

# **Assessment of Huntlee Water's application to vary its network operator's licence 15\_030**

**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](http://www.ipart.nsw.gov.au)

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# 1 Summary

**We recommend that the Minister grants a variation to the network operator's licence (licence number 15\_030) to Huntlee Water Pty Ltd (Huntlee Water), to authorise Huntlee Water to construct, operate and maintain drinking water, recycled water and sewage infrastructure to service all of the Huntlee Stage 1 development.**

On 1 May 2014, we received Huntlee Water's licence application for a network operator's licence for the Huntlee Stage 1 development. Huntlee Water requested that we consider its application in two separate phases to meet the planned development timeframe:<sup>1</sup>

- ▼ Phase 1 to allow it to construct, operate and maintain water industry infrastructure to supply drinking water to the first 180 lots of the Huntlee Stage 1 development scheme, in the Hunter Valley, New South Wales.
- ▼ Phase 2 to add the following works, and to increase the area of operation to include all of the Huntlee Stage 1 development as identified in the Part 3A approval for the 'Huntlee New Town development':<sup>2</sup>
  - Construct, operate and maintain a reticulation network for drinking water for the entire Huntlee Stage 1 development
  - Construct, operate and maintain the reticulation networks for recycled water and sewerage services, and
  - Construct, operate and maintain an interim sewage pump out scheme initially, and then a recycled water treatment plant to treat sewage and supply non-potable water to the development.

A network operator's licence was granted to Huntlee Water for Phase 1 of the application in March 2015 for drinking water only and limited to 180 lots (licence number 15\_030).

This application is for a variation to that licence, to licence all of the water infrastructure and services identified in Phase 2, to cover all of the 2,345 lots which form the Huntlee Stage 1 development.

Since the granting of the existing licence, the site of the proposed treatment plant has been rezoned to SP2 Infrastructure, allowing development without consent under *State Environment Planning Policy (Infrastructure) 2007* (ISEPP) by a person licensed under the *Water Industry Competition Act 2006* (WIC Act) in a prescribed zone.<sup>3</sup> In granting this WIC Act licence, the Minister is not a determining authority under Part 5 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). For this application, we have undertaken an environmental

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<sup>1</sup> Email to IPART, Mr Darren Wharton, Huntlee Water, 17 October 2014.

<sup>2</sup> Refer to the development approval MP10\_0137, granted under Part 3A of the *Environmental Planning and Assessment Act 1979*, which has now been repealed.

<sup>3</sup> *State Environment Planning Policy (Infrastructure) 2007*, clause 106.

assessment having regard to the environmental considerations under the WIC Act.<sup>4</sup>

We engaged an expert consultant to undertake a review of three environmental assessment reports pertaining to the proposed construction, operation and maintenance of water industry infrastructure. The consultants' assessment report concluded that the three environmental assessment (REF) reports and accompanying specialist studies were adequate for the proposed activities. Potential risks and appropriate mitigation measures were identified to ensure that the proposed works do not present a significant risk of harm to the environment.

Following our review, we are satisfied that Huntlee Water has met the licensing criteria under section 10(4)(a) to (e) of the WIC Act, having regard to the licence application, submissions made, and the licensing principles under section 7(1) of the WIC Act. We also recommend that the Minister vary some of the conditions imposed on, and impose new conditions on, the network operator's licence held by Huntlee Water (licence number 15\_030). Under the WIC Act, the Minister may vary existing licence conditions at his discretion or on the application of a licensee<sup>5</sup> and is to have regard to the principles set out in section 7(1) of the WIC Act.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the licence application. The Minister may, if circumstances so require, seek further advice from us in relation to the licence application.<sup>6</sup>

## 2 Background

Huntlee Stage 1 development is divided in 15 sub-stages and includes 2,070 dwellings, and five mixed use town centre sub-stages representing another 275 lots.<sup>7</sup> The development received Part 3A approval under the EP&A Act from the Planning Assessment Commission (PAC) in April 2013.

On 1 May 2014, we received Huntlee Water's licence application for a network operator's licence for the Huntlee Stage 1 development. Stakeholder consultation commenced on 1 July 2014 and concluded on 1 August 2014. In response to issues identified by stakeholders and through our assessment, Huntlee Water subsequently provided additional information.

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<sup>4</sup> WIC Act, s 7(1)(a), s 10(4)(e) and clause 7 of the *Water Industry Competition Regulation 2008* (WIC Regulation).

<sup>5</sup> WIC Act, section 15 and WIC Regulation, clause 14.

