

# **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**  
April 2016





Independent Pricing and Regulatory Tribunal

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# 1 Summary

We recommend that the Minister varies Flow Systems Pty Ltd's (Flow Systems) retail supplier's licence (licence number 13\_001R, see **Appendix A**). The licence will authorise Flow Systems to supply non-potable water<sup>1</sup> and sewerage services to the Box Hill North development. The development is located in north-western Sydney in The Hills Shire Council Local Government Area.

The Flow Systems' retail supplier's licence was granted on 17 April 2013, and has since been varied by the Minister four times to provide services to additional developments. The existing licence covers services provided to customers at Central Park, Pitt Town, Discovery Point, Wyee, Cooranbong, Huntlee and Green Square.

The Box Hill North development will comprise approximately 4,100 new dwellings, a town centre, active and passive open space, a primary school and a multi-purpose community centre. The development is proposed to be developed in seven stages. The first stage of development will service 300 lots initially.

In assessing Flow Systems' 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.

In addition to assessing the application against the licensing criteria and principles of the WIC Act, we also considered whether Flow Systems should be considered a monopoly supplier and subject to price regulation. We consider that the retail services at Box Hill North are not monopoly services, and therefore Flow Systems should not be declared a monopoly supplier in relation to those services.

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>

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<sup>1</sup> In the *Water Industry Competition Act 2006* (NSW), non-potable water means water that is not drinking water. Flow Systems seeks this licence to supply recycled water.

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

## 2 Background

### 2.1 The applicant

Flow Systems' retail supplier's licence (licence number 13\_001R) authorises Flow Systems to supply non-potable water, and sewerage services to seven schemes.

On 22 May 2015 we received an application from Flow Systems to vary its retail supplier's licence to enable it to also supply non-potable water and sewerage services to the Box Hill North development in north-western Sydney.

At the same time we received an application from Flow Systems' subsidiary Flow Systems Operations Pty Ltd (Flow Systems Operations) for a network operator's licence for the construction, operation and maintenance of non-potable water and sewerage infrastructure at the Box Hill North development. Our assessment of the network operator's licence application is presented in a separate report.

Flow Systems is a privately owned company, held in majority ownership by Brookfield Infrastructure Partners. Flow Systems currently holds seven network operator's licences through its subsidiary companies. It is licensed to construct, operate, and maintain water industry infrastructure under network operator's licences granted under the WIC Act. The subsidiaries and schemes currently covered by the Flow Systems retail supplier's licence are outlined in Table 2.1 below.

**Table 2.1 Flow Systems' licensed schemes, under its subsidiaries**

Subsidiary	Scheme (covered in existing retail supplier's licence)	Network operator's licence	Licensed for
Pitt Town Water Pty Ltd	Pitt Town development, Pitt Town, Sydney	10_014	Non-potable water, sewage treatment
Central Park Water Pty Ltd	Central Park development, Chippendale, Sydney	12_022	Drinking water, non-potable water, sewage treatment
Discovery Point Water Pty Ltd	Discovery Point development, Wolli Creek, Sydney	13_025	Drinking water, non-potable water, sewage treatment
Wye Water Pty Ltd	Wye residential development, Wye, Lake Macquarie	14_026	Drinking water, non-potable water, sewage treatment
Huntlee Water Pty Ltd	Huntlee residential development, North Rothbury, Hunter Valley	15_030	Drinking water, non-potable water, sewage treatment
Green Square Water Pty Ltd	Green Square Town Centre, Sydney	15_031	Non-potable water
Cooranbong Water Pty Ltd	Cooranbong residential development, Cooranbong, Lake Macquarie	15_033	Drinking water, non-potable water, sewage treatment



## 2.2 The scheme

Flow Systems and its subsidiary Flow Systems Operations has been engaged by Celestino Property Developments Pty Ltd (Celestino), the developer, to establish a local water utility for the Box Hill North development in north-western Sydney in The Hills Shire Council local government area.

The development is to be developed in seven stages and will comprise approximately 4,100 dwellings, a town centre, active and passive open space, a primary school and a multi-purpose community centre. Flow Systems will provide retail services at the Box Hill North for non-potable water supply and sewerage services. Customers will be both residential and commercial, with the majority being small retail customers.

The scheme infrastructure will be constructed by Flow Systems Operations in two phases:

- ▼ Phase 1 will service an initial 300 lots in an interim scheme servicing period, during which sewage discharged to Flow Systems Operations' pressure sewerage system will be collected and disposed of off-site at the Pitt Town sewage treatment plant (operated by Flow Systems' subsidiary Pitt Town Water Factory Pty Ltd<sup>3</sup>). Non-potable water reticulation will be constructed and connected to new dwellings in this phase, but will only be serviced by drinking water during this interim period. It is expected that the Phase 1 non-potable water and sewage infrastructure will commence operation in late-2016.
- ▼ Phase 2 will involve the construction of the first stage of a Local Water Centre, to treat sewage and supply non-potable water to dwellings through the non-potable water reticulation. It is expected that the Phase 2 infrastructure will commence operation in 2018.

The Local Water Centre, non-potable water and sewage infrastructure will be augmented in later stages of development, dependent on lot sales.

Flow Systems Operations will be responsible for the construction and operation and maintenance of the Local Water Centre. The recycled water and sewage reticulation infrastructure will be constructed by the developer, with Flow Systems Operations assuming responsibility for their operation and maintenance when the construction of the networks reaches the practical completion stage.

