EPL for the Advanced Treatment Plant that would be transferred to SUEZ upon approval. Hunter Water confirmed in its submission that it has applied for a variation to its EPL.<sup>24</sup> The Minister for the Environment confirmed that it is processing this application.<sup>25</sup>

SUEZ demonstrated its understanding of the EP&A Act by identifying that the scheme had approval from Hunter Water under Part 5 of the EP&A Act. SUEZ also indicated in its licence application that it would carry out all works in accordance with Hunter Water's reviews of environmental factors (REF) (which was supplied as part of the licence application). The City of Newcastle and the DPE both confirmed that Hunter Water carried out an environmental assessment of the scheme under Part 5 of the EP&A Act.<sup>26</sup>

- ▼ **Capacity to implement environmental management processes in relation to the activities to be licensed:** SUEZ has experience in environmental management and holds an EPL from other schemes including Prospect water filtration plant and other wastewater treatment and recycling schemes in South Australia and Western Australia. SUEZ demonstrated additional capacity by providing position information for its environmental management role in its licence application.

The Minister for the Environment did not raise any concerns in relation to SUEZ's capacity to manage environmental risks in his submission.<sup>27</sup>

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<sup>22</sup> Letter from the Minister for the Environment, 1 June 2016.

<sup>23</sup> Letter from the Department of Planning and Environment, 18 August 2016.

<sup>24</sup> Letter from Hunter Water, 25 May 2016.

<sup>25</sup> Letter from the Minister for the Environment, 1 June 2016.

<sup>26</sup> Letter from the Department of Planning and Environment, 3 August 2016; letter from The City of Newcastle, 25 May 2016.

<sup>27</sup> Letter from the Minister for the Environment, 1 June 2016.

SUEZ indicated that it would implement the environmental management measures in the relevant Hunter Water REFs for the KWIS. These REFs were approved under Part 5 of the EP&A Act by Hunter Water as a determining authority. The REFs were supported by studies of the plant performance from technical, engineering and operational personnel to determine the environmental impacts and mitigation measures.

We did not receive any submissions indicating that SUEZ did not have the capacity to construct, operate and maintain water industry infrastructure, in a manner that does not present a significant risk of harm to the environment.

We consider that the information submitted by SUEZ, and stakeholder submissions demonstrate that SUEZ has the capacity to construct, operate and maintain the KIWS, in a manner that does not present a significant risk of harm to the environment. We note that SUEZ would be limited to only constructing infrastructure outlined in the REFs. As Hunter Water has already constructed the scheme so it is unlikely further high risk construction work is required and we consider this would adequately control the risks to the environment.

We consider that SUEZ 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 Licensing principles**

In the interest of the public we have had regard to each of following licensing principles in making a recommendation 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 SUEZ's capacity to operate and maintain water industry infrastructure in a manner that does not present a risk to public health. As outlined in section 4.3 of this report, we assessed SUEZ's capacity to manage the key risks posed to public health by the activities to be licensed.

In addition, the scheme has been operating since October 2014 and there have been no reported impacts on public health.<sup>28</sup> The scheme has been well designed and includes appropriate treatment technologies, and controls to ensure high quality water are produced.

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

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<sup>28</sup> NSW Health generally supported the application and did not report any public health issues for the scheme. NSW Health did not request any licence conditions.

#### 4.6.2 Protection of the environment

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

We understand that all of the activities to be licensed have been approved under Part 5 of the EP&A Act by Hunter Water.

This was confirmed by the City of Newcastle Council and the Department of Planning and Environment in their submissions on the licence application.<sup>29</sup>

In having regard to protection of the environment, we also considered the following information:

- ▼ **KIWS' Review of Environmental Factors 2011 (REF), and KIWS' Addendum Review of Environmental Factors 2013 (AREF).**<sup>30</sup> These REFs covered the KIWS facilities included in SUEZ's licence application, plus some additional network upgrades Hunter Water carried out when developing the KIWS (eg, works to the Newcastle 10 diversion pipeline)<sup>31</sup> that did not form part of SUEZ's licence application. We consider that the REFs did not identify any unacceptable risks to the environment.
- ▼ **Submissions made in relation to the protection of the environment:** The City of Newcastle submitted that it was not aware of any unacceptable risks to the environment posed by the activities to be licenced. The DPE could not comment on the environmental risks as it did not assess the project, but confirmed that it had been assessed under Part 5 of the EP&A Act by Hunter Water.<sup>32</sup> The Minister for the Environment submitted that the main environmental impact of the activity to be licensed is the discharge of treated non-potable water and off specification water to the Hunter River.<sup>33</sup> The EPA is currently assessing an EPL application in relation to this. We consider that the EPA's regulation under the POEO Act should ensure there are no unacceptable risks to the environment from the activities to be licensed.

