



Independent Pricing and Regulatory Tribunal

Assessment of Flow Systems Pty Ltd's application to vary its retail supplier's licence no.13_001R

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

**Water - Report to the Minister
August 2015**

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

Erin Cini	(02) 9113 7778
Jamie Luke	(02) 9290 8460
Robert Aposhian	(02) 9290 8406

Independent Pricing and Regulatory Tribunal of New South Wales
PO Box K35, Haymarket Post Shop NSW 1240
Level 15, 2-24 Rawson Place, Sydney NSW 2000
T (02) 9290 8400 F (02) 9290 2061
www.ipart.nsw.gov.au

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1 Summary

We recommend that the Minister¹ varies Flow Systems Pty Ltd's (Flow Systems) retail supplier's licence (licence no. 13_001R) to authorise Flow Systems to:

- ▼ supply drinking water, non-potable water,² and sewerage services at the Huntlee Stage 1 development in the North Rothbury region of the Hunter Valley, and
- ▼ supply non-potable water to the Green Square Town Centre development in Sydney.

This is consistent with the applications Flow Systems has provided to us.

In assessing Flow Systems' application to vary the licence, 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.

In addition, we considered whether Flow Systems' retail supply services should be declared monopoly services and subject to price regulation. We consider that:

- ▼ the drinking water, recycled water,³ and sewerage services at the Huntlee Stage 1 development, and
- ▼ the non-potable water supply to the Green Square Town Centre development, are not monopoly services, and therefore Flow Systems should not be declared a monopoly supplier in relation to these services.

Should the Minister declare any monopoly services, we recommend that the Minister does not refer any of these services to IPART for a determination of pricing or a periodic review of pricing policies, at this time.

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 The Minister for Lands and Water.

² In the *Water Industry Competition (General) Regulation 2008*, non-potable water means water that is not drinking water.

³ The *Water Industry Competition Act 2006* refers to recycled water including in section 51(2) 'declaration of monopoly suppliers'. In the WIC Act, recycled water means water obtained from the processing of sewage.

⁴ *Water Industry Competition Act 2006*, section 10(2).

2 Background

Flow Systems' retail supplier's licence (licence no. 13_001R) authorises Flow Systems to supply drinking water, non-potable water, and sewerage services to five schemes.⁵ Flow Systems applied to vary its retail supplier's licence to enable it to also:

- ▼ supply drinking water, non-potable water, and sewerage services at the Huntlee Stage 1 development in the North Rothbury region of the Hunter Valley, and
- ▼ supply non-potable water to the Green Square Town Centre development in Sydney.

The Huntlee Stage 1 development is proposed to consist of around 2,345 lots, including a mix of residential and non-residential uses. It is located near North Rothbury in the Hunter Valley. The majority of customers at the Huntlee Stage 1 development would be small retail customers as defined in the WIC Act.

The Green Square Town Centre development, located in the suburbs of Zetland and Waterloo in Sydney, is proposed to consist of up to 20 development sites (apartments and mixed-use developments), containing a mix of residential, commercial and retail end users. The majority of customers at the Green Square Town Centre development would be small retail customers as defined in the WIC Act.

We have recently assessed network operator's licence applications for both Huntlee Stage 1 and Green Square Town Centre.

- ▼ Huntlee Water Pty Ltd (Huntlee Water) was granted a network operator's licence for supply of drinking water to the first 180 lots of the development in March 2015. We have completed an assessment of Huntlee Water's application to vary its network operator's licence to increase the area of operations to the entire Stage 1 development (2,345 lots) to include the supply of drinking water, non-potable water, and sewerage services. We have recommended that the Minister grant the variation.
- ▼ Green Square Water Pty Ltd (GSW) submitted a network operator's licence application to supply non-potable water from the treatment of stormwater for the Green Square Town Centre development. We have recommended that the Minister grant the network operator's licence.

Flow Systems propose to source drinking water from Hunter Water Corporation (via Huntlee Water) in the case of Huntlee development. The non-potable water will be sourced from treated sewage (via Huntlee Water) in the case of the Huntlee development and from stormwater harvesting (via GSW) in the case of

⁵ Central Park, Discovery Point, Wyee and Cooranbong (drinking water and non-potable water supply, and sewerage services), and Pitt Town (non-potable water supply and sewerage services).

the Green Square Town Centre development. The sewerage services for the Huntlee development will be provided by Huntlee Water. These arrangements are authorised under the retail supplier's and network operator's licences. Sydney Water Corporation will supply drinking water and sewerage services direct to the customers in the Green Square Town Centre development and therefore these services are not part of Flow Systems' variation to their retail supplier's licence.

3 Consultation and submissions

For the Huntlee Stage 1 development application, we invited submissions from NSW Health and from Hunter Water Corporation (Hunter Water)⁶ on 20 June 2014. We also invited a submission from NSW Health for the Green Square application on 2 June 2015. These stakeholder submissions were called to inform our assessment of:

- ▼ Flow Systems' technical capacity to carry out the activities to be licensed
- ▼ Flow Systems' capacity to carry out the activities to be licensed in a manner that does not present a risk to public health, and
- ▼ the protection of public health.

On 10 June 2015, we called for submissions on the applications from the public.⁷ For the Green Square Town Centre development, we advertised in the Sydney Morning Herald, Daily Telegraph, and for the Huntlee Stage 1 development, in the Newcastle Herald. No public submissions were received for either application.

Our consideration of these submissions is outlined in sections 4.2.1, 4.3 and 4.8.1.

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

- ▼ Vincents Chartered Accountants to inform our financial assessment (see section 4.2.2), and
- ▼ the NSW Self Insurance Corporation (SICorp) to inform our assessment of appropriate insurance arrangements maintained by Flow Systems (see section 4.4).

⁶ Hunter Water was invited to provide a submission on the variation to include the Huntlee scheme in the Flow Systems' retail supplier's licence because Flow Systems will be retailing drinking water sourced from Hunter Water (via Huntlee Water Pty Ltd).

⁷ *Water Industry Competition Act 2006*, section 9(1)(c).

4 Assessment of application

This section of the report contains our assessment of each of Flow Systems' applications to vary its retail supplier's licence and our recommendations.

In assessing Flow Systems' applications 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 Flow Systems is neither a disqualified corporation nor a corporation that is a related entity of a relevant⁸ disqualified corporation.

The assessment below applies equally to both variation applications.