Drinking water for the development will be supplied by Sydney Water direct to customers.

Non-potable water is proposed to be available in 2018, depending on the rate of lot sales.

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<sup>3</sup> WIC Act network operator's licence no. 10\_014.

### 3 Consultation and submissions

On 23 September 2015, 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 Sydney Water Corporation (Sydney Water) to make a submission<sup>6</sup> on the licence application.

We invited The Hills Shire Council to make a submission<sup>7</sup> as we understand that The Hills Shire Council is the Consent Authority under the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) for the development.

We also called for submissions on the application from the public.<sup>8</sup> We advertised in the Sydney Morning Herald and The Daily Telegraph on 23 September 2015 for public submissions. The closing date for submissions was 21 October 2015.

We received five submissions in total, including submissions from the Minister for Lands and Water<sup>9</sup>, NSW Health<sup>10</sup>, NSW Environmental Protection Authority<sup>11</sup>, Sydney Water<sup>12</sup>, and The Hills Shire Council<sup>13</sup>. These submissions considered both Flow Systems' retail supplier's licence variation application and Flow Systems Operations' network operator's licence application. The submissions are available on our website and are discussed below.

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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 Sydney Water, IPART, 23 September 2015.

<sup>7</sup> Letter to The Hills Shire Council, IPART, 23 September 2015.

<sup>8</sup> WIC Act, section 9(1)(c).

<sup>9</sup> Letter from the Minister for Lands and Water, 19 May 2015.

<sup>10</sup> Letter from NSW Health, 3 November 2015.

<sup>11</sup> Letter from NSW Environment Protection Authority, 19 October 2015.

<sup>12</sup> Letter from Sydney Water, 14 October 2015.

<sup>13</sup> Letter from The Hills Shire Council, 28 October 2015.

NSW Health supported Flow Systems' licence application.<sup>14</sup> NSW Health requested that it is consulted before retail supply commences to ensure all relevant public health matters have been considered. Further, NSW Health requests that Flow Systems adapt its generic Incident Notification Protocol to include contact details of all stakeholders involved in the Box Hill North scheme. NSW Health did not request any specific licence conditions. NSW Health's requests are related to Flow Systems' capacity to carry out activities in a manner that does not present a risk to public health and this is discussed further in section 4.3.

Sydney Water raised a number of issues relevant to our assessment of a retail supplier's licence application under the WIC Act. These included monopoly supply, competition, and financial implications for customers. Sydney Water disputes Flow Systems' assertion that it is not a monopoly supplier for retail services. We consider this matter in section 4.9. Sydney Water raises concerns regarding competition and the potential for adverse financial application for customers. We consider these matters in sections 4.7.5, 4.7.9 and 4.9.

The submissions from the Minister for Lands and Water<sup>15</sup>, NSW Environmental Protection Authority<sup>16</sup>, and The Hills Shire Council<sup>17</sup> are limited to issues relating to the application by Flow Systems Operations for a network operator's licence and do not raise any concerns regarding Flow Systems' application for a retail supplier's licence.

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

- ▼ O'Connor Marsden & Associates Pty Ltd (OCM) to inform our financial assessment (see section 4.2.2), and
- ▼ Insurance & Care NSW Self Insurance (icare self insurance) (previously NSW Self Insurance Corporation) to inform our assessment of appropriate insurance arrangements (see section 4.4).

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<sup>14</sup> Letter from NSW Health, 3 November 2015.

<sup>15</sup> Letter from the Minister for Lands and Water, 19 May 2015.

<sup>16</sup> Letter from NSW Environment Protection Authority, 19 October 2015.

<sup>17</sup> Letter from The Hills Shire Council, 28 October 2015.

## 4 Assessment of application

These sections of the report contain our assessment of Flow Systems' licence application and our recommendations. Our assessment considers each of the following requirements of the WIC Act:

- ▼ A licence must not be granted to:
  - a) a disqualified corporation, or
  - b) a corporation that is a related entity of a relevant<sup>18</sup> disqualified corporation.
- ▼ A licence may not be granted unless the Minister is satisfied as to each of the following:
  - that the applicant has, and will continue to have, the capacity (including technical, financial and organisational capacity) to carry out the activities that the licence (if granted) would authorise
  - that the applicant has the capacity to carry out those activities in a manner that does not present a risk to public health
  - that the applicant has made, and will continue to maintain, appropriate arrangements with respect to insurance
  - in the case of an application for a licence to supply water, that, if such a licence is granted, sufficient quantities of the water supplied by the licensee will have been obtained otherwise than from a public water utility
  - that the applicant has the capacity to carry out the activities that the licence (if granted) would authorise in a manner that does not present a significant risk of harm to the environment, and
  - such other matters as the Minister considers relevant, having regard to the public interest.<sup>19</sup>
- ▼ In considering whether or not a licence is to be granted, and what conditions are to be imposed on such a licence, regard is to be had to the following principles:
  - the protection of public health, the environment, public safety and consumers generally
  - the encouragement of competition in the supply of water and the provision of sewerage services
  - the ensuring of sustainability of water resources
  - the promotion of production and use of recycled water
  - the promotion of policies set out in any prescribed water policy document
  - the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence, and

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<sup>18</sup> Where the disqualified corporation would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise if granted. WIC Act, section 10(3)(b).

<sup>19</sup> WIC Act, sections 10(3) and (4), and WIC Regulation, [clause 7 (for NOL)/clause 11 (for RSL)].