In having regard to protection of the environment, we recommend that only those activities approved by Hunter Water under Part 5 of the EP&A Act should be authorised by the licence. This is because, if a licence is granted, SUEZ can carry out development for the purpose of recycled water reticulation and water

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<sup>29</sup> Letter from the Department of Planning and Environment, 3 August 2016; letter from The City of Newcastle, 25 May 2016.

<sup>30</sup> SKM, *Kooragang Industrial Water Scheme (KIWS) Review of Environmental Factors*, September 2011. Hunter Water Australia, *Kooragang Industrial Water Scheme (KIWS) Addendum Review of Environmental Factors*, May 2013.

<sup>31</sup> See SUEZ NOL& RSL Application to IPART, *Addendum Review of Environmental Factors*, Appendix 4, p ii, at <https://www.ipart.nsw.gov.au>.

<sup>32</sup> Letter from the Department of Planning and Environment, 3 August 2016.

<sup>33</sup> Letter from the Minister for the Environment, 1 June 2016.

recycling facilities (on land in a prescribed zone) without development consent under the EP&A Act.<sup>34</sup>

We recommend that SUEZ should be subject to the following licence conditions (see draft licence in Appendix A), in relation to protection of the environment, if a licence is granted:

A1.1 The Licensee, or any Authorised Person specified in the Licence, must undertake the activities that are authorised by the Licence in a manner which is substantially consistent with the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF. This includes, but is not limited to, the implementation of environmental mitigation measures.

A1.2 To the extent that there is any inconsistency between the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF, the Kooragang Industrial Water Scheme Addendum REF is to prevail.

We consider these conditions are necessary to ensure that SUEZ carries out its activities consistently with those assessed by Hunter Water under Part 5 of the EP&A Act, to ensure protection of the environment.

#### **4.6.3 Protection of public safety**

We have had regard to the protection of public safety through our assessment of SUEZ's technical capacity to construct, operate and maintain water industry infrastructure. As outlined in section 4.2.1 of this report, we assessed SUEZ's capacity to manage key risks to public safety by the activities to be licensed.

We considered SUEZ's proposed risk assessment and the control and mitigation measures that are currently in place for the non-potable water services. The risk assessment will be reviewed as part of the audit of SUEZ's Management Plans for adequacy, which IPART will direct SUEZ to complete within six months of being granted a licence.

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

#### **4.6.4 Protection of consumers generally**

We consider that SUEZ has the technical, financial and organisational capacity and relevant specific experience to undertake the activities to be licensed in a way that will satisfactorily manage risks and afford protection to consumers.

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<sup>34</sup> This is due to the operation of clause 106 of the *State Environmental Planning Policy (Infrastructure)* 2007.

While there are no small customers and only one large industrial customer, all scheme infrastructure and operation will be based on and be consistent with design standards.

If the Minister approves this licence, we consider that consumers generally will continue to be protected in relation to the activities licensed.

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 to a specified class of customers.<sup>35</sup>

The Minister can declare a monopoly supplier at any time. This declaration does not have to link to the grant or variation of a licence or a change in licence conditions. If the Minister declares a monopoly supplier, the Minister may then refer the monopoly services to IPART for price regulation.<sup>36</sup>

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

This licence would enable a new entity to supply recycled water, thus providing an alternative to potable water supplied by Hunter Water.

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

SUEZ will supply non-potable water to Orica on Kooragang Island. This water will be sourced by further treating secondary effluent which would have otherwise been treated and discharged into the environment. The supply of non-potable water also replaces the use of drinking water, contributing to the sustainability of water resources.

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

SUEZ will supply recycled water to Orica at Kooragang Island. SUEZ is also able to promote the use of recycled water in the community through provision of information and its on-site educational facilities. Orica has an active program of promoting the use of recycled water on their site.<sup>37</sup>

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

The Metropolitan Water Plan is the only prescribed water policy document in the WIC Regulation. The Metropolitan Water Plan outlines strategies to secure

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<sup>35</sup> WIC Act, section 51.

<sup>36</sup> Determination of the pricing and/or periodic review of the pricing policies. WIC Act, section 52(1).

<sup>37</sup> At <http://www.orica.com/Locations/Asia-Pacific/Australia/Kooragang-Island/Community#.WBur8027rGg>, Accessed September 2016.



greater Sydney's water supply now and in the future. The KIWS facility is not within the greater Sydney area; therefore the policies set out in the Metropolitan Water Plan do not apply.