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

- ▼ A statutory declaration signed by Flow Systems' Chief Executive Officer and Director, and Company Secretary stating that:
 - neither Flow Systems, nor any director or person concerned in the management of Flow Systems is, or would be, a disqualified corporation or a disqualified individual within the meaning of the WIC Act, and
 - Flow Systems 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 Flow Systems regarding details of the:
 - trustees (past and current) of any trusts in relation to which Flow Systems is a beneficiary
 - current beneficiaries of any trusts in relation to which Flow Systems is a trustee, and
 - names of the Chief Financial Officer and Chief Executive Officer for each of Flow Systems' related entities (subsidiary companies⁹ and holding companies¹⁰ within Australia).

⁸ 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. *Water Industry Competition Act 2006* (NSW), section 10(3)(b).

⁹ Central Park Water Pty Ltd, Cooranbong Water Pty Ltd, Discovery Point Water Pty Ltd, Flow Systems Operations Pty Ltd, Green Square Water Pty Ltd, Huntlee Water Pty Ltd, Pitt Town Water Pty Ltd, Wye Water Pty Ltd. As determined by an assessment of a current ASIC Relational Company Extract search.

¹⁰ Brookfield Water Holdings Pty Ltd, Enwave Australia Pty Ltd, BPIH Pty Ltd. As determined by an assessment of a current ASIC Relational Company Extract search.

- ▼ Related entity checks undertaken showed that eleven corporations are related to Flow Systems, and would have a direct or indirect interest in, or influence on, the carrying out of activities that the variation to the licence would authorise if granted. Results of ASIC and Dun & Bradstreet reports that we have obtained for Flow Systems, and for these eleven related corporations, confirmed that these companies are not disqualified nor are their directors or persons concerned in the management of Flow Systems, disqualified individuals.
- ▼ Results of our search of the WIC Act licence database,¹¹ confirming in part the above.

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

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

Flow Systems has applied to vary its retail supplier's licence to authorise:

- ▼ The supply of drinking water, non-potable water, and sewerage services at the Huntlee Stage 1 development, and
- ▼ The supply of non-potable water to the Green Square Town Centre development.

Flow Systems is already providing similar services to other schemes under its retail supplier's licence.¹²

We assessed Flow Systems' technical, financial and organisational capacity to carry out the additional activities to be licensed. Our assessment was based on Flow Systems' capacity at the time of making the applications.

4.2.1 Technical capacity

We are satisfied that Flow Systems has the technical capacity to supply drinking water, non-potable water and provide sewerage services to its customers at the Huntlee Stage 1 development, and non-potable water to its customers at the Green Square Town Centre development.

¹¹ There are currently no disqualified corporations or individuals on the register pursuant to the WIC Act, section 16(e) and 16(f).

¹² Central Park, Discovery Point, Wyee and Cooranbong (drinking water and non-potable water supply, and sewerage services), and Pitt Town (non-potable water supply and sewerage services).

Our analysis applies equally to both variation applications, and included a review of Flow Systems’:

- ▼ Scheme specific Retail Supply Management Plans (RSMP), amended following a request for information (RFI), which address the retailing of drinking water, non-potable water and the provision of sewerage services.
- ▼ Customer Contract, which provides the terms under which Flow Systems would supply drinking water, non-potable water and sewerage services.
- ▼ Code of Practice for Customer Complaints, which describes the process Flow Systems uses to respond to complaints by Customers (including owners, tenants and consumers) about those services.
- ▼ Code of Conduct for Missed Payments (debt recovery), which outlines how Flow Systems responds when customers have missed one or more payments.
- ▼ Access to Customer’s Property Policy, which outlines the way Flow Systems accesses privately-owned property for the purpose of maintaining water, non-potable water and sewerage assets owned by Flow Systems.
- ▼ Technical performance in preparing and implementing required retail systems and procedures at three existing schemes, Pitt Town, Central Park, and Discovery Point. The applicant proposes to use the same systems, procedures and resources to supply its intended customers.¹³
- ▼ Previous retail experience (in Australia) in the water industry and the specific personnel nominated for the project, as shown in the information provided to us in its application forms.

We used the above information to assess Flow Systems’ technical capacity to undertake the following retail supply activities for both the Huntlee Stage 1 and Green Square Town Centre developments:

- ▼ **Billing:** Flow Systems’ Customer Contract addresses the responsibilities of Flow Systems and its customers in relation to: account payment; invoicing arrangements; under and over charging; payment disputes; costs and charges; pricing determination; managing financial hardship; discounts and rebates; restriction of supply for non-payment; and meter reading, installation and maintenance. Flow Systems’ scheme specific RSMPs also addresses complaint handling and refers back to the Customer Contract.

¹³ We note that the RSMP and the various Codes listed above are now standard documents applied across all of Flow Systems schemes.

- ▼ **Complaints handling:** Flow Systems' Code of Practice for Customer Complaints has been developed to be consistent with the Australian Standard, AS ISO 10002-2006. The Code of Practice addresses complaints handling, including: contact information for customers to make complaints; receipt of complaints; tracking complaints; acknowledgement of complaints; assessment and investigation of complaints; response to complaints; communicating the outcome of complaint investigation; escalation of complaints to the Energy and Water Ombudsman NSW (EWON); and closing the complaint. Both the Code of Practice and Flow Systems' scheme specific RSMPs include the process for evaluation and audits of the Code of Practice.
- ▼ **Missed payments and debt recovery:** Flow Systems' Code of Conduct for Missed Payments addresses how Flow Systems would respond when customers have missed one or more payments, including reminder and warning notification; and actions for non-payment, which include debt recovery. Flow Systems' scheme specific RSMPs also address missed payments and debt recovery and refers back to the Code of Conduct.
- ▼ **Financial hardship:** Flow Systems' Customer Contract and its Code of Conduct for Missed Payments addresses Flow Systems' approach to customers who are having difficulty paying, or are concerned about not being able to pay on time. The Code of Conduct outlines Flow Systems' approach to reaching an agreement with a customer facing financial hardship. Flow Systems' scheme specific RSMP states that in no event would an essential service to a customer be disconnected as a result of non-payment.
- ▼ **Providing an appropriate level of service:** Flow Systems' Customer Contract addresses the level of service for the delivery of drinking water supply, non-potable water supply and sewerage services. The Customer Contract includes information on drinking water quality, pressure and flow rate; non-potable water quality, pressure and flow rate; and sewerage discharge rate and overflows. The Customer Contract states that Flow Systems must source drinking water which complies with the *Australian Drinking Water Guidelines 2004*, and non-potable water which complies with the *Australian Guidelines for Water Recycling 2006 (Phase 1: Managing Health and Environmental Risks)* *National Water Quality Management Strategy*. The Customer Contract sets out provisions for customers with health or special needs.
- ▼ **Continuity of service:** Flow Systems' scheme specific RSMPs address continuity of service during interruption due to incidents or operational problems, including: interruptions to sewage service; interruptions to non-potable water supply; interruptions to drinking water supply; and disruptions to the customer centre. Flow Systems' scheme specific RSMPs also provide information on incident identification and responses.