- the promotion of the equitable sharing among participants in the drinking water market of the costs of water industry infrastructure that significantly contributes to water security.<sup>20</sup>

#### 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 relevant<sup>21</sup> disqualified corporation.**

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

- ▼ A statutory declaration signed by Flow Systems' Managing Director and Director 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
  - relevant related entities,<sup>22</sup> and
  - names of the Chief Financial Officer and Managing Director/Chief Executive Officer for Flow Systems and each of Flow Systems' relevant related entities.
- ▼ Results of ASIC and Dun & Bradstreet reports that we have obtained for Flow Systems, and for the 11 relevant related entities, confirmed that these companies are not disqualified nor are their directors or persons concerned in the management disqualified individuals.<sup>23</sup>
- ▼ Results of our search of the WIC Act licence database,<sup>24</sup> confirming in part the above.

<sup>20</sup> WIC Act, section 7.

<sup>21</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).

<sup>22</sup> Flow Systems identified the following relevant related entities: BPIH Pty Limited ACN 100364234, Enwave Australia Pty Limited ACN 133427022, Brookfield Water Holdings Pty Limited ACN 162523533, Huntlee Water Pty Limited ACN 167418608, Central Park Water Pty Limited ACN 151072838, Discovery Point Water Pty Limited ACN 142392541, Green Square Water Pty Limited ACN 163432906, Pitt Town Water Pty Limited ACN 141705660, Wyee Water Pty Limited ACN 160953775, Cooranbong Water Pty Limited ACN 169450453 and Flow Systems Operations Pty Ltd ACN 603106305.

<sup>23</sup> The relevant searches were completed on 15 March 2016.

<sup>24</sup> There are currently no disqualified corporations or individuals on the register pursuant to the WIC Act, sections 16(e) and 16(f).

## 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 non-potable and sewerage services at the Box Hill North development.

Flow Systems is already licensed to provide similar services to other schemes under its retail supplier's licence.<sup>25</sup>

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

### 4.2.1 Technical capacity

**We are satisfied that Flow Systems has the technical capacity to supply non-potable water and provide sewerage services to its customers at the Box Hill North development.**

Our analysis included a review of Flow Systems':

- ▼ Retail Supply Management Plan<sup>26</sup> (RSMP) which addresses the retailing of non-potable water and the provision of sewerage services.
- ▼ Customer Contract<sup>27</sup>, which provides the terms under which Flow Systems would supply 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 non-potable water and sewerage assets owned by Flow Systems.
- ▼ Technical performance in preparing and implementing required retail systems and procedures at three existing operational schemes, Pitt Town, Central Park, and Discovery Point. Flow Systems proposes to use the same systems, procedures and resources to supply its intended customers.<sup>28</sup>

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<sup>25</sup> Central Park, Discovery Point, Wyee, Cooranbong and Huntlee (drinking water and non-potable water supply, and sewerage services), Pitt Town (non-potable water supply and sewerage services) and Green Square (non-potable water supply).

<sup>26</sup> Flow Systems Retail Supply Management Plan, Revision 3, 19 June 2015.

<sup>27</sup> Flow Systems Customer Contract, revision dated 30 October 2015.

<sup>28</sup> We note that the RSMP and the various Codes listed above are now standard documents applied across all of Flow Systems schemes.

- ▼ 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 at the Box Hill North development:

- ▼ **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' RSMP also addresses complaint handling and refers back to the Customer Contract.
- ▼ **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' RSMP includes 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' RSMP also addresses 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' 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 non-potable water supply and sewerage services. The Customer Contract includes information on non-potable water quality, pressure and flow rate; and sewage discharge rate and overflows. The Customer Contract states that Flow Systems must source non-potable water which complies with *Australian Guidelines for Water Recycling: Managing Health and Environmental Risks 2006 (Australian Guidelines for Water Recycling 2006)*. The Customer Contract sets out provisions for customers with health or special needs.
- ▼ **Continuity of service:** Flow Systems' RSMP addresses the continuity of service during interruption due to incidents or operational problems, including: interruptions to sewage service; interruptions to non-potable water supply; and disruptions to the customer centre. Flow Systems' RSMP 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:** Flows Systems' RSMP addresses 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:** Flows Systems' RSMP addresses marketing to customers by outlining its commitment to following the Marketing Code of Conduct as set out in the WIC Regulation.

We also considered Flow Systems' preliminary risk assessment for the retail services to be provided at the Box Hill North development. The 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 would result in reduced residual risks.

We received no submissions regarding Flow Systems' technical capacity with regards to its application for a retail supplier's licence variation.

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



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 **Appendix A**).

#### **4.2.2 Financial capacity**

**We are satisfied that Flow Systems has the financial capacity to supply non-potable water and provide sewerage services to its customers at the Box Hill North development.**

In making our assessment of Flow Systems' financial capacity we have considered the following information:

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

We engaged an independent financial consultant, O'Connor Marsden & Associates Pty Ltd (OCM), to assess the financial capacity of Flow Systems and the viability of the scheme. At the same time OCM assessed the financial capacity of Flow Systems Operations in relation to its application for a network operator's licence for the Box Hill North scheme.

OCM reported that Flow Systems has a medium risk rating.<sup>29</sup> OCM's assessment found that Flow Systems has the financial capacity to undertake the proposed project. OCM noted that the on-going financial capacity will be monitored through self-assessment and reporting requirements under the licence.