<sup>6</sup> WIC Act, section 10(2).

<sup>7</sup> Huntlee Water network licence application, 1 May 2014. Refer to the IPART website - [http://www.ipart.nsw.gov.au/Home/Industries/Water/Private\\_Sector\\_Licensing\\_WICA/Huntlee\\_Water\\_Pty\\_Ltd](http://www.ipart.nsw.gov.au/Home/Industries/Water/Private_Sector_Licensing_WICA/Huntlee_Water_Pty_Ltd)

On 20 November 2014 and 19 January 2015, Huntlee Water requested that the application be reduced to only providing drinking water infrastructure to the first 180 lots.<sup>8</sup> On 5 March 2015, Huntlee Water requested that the remaining licence application be assessed as a variation to service all of the Huntlee development Stage 1.<sup>9</sup>

The Part 3A approval included approval to build the reticulation network for drinking water and sewage, along with other utility services. However, it did not include approval for a recycled water treatment plant. A separate rezoning application was approved and gazetted in March 2015, to rezone the treatment plant site from B4 Mixed Use to SP2 Infrastructure which allows the construction and operation of a sewerage treatment facility. The rezoning also has the effect of making the clauses in Division 18 of *State Environmental Planning Policy (SEPP) 2007 (Infrastructure) (ISEPP)* relevant. Under clause 106 of ISEPP, the recycled water treatment plant can be built by a WIC Act licensee on land in a prescribed zone without consent. Consequently, we have undertaken an environmental assessment of the recycled water treatment plant and the recycled water reticulation network to complete requirements for assessing the application.

This report summarises our analysis, and provides reasons to support our recommendation to grant the variation to the licence.

### **Legislative requirements for considering variations to licence conditions**

We have considered Huntlee Water's application for a licence in two parts, the first part was considered in our previous report to the Minister (March 2015). The Huntlee Water was granted a network operator's licence to Huntlee Water in March 2015 for drinking water only and limited to 180 lots.

Under the WIC Act, the Minister may vary existing licence conditions at his/her motion or following an application by the licensee.<sup>10</sup>

Section 10(4)(a) to (e) of the WIC Act sets out matters that are relevant to the assessment of a variation to a licence. In considering whether or not to vary the licence, and what conditions (if any) to impose, the Minister must also have regard to the licensing principles as set out section 7(1) of the WIC Act<sup>11</sup> and may have regard to any other matters that the Minister considered relevant.<sup>12</sup> We have considered these matters, and the existing conditions of the licence in our assessment of Phase 2 of the Huntlee Water application. These matters have been addressed in our assessment of the Huntlee Water variation request and are provided in section 4 of this report.

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<sup>8</sup> Emails to IPART, Mr Darren Wharton, Huntlee Water, 20 November 2014 and 21 January 2015.

<sup>9</sup> Email to IPART, Mr Darren Wharton, Huntlee Water, 5 March 2015.

<sup>10</sup> WIC Act, section 15.

<sup>11</sup> WIC Regulation, clause 14(4).

<sup>12</sup> WIC Regulation, clause 14(5) and WIC Act, section 7(2).

## The applicant

Huntlee Water is a special-purpose utility, wholly owned by Flow Systems Pty Ltd (Flow Systems), and established for the Huntlee scheme. It has no employees and relies on the full support of Flow Systems to provide technical, financial and organisational capacity. Flow Systems is a privately owned company, held in majority ownership by Brookfield Infrastructure Partners. Flow Systems will be named on the network operator's licence as an Authorised Person.

Flow Systems currently owns at least nine subsidiary corporations, through which it constructs, operates, and maintains water industry networks under existing network operator's licences granted under the WIC Act. Through its subsidiaries, Flow Systems currently holds five network operator's licences, as outlined in Table 2.1. In addition, Flow Systems holds a retail supplier's licence (licence number 13\_001R).

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

<b>Subsidiary</b>	<b>Scheme</b>	<b>Network operator's licence</b>	<b>Licensed for</b>
Pitt Town Water	Pitt Town development, Pitt Town	10_014	Non-potable water Sewage treatment
Central Park Water	Central Park development, Sydney	12_022	Drinking water Non-potable water Sewage treatment
Discovery Point Water	Discovery Point development, Wollie Creek	13_025	Drinking water Non-potable water Sewage treatment
Wyee Water	Wyee residential development, Wyee, Lake Macquarie	14_026	Drinking water, Non-potable water, Sewage treatment
Huntlee Water	Huntlee residential development, North Rothbury, Hunter Valley	15_030	Drinking water supply only

## Existing licenced scheme

Huntlee Water was granted a network operator's licence on 3 March 2015 that permits the reticulation of drinking water to the first 180 lots of the Huntlee development.