- ▼ **Communication with customers:** Flow Systems' Customer Contract addresses communication with customers, including notice of systems failures; changes to costs and charges; notice of access to property; restriction of services; access to the water meter; and requirement to remove trees. The notice required for a customer to disconnect (30 days written notice) is included in the Customer Contract. Flow Systems' Access to Customer's Property Policy addresses Flow Systems' obligations for providing notice to access private property for the purpose of maintaining systems owned by Flow Systems.
- ▼ **Transfer of customers:** Flow Systems' scheme specific RSMP address transfer of customers by stating it is committed to following the Transfer Code of Conduct as set out in the *Water Industry Competition (General) Regulation 2008* (the WIC Regulation).
- ▼ **Marketing to customers:** Flow Systems' scheme specific RSMPs address marketing to customers by outlining its commitment to following the Marketing Code of Conduct as set out in the WIC Regulation.

We have previously provided feedback on Flow Systems' scheme specific RSMPs for its other retail schemes. The Huntlee RSMP and Green Square RSMP provided in Flow Systems' applications for a variation to its retail supplier's licence have integrated our feedback.

We also considered Flow Systems' preliminary risk assessment for the retail services to be provided at both the Huntlee Stage 1 development and the Green Square Town Centre development. Each risk assessment demonstrated Flow Systems' technical capacity to identify risks across a number of areas including billing, water quality, and supply outages, and to develop control measures to manage these risks to an acceptable level. The risk assessment does not specify residual risks; however, we consider the control measures identified to mitigate risks result in reduced residual risks.

Hunter Water has provided no objection to the application to vary Flow Systems' licence for Huntlee Stage 1 and is finalising a 'Utility Services Agreement' with Flow Systems which will outline technical and commercial parameters.^{14,15}

Similarly, Sydney Water Corporation (Sydney Water) is finalising an agreement with City of Sydney Council (as the site owner/developer) and Flow Systems, to connect the Green Square Town Centre development to its water supply and sewerage system. This will ensure an ongoing supply of drinking water and sewerage services for the development, and as the stormwater treatment plant's back-up supply.

We consider that the information submitted by Flow Systems demonstrates that it has the technical capacity to supply water and provide sewerage services to its customers, including small retail customers, at each development.

¹⁴ Hunter Water, Mr Jeremy Bath, 2 March 2015.

¹⁵ Hunter Water, Mr Brett Lewis, 14 July 2015.

We recommend no change to Flow Systems licence conditions in the area of technical capacity. The standard ministerially imposed licence conditions should continue to apply (see draft licence in Attachment A).

4.2.2 Financial capacity

We are satisfied that Flow Systems has the financial capacity to supply drinking water, non-potable water and provide sewerage services to its customers at the Huntlee Stage 1 development, and to supply non-potable water services at the Green Square Town Centre development.

In making our assessment of the applicant's financial capacity we have considered the following information, supplied separately for each network application:

- ▼ Flow Systems' summarised profit and loss statements
- ▼ Flow Systems' summarised balance sheets
- ▼ Flow Systems' summarised income tax returns, and
- ▼ Flow Systems' key financial ratios.

We engaged an external financial consultant, Vincents Chartered Accountants (Vincents), to assess Flow Systems' financial capacity. Vincents was satisfied that Flow Systems adequately demonstrated its ongoing financial capacity to carry out the activities that the licence variation (if granted) would authorise. As this is a retail supplier's licence application (ie, not involving any construction activity), we consider this assessment to be acceptable for the purpose of considering the retail supplier's licence variation application.^{16,17}

We note that Vincents' assessment was made on the basis that the insurance policies obtained by the applicant are adequate for its proposed operations at each site. We consider this assumption is reasonable and correct (see section 4.4. for our assessment of insurance).

We recommend no change to Flow Systems licence conditions in relation to financial capacity. The standard ministerially imposed licence conditions should continue to apply.

4.2.3 Organisational capacity

We are satisfied that Flow Systems has the organisational capacity to supply drinking water, non-potable and provide sewerage services to customers at the

¹⁶ Vincents Chartered Accountants. *Forensic Accountant's Report - Flow Systems Pty Ltd and Huntlee Water Pty Ltd*, 13 July 2015, p8.

¹⁷ Vincents Chartered Accountants. *Forensic Accountant's Report - Flow Systems Pty Ltd and Green Square Water Pty Ltd*, 14 July 2015, p9.

Huntlee Stage 1 development, and to supply non-potable water services to customers at the Green Square Town Centre development.

Flow Systems demonstrated its organisational capacity to provide retail services at both developments by:

- ▼ providing evidence of its experience in providing similar services to other schemes, including Pitt Town, Central Park and Discovery Point
- ▼ having an organisational structure that includes an Executive Manager Retail, Customer Experience Leader, Customer Experience Specialist and Billings Clerk
- ▼ providing role descriptions for the Executive Manager Retail and Customer Experience Leader that include responsibilities across customer service, billing, complaints handling and continuity of service
- ▼ outlining the experience of the personnel currently in the Executive Manager Retail and Customer Experience Leader roles, which matched that of the role descriptions, and
- ▼ showing evidence of its capacity to negotiate supply and access agreements with network operators, through its correspondence with Hunter Water and Sydney Water.

We recommend no change to Flow Systems licence conditions in relation to organisational capacity. The standard ministerially imposed licence conditions should continue to apply (see draft licence in Appendix A).

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

We are satisfied that Flow Systems has the capacity to supply drinking water, non-potable water and provide sewerage services to customers at Huntlee Stage 1 development and supply non-potable water to Green Square Town Centre development in a manner that does not present a risk to public health.