Regarding the financial viability of the project, OCM considered the scheme to be financially viable and have a low risk rating.<sup>30</sup> OCM recommended that IPART review the scheme's rolling cash flow projects during the life of the project as part of standard good financial governance.

OCM considers that Flow Systems does not require any special licence conditions relating to financial capacity. We support the assessment made by OCM.

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<sup>29</sup> O'Connor Marsden, *Forensic Accountant's Report in the matter of Water Industry Competition Act Financial Assessment, Flow Systems Operations Pty Ltd, Box Hill North Scheme*, 11 February 2016, p 1.

<sup>30</sup> O'Connor Marsden, *Forensic Accountant's Report in the matter of Water Industry Competition Act Financial Assessment, Flow Systems Operations Pty Ltd, Box Hill North Scheme*, 11 February 2016, p 1.

We would like to emphasise that our financial assessment represents the applicant's financial capacity at a point in time. Our recommendation to grant Flow Systems 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 received no submissions regarding Flow Systems' financial capacity with regards to its application for a retail supplier's licence variation.

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 non-potable water and provide sewerage services to customers at the Box Hill North development.**

Flow Systems demonstrated its organisational capacity to provide retail services at the Box Hill North 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, and
- ▼ outlining the experience of the personnel currently in the Executive Manager Retail and Customer Experience Leader roles, which matched that of the role descriptions.

We received no submissions regarding Flow Systems' organisational capacity with regards to its application for a retail supplier's licence variation.

We consider that the information submitted by Flow Systems demonstrates that it has the organisational capacity to supply non-potable water and sewerage services to the Box Hill North development.

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 non-potable water and provide sewerage services to customers at the Box Hill North development in a manner that does not present a risk to public health.**

We assessed Flow Systems' capacity to manage the following key risks to public health, posed by supplying non-potable water and sewerage services to the Box Hill North development:

- ▼ **Source water quality:** Flow Systems has demonstrated its capacity to source water of an appropriate quality to meet its customers' needs at the Box Hill North development. Flow Systems will source all of its non-potable water from Flow Systems Operations. We reviewed Flow Systems' application, the Box Hill North RSMP and Customer Contract. These documents state that non-potable water quality will be consistent with the *Australian Guidelines for Water Recycling 2006*. Flow Systems has demonstrated its capacity to meet the requirements of these Guidelines with its existing licences. Drinking water, supplied by Sydney Water to Flow Systems as a lessee of the developer Celestino, provides a top-up supply to the non-potable supply system. Flow Systems also has a water quality complaints procedure that includes a 24-hour emergency incident number for water quality incidents and concerns. The procedure includes notification of the network operator (ie, Flow Systems Operations, if its network operator's licence for the Box Hill North scheme is granted).
- ▼ **Customer exposure through end use:** Flow Systems will supply non-potable water to customers at the Box Hill North development. 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, and is available online for the Box Hill North scheme.<sup>31</sup> 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.

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<sup>31</sup> Flow Systems 2016, 'In your home', Available: [www.boxhillwater.com.au/about-your-water/recycled-water-in-your-home](http://www.boxhillwater.com.au/about-your-water/recycled-water-in-your-home) (online, accessed 13 March 2016).

- ▼ **Water supply interruption:** Interruptions in supply of non-potable water 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, by outlining the control measures and mitigation strategies for supply interruptions. The Flow Systems RSMP 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.
- ▼ **Sewerage service interruption:** 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 has indicated that should an interruption to sewerage services occur, sewage would be removed by tankers for small scale interruptions. In larger interruptions, there will be storage within the flow balance tank at the Local Water Centre, duty/standby on all treatment trains and critical control points, a tankering company on emergency callout contract and skilled operators to manage the situation. It will also investigate feasibility of a mobile treatment facility and designing the Local Water Centre to easily plumb to it in case of emergency. However, we consider this would also be the responsibility of the network operator.

NSW Health supports the applications to vary Flow Systems' licence for the Box Hill North development. It identified a few health related issues regarding specific items in the preliminary risk assessment. Flow Systems has since updated its risk assessment to address those concerns.

We consider that the information submitted by Flow Systems demonstrates that it has the capacity to supply non-potable water and sewerage services in a manner that does not present a risk to public health.

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 insurance arrangements.**

In making our assessment of Flow Systems' 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.
- ▼ 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 advice from the Insurance and Care NSW, trading as icare self insurance (previously NSW Self Insurance Corporation) on the appropriateness of Flow Systems' insurance arrangements, with respect to the activities to be licensed.

icare self insurance considered 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.<sup>32</sup>

We received no submissions regarding Flow Systems' insurance arrangements.

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

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 application to vary the retail supplier's licence.

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<sup>32</sup> Email to IPART, icare self insurance, Mr Wayne Chandler, Insurance and Reinsurance Strategy Manager, 7 March 2016.

In our view, this criterion is not restricted to the water sources that are the subject of a particular variation application, such as the Box Hill North development, but rather all of the water sources used, or to 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, Cooranbong Water, Huntlee Water and Green Square Water, none of which are public water utilities. With this variation application, Flow Systems intends to source non-potable water from Flow Systems Operations, which is also not a public water utility.

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 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 non-potable water and provision of sewerage services to the Box Hill North 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 provide sufficient storage in its system, appropriately design reticulation systems, and implement maintenance regimes to minimise non-potable water supply interruption.
- ▼ **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 Licensing principles**

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 granted, and if so, what conditions to impose.