However, the NSW Government released the Lower Hunter Water Plan in 2014 which 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 SUEZ's provision of services to its customer on Kooragang Island is consistent with the document. The Lower Hunter Water Plan includes actions to supply, save and substitute water. In relation to recycled water and 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.<sup>38</sup>

SUEZ's supply of recycled water is consistent with this Plan.

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

This principle applies to retail supplier's licence applications however SUEZ will not be supplying to small retail customers. It has been considered in our assessment of SUEZ's application for a retail supplier's licence.

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

The Licensee will not be supplying drinking water in the drinking water market by means of water infrastructure. The sharing of a proportion of the cost of the KIWS facilities that contribute to water security, are being recovered through a ministerial direction in the form of a subsidy raised from the water usage charges of the broader Hunter Water customers.<sup>39</sup>

The Lower Hunter Water Plan states that the:

... current water supply system can supply an average of around 75 billion litres of water each year to the people of the lower Hunter. Taking account of forecast population growth of just over 100,000 people, and water consumption trends, there will be enough water to supply the region for around 20 years under typical climate conditions.<sup>40</sup>

As a consequence, there is currently no significant expenditure on water infrastructure to improve water security in the region.

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<sup>38</sup> NSW Department of Finance and Services, *Lower Hunter Water Plan*, January 2014, p 3.

<sup>39</sup> See IPART, *Review of prices for Hunter Water Corporation from 1 July 2016 to 30 June 2020 - Final Report*, June 2016, p 75-76.

<sup>40</sup> NSW Department of Finance and Services, *Lower Hunter Water Plan*, January 2014, p 10.



#### 4.7 Other matters in the public interest

**We did not identify any additional matters with regard to the public interest in relation to SUEZ's capacity to construct, operate and maintain water industry infrastructure to service the customer on Kooragang Island.**

We consider that SUEZ should not be subject to any further licence conditions in relation to public interest, if a licence is granted.

### 5 Recommendations

**We recommend that the Minister grants a network operator's licence (licence number 16\_038) to SUEZ, subject to the conditions as set out in the attached draft licence (Appendix A).**

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>41</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>42</sup>. We will then make the information in the notice available to the public on our website, in accordance with the requirements of the WIC Act.<sup>43</sup>

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<sup>41</sup> WIC Act, section 10(2).

<sup>42</sup> WIC Act, section 10(5).

<sup>43</sup> WIC Act, section 10(6).





## Appendices



## **A    Draft licence**



**NEW SOUTH WALES  
GOVERNMENT**

***WATER INDUSTRY COMPETITION ACT 2006  
(NSW)***

**NETWORK OPERATOR'S LICENCE  
Licence no. 16\_038**

**SUEZ Water and Treatment Solutions Pty  
Ltd**

**(ACN 051 950 068)**

## 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 Table 1.2:

- a) for one or more of the authorised purposes specified in Table 1.3; and
- b) 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) industrial process water;
- b) cooling towers; and
- c) on-site reuse.

**Table 1.1 Authorised persons**

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None

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**Table 1.2 Water industry infrastructure**

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1) 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 of the following:

- a) Production of non-potable water;
- b) Treatment of non-potable water;
- c) Filtration of non-potable water;
- d) Storage of non-potable water; and
- e) Conveyance of non-potable water.

2) 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:

- a) Storage of non-potable water;
  - b) Conveyance of non-potable water; and
  - c) Treatment of non-potable water.
- 

**Table 1.3 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; and
  5. Conveyance of non-potable water.
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**Table 1.4 Area of operations**

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- 1) The Industrial Water Plant Area.
  - 2) The pipeline from Shortland Wastewater Treatment Works connection point to the Industrial Water Plant Area as described in section 2.6.3.1 of the Kooragang Industrial Water Scheme REF
  - 3) The pipeline from the Industrial Water Plant Area to Burwood Beach Wastewater System connection point as described in section 2.6.3.3 of the Kooragang Industrial Water Scheme REF.
  - 4) The pipeline from the Industrial Water Plant to Shortland Wastewater Treatment Works discharge pipeline connection point as described in section 2.6.3.4 of the Kooragang Industrial Water Scheme REF.
  - 5) The pipeline from the Industrial Water Plant Area to industrial customer(s) as described in section 4.2.2 of the Kooragang Industrial Water Scheme Addendum REF.
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**S2 Activities authorised – drinking water supply**

*[Not applicable]*

**Table 2.1 Authorised persons**

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*[Not applicable]*

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**Table 2.2 Water industry infrastructure**

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*[Not applicable]*

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**Table 2.3 Authorised purposes**

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*[Not applicable]*

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**Table 2.4 Area of operations**

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*[Not applicable]*

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**S3 Activities authorised – sewerage services**

*[Not applicable]*

**Table 3.1 Authorised persons**

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*[Not Applicable]*

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**Table 3.2 Water industry infrastructure**