We assessed Flow Systems' capacity to manage the following risks to public health, in supplying drinking water, non-potable water and providing sewerage services to the Huntlee Stage 1 development, and supplying non-potable water services to the Green Square Town Centre development:

- ▼ **Source water quality - Huntlee:** Flow Systems has demonstrated its capacity to source water of an appropriate quality to meet its customers' needs at the Huntlee development. Flow Systems would source all of its drinking water and non-potable water from Huntlee Water which, in turn, would source drinking water from Hunter Water. We reviewed Flow Systems' application, the Huntlee scheme RSMP and Customer Contract. These documents state drinking water quality would be consistent with the *Australian Drinking Water Guidelines 2004*, and non-potable water would be consistent with the *Australian Guidelines for Water Recycling 2006 (Phase 1: Managing Health and Environmental Risks) National Water Quality Management Strategy*. Flow Systems also has a water quality complaints procedure that includes a 24-hour emergency incident number for water quality (drinking and non-potable water) incidents and concerns. The procedure includes notification of the network operator.
- ▼ **Source Water quality - Green Square:** Flow Systems will source and treat harvested stormwater from Shea's Creek stormwater channel, to supply non-potable water of a suitable quality to meet its customers' demand. Flow Systems has demonstrated its capacity to meet the requirements of *Australian Guidelines for Water Recycling 2006: (Phase 1 Managing Health and Environmental Risks)* in its previous licences, and the proposed scheme is designed to meet these guidelines, and the *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks 2009 (Phase 2 - Stormwater Harvesting and Reuse)*. Potable water, supplied by Sydney Water, provides a back-up supply to the non-potable supply system.
- ▼ **Customer exposure through end use:** Flow Systems would supply non-potable water to customers at both developments. This could present a risk to public health if customers do not use non-potable water for the appropriate purposes. Flow Systems has demonstrated its capacity to mitigate this risk through its guidance to customers on its existing non-potable water schemes. This guidance includes the appropriate uses of non-potable water (eg, toilets, outdoor hoses, washing machines etc), appropriate items for disposal to sewer, and irrigation guidelines. Flow Systems' Customer Contract outlines the procedures it has in place if water is required to operate a life support machine or for other special health needs.

- ▼ **Water supply interruption:** Interruptions in supply of drinking water or non-potable water could pose a risk to public health. Flow Systems demonstrated its capacity to mitigate this risk through its risk management assessment, scheme specific RSMPs and Customer Contract, by outlining the control measures and mitigation strategies for supply interruptions. The RSMP for the Huntlee Stage 1 development indicates that Flow Systems would continue to provide water at a reasonable flow for basic health and hygiene purposes, even if a customer is to be disconnected as a result of non-payment. Customers would be given reasonable notice if Flow Systems intends to restrict supply. Flow Systems have indicated that should an interruption to non-potable water supply occur, drinking water would be supplied through the non-potable water system. However, we consider this would also be the responsibility of the network operator, and would expect this to be covered in the Code of Conduct as required under the licence condition B9.2 (licence no. 13_001R).
- ▼ **Sewerage service interruption:** This is only relevant for the Huntlee development. Interruptions to the provisions of sewerage services could pose a risk to public health. Flow Systems demonstrated its capacity to mitigate this risk through its risk management assessment, RSMP and Customer Contract. Flow Systems have indicated that should an interruption to sewerage services occur, sewage would be diverted from the non-potable water facility into storage tanks on site. However, we consider this would also be the responsibility of the network operator, and would expect this to be covered in the Code of Conduct as required under the licence condition B9.2 (licence no. 13_001R).

NSW Health supports the applications to vary Flow Systems' licence for the Huntlee Stage 1 development and the Green Square Town Centre development, and did not identify any specific issues in regard to Flow Systems' capacity to protect public health.^{18,19} NSW Health requested that Flow Systems' water quality complaints procedure is included or referenced in the scheme specific RSMPs.

We recommend no change to Flow Systems licence conditions in relation to its capacity to protect public health. The standard ministerially imposed licence conditions should continue to apply (see draft licence in Appendix A).

4.4 Appropriate arrangements with respect to insurance

We are satisfied that Flow Systems has made, and will continue to maintain, appropriate arrangements with respect to insurance for each scheme.

The insurance arrangements considered in this application to vary Flow Systems' retail supplier's licence have not materially changed from Flow Systems' existing

¹⁸ NSW Health, Dr Wayne Smith, 30 July 2014.

¹⁹ NSW Health, Dr Wayne Smith, 30 June 2015.

arrangements. In making our assessment of the applicant's insurance arrangements, we have considered Flow Systems':

- ▼ Combined Business Liability Insurance, including Public Liability, Products Liability and Professional Indemnity (Financial Loss arising from a Wrongful Act) insurance policy
- ▼ Workers Compensation insurance policy, and
- ▼ risk management assessment and control plan.

We note that Flow Systems also holds other insurances which are not specific to the risks associated with retail activities, including construction insurance, industrial special risks insurance and forefront portfolio insurance.

We requested SICorp to assess the appropriateness of the insurance maintained by Flow Systems.

SICorp is satisfied the limit of indemnity for Public and Products Liability, and the limit of indemnity for Professional Liability (Financial Loss arising from a Wrongful Act) is appropriate.^{20,21}

SICorp identified a risk in the terms of the Professional Liability (Financial Loss arising from a Wrongful Act) insurance. Due to the 'claims-made' nature of the insurance and the potential for claims to be made after retail services cease, SICorp considered whether the insurance should be maintained for the life of Flow Systems' operation of the retail services, and for a period after its activities have ceased. However, SICorp have considered the exposure of Flow Systems to this risk and determined, based on the information available about its retail activities, the exposure would be relatively low.²²

Further, as retail supplier's licence clauses do not survive the duration of the licence, a clause requiring the maintenance of insurance after the licence is no longer in force, would not be enforceable. On balance, we recommend that no changes be made to the existing retail supplier's licence conditions to mitigate the risk.

SICorp notes the current underwriter of the insurance is acceptable, however if the underwriting panel were to change and remove Lloyds and Berkeley from the list, this arrangement would need to be reviewed. The existing retail supplier's licence requires Flow Systems to maintain insurance that is appropriate for the size and nature of the activities authorised under the licence (licence no. 13_001R, B3.1). We consider that an amendment to the licence and Retail Supplier's Reporting Manual to include a requirement for Flow Systems to

²⁰ Email to IPART, NSW Self Insurance Corporation, Mr Wayne Chandler, 17 February 2015 for Cooranbong.

²¹ Email to IPART, NSW Self Insurance Corporation, Mr Wayne Chandler, 17 June 2015, for Green Square and Huntlee.

²² Email to IPART, NSW Self Insurance Corporation, Mr Wayne Chandler, 20 February 2015.

inform us of any change in relation to its insurance will reduce the risk associated with such changes.

We note Huntlee Water has an existing network licence for drinking water and an application has been made to vary this licence to include non-potable water and sewerage services. Green Square Water has also made an application for a network operator's licence to construct, operate and maintain non-potable water infrastructure for the Green Square Town Centre development. These applications have been recommended to the Minister for approval. If granted, Flow Systems would retail the identified services from each of its affiliated subsidiary companies.

Flow Systems and its subsidiaries are related organisations and their names appear within the list of Named Insured on the various insurance Certificates of Currency. SICorp reviewed the Liability insurance and confirmed the insurance contains a Cross Liability clause.²³ This allows each entity to be treated separately and therefore claim against each other within this insurance, noting that the Underwriter's limit of indemnity shall not exceed the Limit of Indemnity for all claims within the insurance.