### **4.7.1 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 Box Hill North 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 application to vary Flow Systems' licence for the Box Hill North development.<sup>33</sup> It identified a few health related issues regarding specific items in the preliminary risk assessment. Flow Systems has since updated its risk assessment to address those concerns. NSW Health requested that it is consulted before retail supply commences to ensure all relevant public health matters have been considered. Further, NSW Health requested that Flow Systems adapt its generic Incident Notification Protocol to include contact details of all stakeholders involved in the Box Hill North scheme.

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

### **4.7.2 Protection of the environment**

We have had regard to protection of the environment through our assessment of Flow Systems' capacity to supply water and provide sewerage services to customers at the Box Hill North 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.

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

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<sup>33</sup> Letter from NSW Health, 3 November 2015.

#### **4.7.3 Protection of public safety**

We have had regard to the protection of public safety through our assessment of Flow Systems' technical capacity to supply non-potable water and 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 grants this licence variation, we consider that public safety will continue to be protected in relation to the activities licensed.

#### **4.7.4 Protection of consumers generally**

We have had regard to the protection of consumers through our assessment of Flow Systems' technical capacity to supply non-potable water and 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 RSMP, Customer Contract and other policies.

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

#### **4.7.5 Encouragement of competition**

Historically, Sydney Water has provided monopoly sewerage services in the Sydney region. Sydney Water also supplies non-potable water to residents of the north-western region of Sydney in Rouse Hill, near the Box Hill North development. This licence would enable a new entity to supply non-potable water and provide sewerage services to the Box Hill North development, thus encouraging competition in the provision of these and other services. This is consistent with the long title of the WIC Act.

#### **4.7.6 Ensuring sustainability of water resources**

Flow Systems will supply non-potable water to its customers at the Box Hill North development. The non-potable water will be sourced from sewage which would otherwise be treated and discharged to the environment. The supply of non-potable water also replaces the use of drinking water for toilet flushing, cold water clothes washing, irrigation, water features and dust suppression, contributing to the sustainability of water resources from where the drinking water is sourced.



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

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

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

The Metropolitan Water Plan (MWP) is the only prescribed water policy document in the *Water Industry Competition (General) Regulation 2008*. The MWP outlines strategies to secure greater Sydney's water supply now and in the future.

The increased water recycling is consistent with the key initiatives of the MWP, including in relation to water recycling, water efficiency and innovation.<sup>34</sup>

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

We have had regard to the potential for adverse financial implications for small retail customers through our assessment of Flow Systems' technical capacity to supply water and provide sewerage services to its customers.

As outlined in section 4.2.1, we assessed Flow Systems' capacity to manage financial hardship. Further, in its application, Flow Systems has indicated in its application that it has a price parity policy with the local incumbent water utility. This means the prices Flow Systems charges for the provision of sewerage services for the Box Hill North development will match those of Sydney Water. It has also indicated that its non-potable water prices to its customers will be less than the residential drinking water prices charged by Sydney Water.

We note, on its scheme specific Box Hill North website, Flow Systems lists residential building charges and miscellaneous charges (eg, building, development and extension applications, late payment fee, reconnection fees, etc.)<sup>35</sup> We consider these charges to be reasonable.

Flow Systems offers eligible concession holders in the Box Hill North development, the mandatory concession of \$87.50 per annum on sewerage service charges and free non-potable water for up to 250 kL per annum.

In Sydney Water's submission, it raised concerns regarding Flow System's charges. This is discussed in section 4.9.

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<sup>34</sup> NSW Office of Water, *2010 Metropolitan Water Plan*, August 2010, p 27.

<sup>35</sup> Flow Systems, Residential Price Fact Sheet Box Hill Water 1 July 2015 – 30 June 2015, Available: [http://flowsystems.com.au/governance/Box\\_Hill/Box\\_Hill\\_Residential\\_Service\\_Usage\\_Pricing.pdf](http://flowsystems.com.au/governance/Box_Hill/Box_Hill_Residential_Service_Usage_Pricing.pdf) (Accessed 16 March 2016).

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

Flow Systems (as a lessee of the developer Celestino) will source drinking water, as a back-up supply to non-potable water if required, from Sydney Water at the regulated 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.

#### **4.8 Public interest considerations**

**We did not identify any additional matters with regard to public interest in relation to Flow Systems supplying non-potable water and sewerage services to customers at the Box Hill North development.**

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

#### **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 non-potable water and provision of sewerage services to the Box Hill North development.**

**Should the Minister declare any monopoly services at the Box Hill North development, we recommend that the Minister does not refer 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.<sup>36</sup>

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<sup>36</sup> WIC Act, section 51.

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>37</sup>

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

- ▼ for which there are no other suppliers to provide competition in the part of the market concerned
- ▼ for which there is no contestable market by potential suppliers in the short term in that part of the market, and
- ▼ 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.<sup>38</sup>

We have considered the market for each of the services within the Box Hill North development (the specified area) for all classes of customer.

Sydney Water, in its submission<sup>39</sup>, states that the WIC Act promotes competition for the market rather than in the market, and that it considers the retail services provided by Flow Systems will be monopoly services.

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 Box Hill North development.

Flow Systems has indicated in its application that it has a price parity policy with the local incumbent water utility. This means the prices Flow Systems charges for the provision of sewerage services for the Box Hill North development will match those of Sydney Water. It has also indicated that its non-potable water prices to its customers will be less than the residential drinking water prices charged by Sydney Water.