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*[Not Applicable]*

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**Table 3.3 Authorised purposes**

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*[Not Applicable]*

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**Table 3.4 Area of operations**

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*[Not Applicable]*

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## **SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR SUEZ WATER AND TREATMENT SOLUTIONS PTY 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 Kooragang Industrial Water Scheme REF and Kooragang Industrial Water Scheme Addendum REF**

- A1.1 The Licensee, or any Authorised Person specified in the Licence, must undertake the activities that are authorised by the Licence in a manner which is substantially consistent with the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF. This includes, but is not limited to, the implementation of environmental mitigation measures.
- A1.2 To the extent that there is any inconsistency between the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF, the Kooragang Industrial Water Scheme Addendum REF is to prevail.

## **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 on the Licensee and other licensed network operators 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 The Licensee must:

- a) on the date on which this Licence is granted for the Specified Water Industry Infrastructure under this Licence:
  - i) hold insurance that is appropriate for the size and nature of the activities authorised under this Licence; and
  - ii) provide a copy of each certificate of currency of the insurance obtained to IPART; and
- b) within 6 months of the date on which this Licence is granted or by a later date specified by IPART (if any), demonstrate that the insurance held 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 held 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.

### **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.]*

#### **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 authorised purposes of the non-potable water specified in clause S1.2;
  - c) 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;
  - d) any other water infrastructure to which the Specified Water Industry Infrastructure is connected;
  - e) *[Not applicable]*
  - f) *[Not applicable]*
  - g) the arrangements for the disposal of waste from the Specified Water Industry Infrastructure.

## **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 0.
- 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
- a) The Licensee's Code of Conduct must set out the respective responsibilities of:
    - i) the Licensee; and
    - ii) each licensed network operator, licensed retail supplier and/or public water utility that:
      - A) supplies water or provides sewerage services by means of; or
      - B) constructs, maintains or operates, any water industry infrastructure that is connected to the Specified Water Industry Infrastructure.
  - b) The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause B10.2(a) by, at a minimum, providing for:
    - i) 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;
    - ii) who is responsible for water quality;
    - iii) who is liable in the event of the unavailability of water;
    - iv) who is liable in the event of failure of the Specified Water Industry Infrastructure;
    - v) the fees and charges payable in respect of the use of the Specified Water Industry Infrastructure; and
    - vi) who is responsible for handling customer complaints.

B10.3 *[Not applicable]*

B10.4 Within 6 months of the date on which this Licence is granted 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.

B10.5 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 changes to Authorised Person**

B12.1 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.

B13 *[Not applicable]*

## 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 <i>Water Industry Competition Act 2006</i> (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 <a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> , and any other guidelines issued by IPART in relation to audits under the Act.
Authorised Person	means the authorised persons specified in, as applicable: <ul style="list-style-type: none"><li>a) clause S1, Table 1.1;</li><li>b) clause S2, Table 2.1; and</li><li>c) clause S3, Table 3.1.</li></ul>
Burwood Beach Wastewater System	means the wastewater treatment works at Burwood Beach in the City of Newcastle local government area.
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.
Industrial Water Plant Area	means land situated under the following folio identifiers: <ul style="list-style-type: none"><li>a) Lot 87 DP 270249;</li><li>b) Lot 88 DP 270249;</li><li>c) Lot 89 DP 270249; and</li><li>d) Lot 90 DP 270249.</li></ul>

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).
Kooragang Industrial Water Scheme REF	means the document entitled “Kooragang Industrial Water Scheme (KIWS) Review of Environmental Factors” (SKM, Final, September 2011).
Kooragang Industrial Water Scheme Addendum REF	means the document entitled “Kooragang Industrial Water Scheme Addendum Review of Environmental Factors” (Hunter Water Australia, Final, May 2013).
Licence	means this network operator’s licence granted under section 10 of the Act.
Licensee	means SUEZ Water and Treatment Solutions Pty Ltd (ACN 051 950 068).
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.
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> .
Shortland Wastewater Treatment Works	means the wastewater treatment works at Shortland in the Newcastle City Council local government area.
Specified Water Industry Infrastructure	means the water industry infrastructure specified in, as applicable: <ul style="list-style-type: none"> <li>a) clause S1, Table 1.2;</li> <li>b) clause S2, Table 2.2; and</li> <li>c) clause S3, Table 3.2.</li> </ul>
Verification Monitoring	means verification monitoring as described in the document entitled “Australian Drinking Water Guidelines” or the document entitled “Australian Guidelines for Water Recycling” as the case may be.
Water Quality Plan	means the water quality plan that the Licensee is required to prepare under the Regulation.