On the request of the applicant, the remaining portions of its application were not assessed as part of the original licence application.



## Phase 2 of the licence application

The proposed additional works considered in Phase 2 of Huntlee Water's licence application involve the construction, operation and maintenance of a recycled water treatment plant, and reticulation networks for drinking water, recycled water and sewerage systems to service 2,345 lots, identified as the Huntlee Stage 1 development. An interim sewage pump out scheme is also proposed prior to the construction and operation of the recycled water treatment plant.

As previously discussed, our assessment requires a review of the environmental assessment reports for some of the additional works, in lieu of a development approval or the consent of a determining authority. Huntlee Water provided three separate Review of Environmental Factors (REF) reports for the activities being assessed (refer to section 4.6).

## 3 Consultation and submissions

Consultation was undertaken between 1 July 2014 and 1 August 2014 as part of the original licence application assessment process, which included all the proposed works for the Huntlee Stage 1 development, including a treatment plant, interim balance tanks for the sewage pump out scheme and reticulation systems.

We consider that there is no material change in the risk associated with the scheme given that the scope of work issued for public consultation has not changed. Further, the issues identified by stakeholders have been addressed by the applicant, resulting in the rezoning of the site.

NSW Health supported the application, and requested consultation:

- ▼ during the detailed risk assessment and technology assessment (if conducted)
- ▼ following the compliance audit and before retail supply commences, and
- ▼ during the development of the water quality management plans.<sup>13</sup>

We have guidelines and procedures in place to ensure NSW Health is consulted after the licence is granted and when the above tasks are undertaken.

The Department of Planning & Environment (DPE) had no objection to the application, provided all necessary approvals have been obtained.<sup>14</sup> In this regard, we note that drinking water and sewerage infrastructure will be constructed in accordance with the Part 3A approval under the EP&A Act. An issue raised by DPE regarded whether the construction of a recycled water

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<sup>13</sup> Letter to IPART, Dr Wayne Smith, NSW Health, 30 July 2014.

<sup>14</sup> Letter to IPART, Mr David Rowland, NSW Department of Planning & Environment (Hunter & Central Coast Region), 30 July 2014.

treatment plant was permitted in the land zoning. This resulted in a rezoning in March 2015, allowing the construction of the recycled water treatment plant.

The NSW Environment Protection Authority (EPA) has advised that Huntlee Water will require an environment protection licence (EPL) for the scheduled activity of 'sewage treatment' in accordance with the *Protection of the Environment Operations Act 1997*.<sup>15</sup> However, an EPL will not be required until the recycled water treatment plant capacity reaches the EPL licensing threshold (greater than 750 kL/day). We understand that the recycled water treatment plant's capacity will not reach the threshold for at least seven years.

The submission from the Minister for Lands and Water advised that stormwater captured by the detention basins may require a water access licence and water supply work approval. In addition, one of the permanent water bodies proposed for the development is proposed to be used for water quality control purposes.<sup>16</sup> These ponds may exceed current harvestable rights limits and therefore may also require a water access licence and water supply work approval. We have been advised by Huntlee Water that the use of these ponds will only be required if the recycled water plant requires additional volume. Huntlee Water will be required to liaise with DPI Water<sup>17</sup> if/when it decides to incorporate these ponds into the scheme. The ponds are not included in the application and if required would be subject to a further application to vary to the licence.

The submission from Cessnock City Council raised a number of issues which were relevant to our assessment of an application for a licence under the WIC Act. These included concerns regarding odour and noise, trade waste collection and disposal, the collection and disposal of recycled water, and the disposal of excess recycled water.<sup>18</sup> These issues are addressed below:

- ▼ Odour and noise - consultant's reports addressing odour and noise were included in the Review of Environmental Factors (REF) report submitted with the application, and assessed by an independent expert.
- ▼ Trade waste will be relatively small in volume and is to be managed by Huntlee Water with site specific trade waste licences, education and monitoring.
- ▼ Recycled water will not be produced until the recycled water treatment plant is constructed, and its operation progressively ramped up to treat the collected sewage. Any sewage produced up until this point in the Huntlee Stage 1 development will be collected and stored, and then tankered away for disposal to one of Hunter Water's sewage treatment plants.

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<sup>15</sup> Letter to IPART, Ms Carmen Dwyer, NSW Environment Protection Authority, 11 August 2014.