Sydney Water, in its submission<sup>40</sup>, raised concerns regarding the charges proposed by Flow Systems. The evidence provided was a sample customer bill comparison between customers supplied with drinking water and sewerage services by Sydney Water in its area of operations, compared with Flow Systems' customers within the Box Hill North development. Flow Systems will provide non-potable water and sewerage services to its customers, those customers will also be customers of Sydney Water for drinking water supply.

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<sup>37</sup> Determination of the pricing and/or periodic review of the pricing policies. WIC Act, section 52(1).

<sup>38</sup> WIC Act, section 51(2).

<sup>39</sup> Letter from Sydney Water, 21 October 2015.

<sup>40</sup> Letter from Sydney Water, 21 October 2015.

In the sample bill comparison, Sydney Water notes the potential for customers in the Box Hill North development to pay slightly more than customers serviced by Sydney Water (less than 1% more than a typical total yearly bill from Sydney Water). However, we note that Flow Systems, by supplying non-potable water, is providing a different service offering at the Box Hill North development than Sydney Water. We consider that Flow Systems' proposed prices for the Box Hill development are reasonable when compared to Sydney Water and considering the services offered.

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 **Appendix A**) has been amended with some minor editing to reflect these changes.

Further, Schedule C of the licence lists the schemes that are covered by the Flow Systems retail supplier's licence. Since the last licence variation was granted by the Minister, two more network operator's licences have been granted by the Minister. We have updated Schedule C to refer to those licences rather than individually listing scheme specific information.

## **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, and**
- ▼ **does not declare Flow Systems to be a monopoly supplier in relation to the supply of non-potable water and sewerage services to the Box Hill North development.**

**Should the Minister declare any monopoly services at the Box Hill North development, we recommend that the Minister does not refer 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.<sup>41</sup>

The Minister is required to provide us with a notice of the decision and reasons for the decision to either grant, or not grant the licence variation <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*

**RETAIL SUPPLIER'S LICENCE**  
**Licence no. 13\_001R**

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

## LICENCE SCOPE

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

#### S1 Activities authorised – non-potable water supply

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

- a) by means of the water industry infrastructure specified in Table 1.2;
- b) for one or more of the authorised purposes specified in Table 1.3;
- c) to the persons or classes of persons specified in Table 1.4; and
- d) within the area of operations specified in Table 1.5, subject to the conditions imposed by or under the Act, the Regulation and Schedules A and B of this Licence.

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#### **Table 1.1 Authorised persons**

*[Not applicable]*

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#### **Table 1.2 Water industry infrastructure**

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

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#### **Table 1.3 Authorised purposes**

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

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#### **Table 1.4 Persons or classes of persons**

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

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#### **Table 1.5 Area of operations**

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

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#### S2 Activities authorised – drinking water supply

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

- a) by means of the water industry infrastructure specified in Table 2.2;
- b) for one or more of the authorised purposes specified in Table 2.3;
- c) to the persons or classes of persons specified in Table 2.4; and
- d) within the area of operations specified in Table 2.5,

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

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**Table 2.1      Authorised persons**

*[Not applicable]*

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**Table 2.2      Water industry infrastructure**

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

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**Table 2.3      Authorised purposes**

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

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**Table 2.4      Persons or classes of persons**

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

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**Table 2.5      Area of operations**

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

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**S3      Activities authorised – sewerage services**

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

- a) by means of the water industry infrastructure specified in Table 3.2;
- b) for one or more of the authorised purposes specified in Table 3.3;
- c) to the persons or classes of persons specified in Table 3.4;
- d) within the area of operations specified in Table 3.5,  
subject to the conditions imposed by or under the Act, the Regulation and Schedules A and B of this Licence.

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**Table 3.1      Authorised persons**

*[Not applicable]*

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**Table 3.2      Water industry infrastructure**

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

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**Table 3.3      Authorised purposes**

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

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**Table 3.4      Persons or classes of persons**

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

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**Table 3.5      Area of operations**

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

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## **SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR FLOW SYSTEMS PTY LTD RETAIL SUPPLIER’S LICENCE**

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

- A1 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.

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

- A. 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;
- B. who is responsible for water quality;
- C. who is liable in the event of the unavailability of water;
- D. who is liable in the event of failure of the Specified Water Industry Infrastructure;
- E. the fees and charges payable in respect of the use of the Specified Water Industry Infrastructure; and
- F. 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.

## SCHEDULE C – RELEVANT SCHEME DETAILS

**Table C.1 Non-potable water supply**

<b>Scheme</b>	<b>Water industry infrastructure</b>	<b>Authorised purposes</b>	<b>Area of operations</b>
Central Park Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Central Park Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Central Park Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Central Park Water Network Operator's Licence.
Pitt Town Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Pitt Town Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Pitt Town Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Pitt Town Water Network Operator's Licence.
Discovery Point Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Discovery Point Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Discovery Point Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Discovery Point Water Network Operator's Licence.
Wye Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Wye Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Wye Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Wye Water Network Operator's Licence.
North Cooranbong Scheme	The water industry infrastructure specified in Schedule A, Tables 1.2A and 1.2B of the Cooranbong Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Cooranbong Water Network Operator's Licence.	The area of operations specified in Schedule A, Tables 1.4A and 1.4B of the Cooranbong Water Network Operator's Licence.
Huntlee Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Huntlee Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Huntlee Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Huntlee Water Network Operator's Licence.
Green Square Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Green Square Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Green Square Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Green Square Water Network Operator's Licence.