Our analysis of the information provided with each of Flow Systems' applications (including its insurance certificates and product disclosure statements) and consideration of SICorp's advice showed that Flow Systems has demonstrated that it has sufficient insurance coverage in the area of public liability, product liability, professional indemnity and workers' compensation.

We consider that Flow Systems has demonstrated that it has made, and will continue to maintain, appropriate insurance arrangements for each application.

We recommend no change to Flow Systems licence conditions in relation to its insurance arrangements. The standard ministerially imposed licence conditions should continue to apply (see draft licence in Appendix A).

4.5 Sufficient quantities of water supplied by the Licensee obtained otherwise than from a public water utility

We are satisfied that Flow Systems will obtain sufficient quantities of water to supply to its customers otherwise than from a public water utility.

We have assessed all of the schemes covered by the existing retail supplier's licence, as well as the current applications to vary the retail supplier's licence.

In our view, this criterion is not restricted to the water sources that are the subject of a particular variation application, such as the Huntlee Stage 1 and Green Square Town Centre developments, but rather all of the water sources used, or to

²³ Email to IPART, NSW Self Insurance Corporation, Mr Wayne Chandler, 17 February 2015.

be used, by Flow Systems (under its existing licence and the variation applications under consideration).

Flow Systems currently sources (or will source) non-potable water from Pitt Town Water Factory, Discovery Point Water Factory, Central Park Water Factory Wyee Water and Cooranbong Water, none of which are public water utilities. With these latest variation applications, Flow Systems intends to source non-potable water from Huntlee Water, and from Green Square Water, which are also not public water utilities.

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

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 Flow Systems has the capacity to supply drinking water, non-potable water and provide sewerage services to its customers, in a manner that does not present a significant risk of harm to the environment.

We assessed Flow Systems' capacity to manage the key risks to the environment posed by the supply of water to each development and the provision of sewerage services to the Huntlee development:

- ▼ **Non-potable water end uses:** Through its existing scheme at Pitt Town, Flow Systems has demonstrated its capacity to educate customers about the appropriate end uses for non-potable water, including information on sustainable irrigation.
- ▼ **Water supply interruption:** Through its existing schemes, Flow Systems has demonstrated its capacity to negotiate agreements with key public water utilities to supply sufficient potable water to provide a reliable back-up source to the non-potable water system.
- ▼ **Sewerage system:** Through its existing scheme at Pitt Town, Flow Systems demonstrated its capacity to educate customers about the appropriate use of the sewerage system, including information on what should and shouldn't be disposed of into the sewerage system.

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

4.7 Public interest considerations

We did not identify any additional matters with regard to public interest in relation to Flow Systems supplying drinking water, non-potable water and sewerage services to customers at the Huntlee Stage 1 development, or supplying non-potable water to customers at the Green Square Town Centre development.

4.8 Licensing principles under the WIC Act

We have had regard to each of following licensing principles in making a recommendation as to whether or not the retail supplier's licence should be varied and, if so, what licence conditions to impose.

4.8.1 Protection of public health

We have had regard to public health through our assessment of Flow Systems' capacity to supply water and provide sewerage services to customers at the Huntlee Stage 1 development, and to provide non-potable water to its customers at the Green Square Town Centre development, in a manner that does not present a risk to public health. As outlined in section 4.3 of this report, we assessed Flow Systems capacity to manage the key risks posed to public health by the additional activities to be licensed.

NSW Health supports the applications to vary Flow Systems' licence for the Huntlee Stage 1 development and the Green Square Town Centre development, and did not identify any specific issues in regard to Flow Systems' capacity to protect public health.^{24,25} NSW Health requested that Flow Systems' water quality complaints procedure is included or referenced in the scheme specific RSMPs.

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

4.8.2 Protection of the environment

We have had regard to protection of the environment through our assessment of Flow Systems' capacity to supply water and/or provide sewerage services to customers at each development in a manner that does not present a significant risk of harm to the environment. As outlined in section 4.6 of this report, we assessed Flow Systems' capacity to manage the key risks posed to the environment by the additional activities to be licensed.

²⁴ NSW Health, letter dated 30 July 2014.

²⁵ NSW Health, letter dated 30 June 2015.

If the Minister APPROVES this licence variation, we consider that the environment will continue to be protected in relation to the activities licensed.

4.8.3 Protection of public safety

We have had regard to the protection of public safety through our assessment of Flow Systems' technical capacity to supply water and/or provide sewerage services to its customers. As outlined in section 4.2.1 of this report, we assessed Flow Systems' capacity to manage key risks to public safety by the additional activities to be licensed.

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

4.8.4 Protection of consumers generally

We have had regard to the protection of consumers through our assessment of Flow Systems' technical capacity to supply water and/or provide sewerage services to its customers. As outlined in section 4.2.1 of this report, we assessed Flow Systems' capacity to protect consumers through its scheme specific RSMP, Customer Contract and other policies.

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

4.8.5 Encouragement of competition

Historically, Hunter Water has provided monopoly water supply and sewerage services in the Newcastle and Hunter regions. This licence variation would enable a new entity to supply water and provide sewerage services to the Huntlee Stage 1 development, thus encouraging competition in the provision of these services.

Similarly, Sydney Water has provided monopoly water supply and sewerage services in the Sydney region. This licence variation would enable a new entity to supply non-potable water services to the Green Square Town Centre development, encouraging competition in the provision of these and other services.

4.8.6 Ensuring sustainability of water resources

Flow Systems will supply non-potable water to its customers at the Huntlee Stage 1 and Green Square Town Centre developments. At Huntlee Stage 1 the water will be sourced from treated sewage which would have otherwise been treated and discharged into the environment. At Green Square the non-potable water will be sourced from stormwater, which would otherwise be discharged into the environment via Alexandra Canal. The recycling of water from these water sources to supply non-potable water also replaces the use of drinking water ultimately sourced from the Greater Sydney Region's surface and groundwater sources, contributing to the sustainability of those water resources.

4.8.7 Promotion of production and use of recycled water

Flow Systems will provide non-potable water, including recycled water, to its customers at each development. Through its website and other marketing material, Flow Systems is also committed to promoting the use of non-potable water in the community.

4.8.8 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 greater Sydney's water supply now and in the future. The policies set out in the Metropolitan Water Plan only apply to the Green Square Town Centre development. Flow Systems supply of non-potable water to this development is consistent with the key initiatives of the Metropolitan Water Plan, including in relation to water recycling, water efficiency and innovation.²⁶

The NSW Government has recently released the Lower Hunter Water Plan 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 Flow Systems' provision of services at the Huntlee Stage 1 development is consistent with the document.