Box Hill North 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 is to be supplied.	<p>a) South-eastern corner of Lot 10 of DP 593517 on Red Gables Road, Box Hill North, identified as proposed Lot 1 on the map at Attachment A to this Licence.</p> <p>b) Land situated under the following folio identifiers:</p>																																																																																
			<table border="1"> <thead> <tr> <th data-bbox="1107 533 1269 575">Lot</th> <th data-bbox="1269 533 1421 575">DP</th> </tr> </thead> <tbody> <tr><td>1</td><td>253552</td></tr> <tr><td>2</td><td>253552</td></tr> <tr><td>3</td><td>253552</td></tr> <tr><td>4</td><td>253552</td></tr> <tr><td>15</td><td>255616</td></tr> <tr><td>16</td><td>255616</td></tr> <tr><td>17</td><td>255616</td></tr> <tr><td>18</td><td>255616</td></tr> <tr><td>21</td><td>255616</td></tr> <tr><td>22</td><td>255616</td></tr> <tr><td>23</td><td>255616</td></tr> <tr><td>24</td><td>255616</td></tr> <tr><td>25</td><td>255616</td></tr> <tr><td>26</td><td>255616</td></tr> <tr><td>27</td><td>255616</td></tr> <tr><td>28</td><td>255616</td></tr> <tr><td>29</td><td>255616</td></tr> <tr><td>30</td><td>255616</td></tr> <tr><td>31</td><td>255616</td></tr> <tr><td>40</td><td>255616</td></tr> <tr><td>41</td><td>255616</td></tr> <tr><td>43</td><td>255616</td></tr> <tr><td>44</td><td>255616</td></tr> <tr><td>45</td><td>255616</td></tr> <tr><td>46</td><td>255616</td></tr> <tr><td>47</td><td>255616</td></tr> <tr><td>10</td><td>593517</td></tr> <tr><td>9</td><td>593517</td></tr> <tr><td>1</td><td>207750</td></tr> <tr><td>1</td><td>11126</td></tr> <tr><td>2</td><td>11126</td></tr> <tr><td>3</td><td>11126</td></tr> <tr><td>4A &amp; AB</td><td>135304</td></tr> <tr><td>5</td><td>658286</td></tr> <tr><td>1</td><td>564211</td></tr> <tr><td>1</td><td>567785</td></tr> <tr><td>1</td><td>782360</td></tr> <tr><td>Part 1 of 1</td><td>329953</td></tr> <tr><td>7</td><td>39157</td></tr> </tbody> </table>	Lot	DP	1	253552	2	253552	3	253552	4	253552	15	255616	16	255616	17	255616	18	255616	21	255616	22	255616	23	255616	24	255616	25	255616	26	255616	27	255616	28	255616	29	255616	30	255616	31	255616	40	255616	41	255616	43	255616	44	255616	45	255616	46	255616	47	255616	10	593517	9	593517	1	207750	1	11126	2	11126	3	11126	4A & AB	135304	5	658286	1	564211	1	567785	1	782360	Part 1 of 1	329953	7	39157
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**Table C.2 Drinking water supply**

<b>Scheme</b>	<b>Water industry infrastructure</b>	<b>Authorised purposes</b>	<b>Area of operations</b>
Central Park Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Central Park Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Central Park Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Central Park Water Network Operator's Licence.
Discovery Point Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Discovery Point Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Discovery Point Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Discovery Point Water Network Operator's Licence.
Wye Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Wye Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Wye Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Wye Water Network Operator's Licence.
North Cooranbong Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Cooranbong Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Cooranbong Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Cooranbong Water Network Operator's Licence.
Huntlee Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Huntlee Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Huntlee Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Huntlee Water Network Operator's Licence.

**Table C.3 Provision of sewerage services**

<b>Scheme</b>	<b>Water industry infrastructure</b>	<b>Authorised purposes</b>	<b>Area of operations</b>	
Central Park Scheme	The water industry infrastructure specified in Schedule A, Table 1.2 of the Central Park Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 1.3 of the Central Park Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 1.4 of the Central Park Water Network Operator's Licence.	
Pitt Town Scheme	The water industry infrastructure specified in Schedule A, Table 2.2 of the Pitt Town Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 2.3 of the Pitt Town Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 2.4 of the Pitt Town Water Network Operator's Licence.	
Discovery Point Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Discovery Point Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Discovery Point Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Discovery Point Water Network Operator's Licence.	
Wyee Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Wyee Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Wyee Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Wyee Network Operator's Licence.	
North Cooranbong Scheme	The water industry infrastructure specified in Schedule A, Tables 3.2A and 3.2B of the Cooranbong Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Tables 3.3A and 3.3B of the Cooranbong Water Network Operator's Licence.	The area of operations specified in Schedule A, Tables 3.4A and 3.4B of the Cooranbong Water Network Operator's Licence.	
Huntlee Scheme	The water industry infrastructure specified in Schedule A, Table 3.2 of the Huntlee Water Network Operator's Licence.	The authorised purposes specified in Schedule A, Table 3.3 of the Huntlee Water Network Operator's Licence.	The area of operations specified in Schedule A, Table 3.4 of the Huntlee Water Network Operator's Licence.	
Box Hill North Scheme	Water industry infrastructure authorised for the provision of sewerage services.	The authorised purposes specified in the licence for the water industry infrastructure by which the sewerage services are to be provided.	a) South-eastern corner of Lot 10 of DP 593517 on Red Gables Road, Box Hill North, identified as proposed Lot 1 on the map at Attachment A to this Licence.	
			b) Land situated under the following folio identifiers:	
			<b>Lot</b>	<b>DP</b>
			1	253552
			2	253552
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			41	255616
			43	255616
			44	255616
			45	255616
			46	255616
			47	255616
			10	593517
			9	593517
			1	207750
			1	11126
			2	11126
			3	11126
			4A & AB	135304
			5	658286
			1	564211
			1	567785
			1	782360
			Part 1 of 1	329953
			7	39157