The Lower Hunter Water Plan includes the supply of recycled water and notes that:

...private sector suppliers are likely to play a bigger role in providing water supply, wastewater and recycled water services to new developments, particularly in areas remote from urban centres.²⁷

²⁶ 2010 Metropolitan Water Plan, NSW Office of Water, August 2010, p 27.

²⁷ 2014 Lower Hunter Water Plan, NSW Department of Finance and Services, January 2014, p 3.

Flow Systems' supply of drinking water, non-potable water (including recycled water), and sewerage services at the Huntlee Stage 1 development is consistent with this Plan.

4.8.9 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 Flow Systems' technical capacity to supply water and provide sewerage services to its customers. As outlined in sections 4.2.1, we assessed Flow Systems' capacity to manage financial hardship. Further, in its application, Flow Systems has indicated in its application that its drinking water and sewerage prices for the Huntlee Stage 1 development will match those of Hunter Water. It has also indicated that its non-potable water prices to its customers will be less than the residential drinking water prices set by the public water utilities at both schemes. At Green Square Town Centre, the price for non-potable water is contractually fixed at 95% of Sydney Water's residential price for drinking water.

4.8.10 Promotion of equitable sharing of the costs of water industry infrastructure that significantly contributes to water security

Flow Systems will source drinking water from Huntlee Water, which in turn will source drinking water from Hunter Water. The price that Huntlee Water will pay Hunter Water will be based on their regulated residential price and therefore this incorporates a share of the cost of any infrastructure that significantly contributes to water security in the lower Hunter region.

Similarly at the Green Square Town Centre development, Flow Systems will source drinking water, to replenish non-potable water supplies if required, from Sydney Water at the regulated residential price. This price takes into account the cost of infrastructure that significantly contributes to water security in the Sydney region. It also reduces the impact on existing drinking water infrastructure and storage by reducing overall demand.

4.9 Additional matters considered

In addition to assessing the application against the licensing criteria and principles of the WIC Act, we also considered whether the applicant's services should be subject to price regulation, at this time.

4.9.1 Monopoly supply and price regulation

We recommend that the Minister does not declare Flow Systems to be a monopoly supplier in relation to the supply of drinking water, recycled water and sewerage services to the Huntlee Stage 1 development. We further recommend that the Minister does not declare Flow Systems to be a monopoly supplier in relation to the supply of non-potable water to the Green Square Town Centre development.

Should the Minister declare any monopoly services at either the Huntlee Stage 1 development or the Green Square Town Centre development, we recommend that the Minister does not refer any of these services to IPART for a determination of pricing or a periodic review of pricing policies, at this time.

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.²⁸

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.²⁹

A monopoly declaration may only be made in relation to a service, if the Minister is satisfied that it is a service:

1. for which there are no other suppliers to provide competition in the part of the market concerned, and
2. for which there is no contestable market by potential suppliers in the short term in that part of the market, and
3. in the case of a water supply service for recycled water, that connection of land to that service is required by or under some other Act.³⁰

We have considered the retail market for each of the services at Huntlee (the specified area) for all classes of customer. We consider that retail water supply services are inherently contestable services, and are therefore not monopoly services.

We recommend that no declaration of monopoly supply for retail services be made at this time regarding the Huntlee Stage 1 development.

We have considered the retail market for the service being provided within the Green Square Town Centre development (the specified area) for all classes of customer.

²⁸ *Water Industry Competition Act 2006* (NSW), section 51.

²⁹ *Water Industry Competition Act 2006* (NSW), section 52(1).

³⁰ *Water Industry Competition Act 2006* (NSW), section 51(2).

This is an infill development, with Sydney Water supplying drinking water and sewerage services, and providing contingency supply services for non-potable water. Consequently, Sydney Water has the capacity to supply to the non-potable water customers, albeit using drinking water for non-potable uses. Therefore, we consider that these are not monopoly services.

We recommend that no declaration of monopoly supply for retail services be made at this time regarding the Green Square Town Centre development.

We also note that for the Huntlee Stage 1 development, Flow Systems has indicated in its application that it will match and peg prices to those of Hunter Water's residential water prices in the area. For the Green Square Town Centre development, Flow Systems is limited by the terms of its contract with Council to supply non-potable water at a maximum of 95% of Sydney Water's regulated residential price for potable water.

Should the Minister declare any monopoly services, we recommend that the Minister does not refer these monopoly services to IPART for price regulation, at this time.

4.9.2 Consistent licence terminology, language and structure

We consider the retail supplier's licence should be varied to align it with the terminology, language and structure (including numbering of conditions) used in the standard licence template, to improve consistency across licences. Consequently, Schedule B of the licence (see draft licence in Attachment A) has been amended with some minor editing to reflect these changes.

5 Recommendations

We recommend that the Minister:

- ▼ **varies Flow Systems' retail supplier's licence (licence no. 13_001R) and conditions imposed on that licence as set out in the attached amended licence**
- ▼ **does not declare Flow Systems to be a monopoly supplier in relation to the supply of drinking water, recycled water and sewerage services to the Huntlee Stage 1 development, and**
- ▼ **does not declare Flow Systems to be a monopoly supplier in relation to the supply of non-potable water to the Green Square Town Centre development.**

Should the Minister declare any monopoly services at either development, we recommend the Minister does not refer any of these services to IPART for a determination of pricing or a periodic review of pricing policies, at this time.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the application to vary the licence. The Minister may, if circumstances so require, seek further advice from us in relation to the licence application.³¹

On making a decision whether or not to vary the licence, the Minister is required to provide us with notice of the decision and of the reasons for the decision.³² 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.³³

³¹ *Water Industry Competition Act 2006*, section 10(2).

³² *Water Industry Competition Act 2006*, section 10(5).

³³ *Water Industry Competition Act 2006*, section 10(6).

A Draft Licence



**NEW SOUTH WALES
GOVERNMENT**

WATER INDUSTRY COMPETITION ACT 2006

RETAIL SUPPLIER'S LICENCE

**Flow Systems Pty Ltd
(ACN 136 272 298)**



New South Wales

Water Industry Competition Act 2006
Section 10(5)

Notice of Decision –
Application for a Variation of Retail Supplier’s Licence
Licence No. 13_001R

I, The Hon. Niall Blair MLC, Minister for Lands and Water, under section 10(5) of the *Water Industry Competition Act 2006* (the Act), have considered and accepted the advice and recommendation made by the Independent Pricing and Regulatory Tribunal of New South Wales (IPART) in its report to me on the application by Flow Systems Pty Ltd (ACN 136 272 298) (Applicant) to vary its retail supplier’s licence no. 13_001R. I attach IPART’s report (**Attachment A**).

Based on my consideration and acceptance of IPART’s report:

- (a) I am satisfied that the Applicant is not a disqualified corporation for the purposes of section 10(3)(a) of the Act;
- (b) I am satisfied that the Applicant is not a corporation that is a related entity (within the meaning of the *Corporations Act 2001* (Cth)) of a disqualified corporation that would have a direct interest in, or influence on, the carrying out of the activities that the licence would authorise (if granted), for the purposes of section 10(3)(b) of the Act; and
- (c) I am satisfied as to each of the criteria set out in section 10(4) of the Act.

I have also had regard to the licensing principles set out in section 7 of the Act in considering whether or not to grant the variation to the licence.

I have therefore determined to grant a variation of the Applicant’s retail supplier’s licence no. 13_001R. I hereby attach a copy of the licence, as varied (**Attachment B**).

.....
Minister for Lands and Water

Dated this day of 20



New South Wales

Water Industry Competition Act 2006

**Variation of Retail Supplier's Licence
Licence No. 13_001R**

I, the Hon. Niall Blair MLC, Minister for Lands and Water, under section 10 of the *Water Industry Competition Act 2006*, make the following variation to the retail supplier's licence no. 13_001R granted to:

Flow Systems Pty Ltd (ACN 136 272 298)

- i) Delete Schedule B and replace with new Schedule B (attached to this notice).
- ii) Delete Schedule C and replace with new Schedule C (attached to this notice).
- iii) Insert Attachment A (attached to this notice).

.....
Minister for Lands and Water

Dated this day of 20

SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR FLOW SYSTEMS PTY 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 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 Activities authorised – non-potable water supply

A1.1 This Licence authorises the Licensee and any authorised persons specified in Table 1.1 to supply non-potable water:

- (i) by means of the water industry infrastructure specified in Table 1.2;
- (ii) for the authorised purposes as specified in Table 1.3;
- (iii) to the persons or classes of persons specified in Table 1.4;
- (iv) within the area of operations specified in Table 1.5,

subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1.1 Authorised persons

Not applicable

Table 1.2 Water industry infrastructure

The water industry infrastructure detailed in Schedule C, Table C.1.

Table 1.3 Authorised purposes

The authorised purposes detailed in Schedule C, Table C.1.

Table 1.4 Persons or classes of persons

Persons within the areas of operations detailed in Schedule C, Table C.1.

Table 1.5 Area of operations

The area of operations detailed in Schedule C, Table C.1.

A2 Activities authorised – drinking water supply

- A2.1 This Licence authorises the Licensee and any authorised persons specified in Table 2.1 to supply drinking water:
- (i) by means of the water industry infrastructure specified in Table 2.2;
 - (ii) for the authorised purposes as specified in Table 2.3;
 - (iii) to the persons or classes of persons specified in Table 2.4;
 - (iv) within the area of operations specified in Table 2.5,
- subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 2.1 Authorised persons

Not applicable

Table 2.2 Water industry infrastructure

The water industry infrastructure detailed in Schedule C, Table C.2.

Table 2.3 Authorised purposes

The authorised purposes detailed in Schedule C, Table C.2.

Table 2.4 Persons or classes of persons

Persons within the areas of operations detailed in Schedule C, Table C.2.

Table 2.5 Area of operations

The area of operations detailed in Schedule C, Table C.2.

A3 Activities authorised – sewerage services

- A3.1 This Licence authorises the Licensee and any authorised persons specified in Table 3.1 to provide sewerage services:
- (i) by means of the water industry infrastructure specified in Table 3.2;
 - (ii) for the authorised purposes as specified in Table 3.3;
 - (iii) to the persons or classes of persons specified in Table 3.4;
 - (iv) within the area of operations specified in Table 3.5,
- subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 3.1 Authorised persons

Not applicable

Table 3.2 Water industry infrastructure

The water industry infrastructure detailed in Schedule C, Table C.3.

Table 3.3 Authorised purposes

The authorised purposes detailed in Schedule C, Table C.3.

Table 3.4 Persons or classes of persons

Persons within the areas of operations detailed in Schedule C, Table C.3.

Table 3.5 Area of operations

The area of operations detailed in Schedule C, Table C.3.

A4 Retail arrangements

A4.1 If requested by IPART, the Licensee must prepare and provide IPART with:

- a) a report, to IPART's satisfaction outlining:
 - (i) evidence of discussions with intended customer(s) or formal agreement(s) with customer(s); and
 - (ii) the Curriculum Vitae of the key personnel involved in the operation and management of the activities authorised by this Licence, and
- b) a statement:
 - (i) identifying any third party providing customer services under this Licence, and
 - (ii) outlining the enforceable controls the Licensee has in place to enable it to effectively respond to any suspected breaches of these Licence conditions.

A4.2 The Licensee must notify IPART if it may be commencing to operate, or operating, in an area:

- (i) for which there are no other suppliers to provide competition in the part of the market concerned, and
- (ii) for which there is no contestable market by potential suppliers in the short term in that part of the market.

INTERPRETATION AND DEFINITIONS

Interpretation

In this Schedule A, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) headings are used for convenience only and do not affect the interpretation of this Schedule A;
- (iii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iv) a reference to a “person” includes a natural person and any body or entity whether incorporated or not;
- (v) a reference to a clause is to a clause in this Schedule A;
- (vi) a reference to a schedule is to a schedule to this Licence; and
- (vii) 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.

Definitions

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

In this Schedule A:

- Act means the *Water Industry Competition Act 2006*;
- Licence means this retail supplier's licence granted under section 10 of the Act;
- Licensee means the person to whom this Licence is granted under section 10 of the Act;
- Minister means the Minister responsible for Part 2 of the Act; and
- Regulation means the *Water Industry Competition (General) Regulation 2008*.

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR ALL LICENSED RETAIL SUPPLIERS

This schedule sets out the standard conditions which the Minister imposes on the Licensee and all 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 *[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 Within 14 days of any change in relation to the following, the Licensee must notify IPART, and provide IPART with details, of the change in accordance with the Reporting Manual:
- 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 paragraph 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.
 - f) *[Not Applicable]*
 - g) *[Not Applicable]*

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 constructs, maintains or operates any other water industry infrastructure in the Specified Area of Operations,

by, at a minimum, providing for:

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

B9.3 Before commencing to supply water 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.

B9.4 *[Not applicable]*

B9.5 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.

B10 Notification of changes to Authorised Person

B10.1 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.

B11 Infrastructure to be used

- B11.1 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.
- B11.2 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.

B12 Notification of operation

- B12.1 This clause B12 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.
- B12.2 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.
- B12.3 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**Interpretation**

In this Schedule B, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) headings are used for convenience only and do not affect the interpretation of this Schedule B;
- (iii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iv) a reference to a "person" includes a natural person and any body or entity whether incorporated or not;
- (v) a reference to a clause is to a clause in this Schedule B;
- (vi) a reference to a schedule is to a schedule to this Licence; and
- (vii) 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.