## 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>
Authorised Purposes	means the authorised purposes specified in, as applicable: <ul style="list-style-type: none"><li>a) clause S1, Table 1.3;</li><li>b) clause S2, Table 2.3; and</li><li>c) clause S3, Table 3.3.</li></ul>
Central Park Water 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).
Cooranbong Water Network Operator’s Licence	means network operator’s licence no. 15_033 granted to Cooranbong Water Pty Ltd (ACN 169 450 453) (as varied by the Minister from time to time).

Discovery Point Water 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).
Green Square Water Network Operator's Licence	means network operator's licence no. 15_031 granted to Green Square Water Pty Ltd (ACN 163 432 906) (as varied by the Minister from time to time).
Huntlee Water 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).
Insurance Expert	means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001</i> (Cth) that authorises the broker to provide financial product advice for, and deal in, contracts of insurance within the meaning of Chapter 7 of that Act.
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> (NSW).
Licence	means this retail supplier's licence granted under section 10 of the Act.
Licensee	means Flow Systems Pty Ltd (ACN 136 272 298).
Licensee's Code of Conduct	has the meaning given in Schedule B, clause B9.1.
Minister	means the Minister responsible for Part 2 of the Act.
NSW Health	means the Water Unit of NSW Ministry of Health and any of the local health districts as defined by the NSW Ministry of Health.
Pitt Town Water 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).
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> (NSW).
Reporting Manual	means the document entitled "Retail Supplier's Reporting Manual," which is prepared by IPART and is available on IPART's website at <a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> .
Small Retail Customer	has the meaning given to that term in the Regulation.
Specified Area of Operations	means the area of operations specified in, as applicable: <ul style="list-style-type: none"> <li>a) Licence Scope, clause S1, Table 1.5;</li> <li>b) Licence Scope, clause S2, Table 2.5; and</li> <li>c) Licence Scope, clause S3, Table 3.5.</li> </ul>

Specified Water  
Industry  
Infrastructure

means the water industry infrastructure specified in, as applicable:

- a) Licence Scope, clause S1, Table 1.2;
- b) Licence Scope, clause S2, Table 2.2; and
- c) Licence Scope, clause S3, Table 3.2.

Wye Water  
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).

DRAFT

Attachment A

Drawing No	Revision	Date
997603/DA71	E	28 October 2015

DRAFT



THE HILLS SHIRE COUNCIL  
**APPROVED DEVELOPMENT PLAN**  
 DEVELOPMENT CONSENT NO.  
**1634/2015/ZB**

Please refer to conditions of Development Consent for the details of the required inspections and other matters which must be complied with.

ALL BATTERS ARE 1:4 UNLESS NOTED OTHERWISE

Surveyed By:  
**PROUST AND GARDNER PTY. LTD.**  
 LAND SURVEYORS  
 406 PACIFIC HWY, LINDFIELD, 2070  
 Ph. (02) 9416 1335  
 Surveyed On: 23/12/2014 File: 2014-12-23 14.59.29.dwg

**NOTE: PROPOSED LOT 1 IS SUBJECT TO FINAL SURVEY & AUTHORITY APPROVAL FOR LOCATION**

**LEGEND**  
 (E) POWERLINE EASEMENT  
 (D) DRAINAGE EASEMENT



DESCRIPTION	DATE	BY	FOR
ISSUE FOR DA APPROVAL	28/07/15	AM	RO
ISSUE FOR DA APPROVAL	04/08/15	AM	NW
ISSUE FOR DA APPROVAL	22/08/15	AM	MS
ISSUE FOR DA APPROVAL	22/08/15	AM	NS
ISSUE FOR DA APPROVAL	22/08/15	AM	SW
ISSUE FOR DA APPROVAL	22/08/15	AM	SE
ISSUE FOR DA APPROVAL	22/08/15	AM	NS
ISSUE FOR DA APPROVAL	22/08/15	AM	SW
ISSUE FOR DA APPROVAL	22/08/15	AM	SE
ISSUE FOR DA APPROVAL	22/08/15	AM	NS
ISSUE FOR DA APPROVAL	22/08/15	AM	SW
ISSUE FOR DA APPROVAL	22/08/15	AM	SE

**J. WYNNDHAM PRINCE**  
 CONSULTING CIVIL INFRASTRUCTURE ENGINEERS  
 & PROJECT MANAGERS  
 170 New Ash Green Way, Westfield, NSW 2150  
 P: 02 4703 3300 F: 02 4703 3300 W: www.jwprince.com.au E: jw@jwprince.com.au

CLIENT:  
**THE GABLES OF HILL CELESTINO**  
 170 New Ash Green Way, Westfield, NSW 2150  
 CONSTRUCTION NUMBER: 1634/2015/ZB  
 APPROVED CONSTRUCTION CERTIFICATE

ISSUED FOR DA APPROVAL  
 NOT FOR CONSTRUCTION

PLAN No:  
**997603/DA71 E**  
 FILE No: 997603/DA71  
 SHEET SIZE: A1 ORIGINAL