Definitions

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

In this Schedule B:

Act	means the <i>Water Industry Competition Act 2006</i> ;
Audit Guidelines	means the document entitled "Audit Guideline – Water Industry Competition Act 2006" which is produced 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 relevant authorised persons specified for each authorised activity in Schedule A, Table 1.1; Table 2.1 and/or Table 3.1;
Insurance Expert	means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001 (Cth)</i> (Corporations Act) that authorises the broker to provide financial product advice for, and deal in, contracts of insurance within the meaning of Chapter 7 of the Corporations 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> ;
Licence	means this retail supplier's licence granted under section 10 of the Act;
Licensee	means the person to whom this Licence is granted under section 10 of the Act;
Licensee's Code of Conduct	has the meaning given in 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 the retail supply management plan that the Licensee is required to prepare under the Regulation;
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> ;
Reporting Manual	means the document entitled "Retail Supplier's Reporting Manual," which is produced by IPART and is available on IPART's website at www.ipart.nsw.gov.au ;
Specified Area of Operations	means the relevant area of operations specified for each authorised activity in Schedule A, Table 1.5; Table 2.5 and/or Table 3.5; and
Specified Water Industry Infrastructure	means the relevant water industry infrastructure specified for each authorised activity in Schedule A, Table 1.2, Table 2.2 and/or Table 3.2.

SCHEDULE C – RELEVANT SCHEME DETAILS

Table C.1 Non-potable water supply

Scheme	Water industry infrastructure	Authorised purposes	Area of operations	
Central Park Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Central Park Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Central Park Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Central Park Network Operator's Licence.	
Pitt Town Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Pitt Town Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Pitt Town Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Pitt Town Network Operator's Licence.	
Discovery Point Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Discovery Point Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Discovery Point Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Discovery Point Network Operator's Licence.	
Wye Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Wye Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Wye Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Wye Network Operator's Licence.	
North Cooranbong Scheme	Water industry infrastructure authorised for the supply of non-potable water.	The authorised purposes specified in the licence for the water industry infrastructure from which the water will be supplied.	Lot	DP
			11 1-13 1-4,7,8,10 1 212 1 14 1 A,B 13 1,2 21 1 1 22 3 2 219 333 223 11,12	129156 7352 3533 348173 1037011 329367 129157 301305 306673 129157 346776 129159 360725 363639212 129159 1029952 663728 755218 1183498 1179214 1158508
Huntlee Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Huntlee Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Huntlee Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Huntlee Network Operator's Licence.	
Green Square Scheme	Water industry infrastructure authorised for the supply of non-	The authorised purposes specified in the licence for the water industry	The following areas identified in the map at Appendix A to this Licence:	

	potable water.	infrastructure from which the water will be supplied.	<ol style="list-style-type: none"> 1) Green Square Town Centre; and 2) the section of Joynton Avenue, Zetland situated between the intersection of: <ol style="list-style-type: none"> a) Joynton Avenue and Elizabeth Street; and b) Joynton Avenue and Hansard Street.
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Table C.2 Drinking water supply

Scheme	Water industry infrastructure	Authorised purposes	Area of operations	
Central Park Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Central Park Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Central Park Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Central Park Network Operator's Licence.	
Discovery Point Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Discovery Point Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Discovery Point Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Discovery Point Network Operator's Licence.	
Wyee Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Wyee Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Wyee Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Wyee Network Operator's Licence.	
North Cooranbong Scheme	Water industry infrastructure authorised for the supply of drinking water.	The authorised purposes specified in the licence for the water industry infrastructure from which the water will be supplied.	Lot	DP
			11	129156
			1-13	7352
			1-4,7,8,10	3533
			1	348173
			212	1037011
			1	329367
			14	129157
			1	301305
			A,B	306673
			13	129157
			1,2	346776
			21	129159
			1	360725
1	363639212			
22	129159			
3	1029952			
2	663728			
219	755218			
333	1183498			
223	1179214			
11,12	1158508			
Huntlee Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the	The authorised purposes specified in Schedule A, Table 2.3 of the Huntlee	The area of operations specified in Schedule A, Table 2.4 of the Huntlee	

	Huntlee Network Operator's Licence.	Network Operator's Licence.	Network Operator's Licence.
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Table C.3 Provision of sewerage services

Scheme	Water industry infrastructure	Authorised purposes	Area of operations	
			Lot	DP
Central Park Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Central Park Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Central Park Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Central Park Network Operator's Licence.	
Pitt Town Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Pitt Town Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Pitt Town Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Pitt Town Network Operator's Licence.	
Discovery Point Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Discovery Point Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Discovery Point Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Discovery Point Network Operator's Licence.	
Wye Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Wye Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Wye Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Wye Network Operator's Licence.	
North Cooranbong Scheme	Sewerage infrastructure.	Not applicable.	11	129156
			1-13	7352
			1-4,7,8,10	3533
			1	348173
			212	1037011
			1	329367
			14	129157
			1	301305
			A,B	306673
			13	129157
			1,2	346776
			21	129159
			1	360725
			1	363639212
22	129159			
3	1029952			
2	663728			
219	755218			
333	1183498			
223	1179214			
11,12	1158508			
Huntlee Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Huntlee Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Huntlee Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Huntlee Network Operator's Licence.	

INTERPRETATION AND DEFINITIONS

Interpretation

In this Schedule C, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iii) a reference to a “person” includes a natural person and any body or entity whether incorporated or not; and
- (iv) 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.

Definitions

In this Schedule C:

Central Park Network Operator's Licence	means network operator's licence no. 12_022 granted to Central Park Water Factory Pty Ltd (ACN 151 072 838) (as varied by the Minister from time to time);
Discovery Point Network Operator's Licence	means network operator's licence no. 13_025 granted to Discovery Point Water Factory Pty Ltd (ACN 142 392 541) (as varied by the Minister from time to time);
Huntlee Network Operator's Licence	means network operator's licence no. 15_030 granted to Huntlee Water Pty Ltd (ACN 167 418 608) (as varied by the Minister from time to time);
Licence	means this retail supplier's licence granted under section 10 of the <i>Water Industry Competition Act 2006</i> ;
Pitt Town Network Operator's Licence	means network operator's licence no. 10_014 granted to Pitt Town Water Factory Pty Ltd (ACN 141 705 660) (as varied by the Minister from time to time); and
Wye Network Operator's Licence	means network operator's licence no. 14_026 granted to Wye Water Pty Ltd (ACN 160 953 775) (as varied by the Minister from time to time).

Appendix A – Area of operations

Drawing No	Revision	Date
GSW-130912-1140-OSP	G	March 2015

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