<sup>16</sup> Letter to IPART, the Hon Kevin Humphries MP, (at the time) the Minister for Natural Resources, Lands and Water, 28 July 2014.

<sup>17</sup> Previously the NSW Office of Water.

<sup>18</sup> Letter to IPART, Mr Scott Christie, Cessnock City Council, 13 August 2014.

- ▼ Excess recycled water will be used for dust suppression and to irrigate the later stages of the Stage 1 development. The discharge of excess recycled water to any waterway would require an EPL.

In addition to inviting submissions, we previously 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 (see section 4.4).

## 4 Assessment of application

This section of the report contains our assessment of Huntlee Water's licence variation 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 disqualified corporation.<sup>19</sup>
- ▼ A licence variation 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
  - in the case of an application for a network operator's licence, 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>20</sup>

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<sup>19</sup> WIC Act, section 10(3)(b).

<sup>20</sup> WIC Act, sections 10(3) and (4).

- ▼ In considering whether or not a licence variation 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
  - 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>21</sup>

#### 4.1 Disqualified corporation and related entity checks

**We consider that Huntlee Water is neither a disqualified corporation nor a corporation that is a related entity of a relevant<sup>22</sup> disqualified corporation.**

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

- ▼ A statutory declaration signed by two directors stating that:
  - neither Huntlee Water, nor any director or person concerned in the management of Huntlee Water is, or would be, a disqualified corporation or a disqualified individual within the meaning of the WIC Act, and
  - Huntlee Water 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 Huntlee Water regarding details of the:
  - trustees (past and current) of any trusts in relation to which Huntlee Water is a beneficiary
  - current beneficiaries of any trusts in relation to which Huntlee Water is a trustee
  - relevant related entities, and
  - names of the Chief Financial Officer and Chief Executive Officer for Huntlee Water and each of Huntlee Water's relevant related entities.

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<sup>21</sup> WIC Act, section 7.

<sup>22</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).

- ▼ Results of ASIC and Dun & Bradstreet reports that we have obtained for Huntlee Water, and for the eleven relevant related entities,<sup>23</sup> confirmed that these companies are not disqualified nor are their directors or persons concerned in the management disqualified individuals.
- ▼ Results of our search of the WIC Act licence database,<sup>24</sup> confirming in part the above.
- ▼ We undertook the disqualified corporation and related entity checks again as the last assessment was done over six months ago. We have confirmed that Huntlee Water currently meets this requirement.

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

Huntlee Water has applied for a variation to its existing network operator's licence to extend its operations to include the construction, operation and maintenance of the water industry infrastructure required to service the Huntlee Stage 1 development. The proposed works include the construction, operation and maintenance of a recycled water treatment plant, and reticulation networks for drinking water, non-potable water and sewerage services for 2,345 lots within the scheme boundaries. An interim sewage pump out scheme is also included as part of the proposal.

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

### 4.2.1 Technical capacity

**We are satisfied that Huntlee Water, supported by Flow Systems, has the technical capacity to construct, operate and maintain all the water industry infrastructure identified to service the Huntlee Stage 1 development.**

As mentioned previously, Huntlee Water relies on the full support of Flow Systems to provide technical capacity. Our analysis considered the following:

- ▼ Corporate Services Agreement (CSA) dated 23 February 2015, between Huntlee Water and Flow Systems. The CSA is a binding agreement for the provision of services by Flow Systems to Huntlee Water.

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<sup>23</sup> These companies are Flow Systems, Brookfield Water Holdings Pty Ltd, Brookfield Utilities (Australia) Pty Ltd and BPIH Pty Ltd.

<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).

- ▼ Reports, plans and procedures that Flow Systems<sup>25</sup> prepared for similar projects. These documents demonstrated their technical understanding of operation and maintenance of drinking water and recycled water reticulation networks, sewerage reticulation systems and recycled water treatment plants. Flow Systems operates Discovery Point Water Factory and Central Park Water, which both have drinking water, non-potable water and sewage infrastructure components. It also operates Pitt Town Water Factory, which manages recycled water and sewage infrastructure. Recycled water for these three existing schemes is for non-potable uses.
- ▼ The audit reports for the licence plan audits carried out for Pitt Town, Discovery Point and Central Park schemes, and the Pitt Town operational audit. The audit reports do not identify any significant non-compliances, which demonstrates Flow Systems' capacity to safely and reliably construct, operate and maintain infrastructure.
- ▼ Huntlee Water's preliminary risk assessment. This demonstrated technical capacity to understand and implement the *Australian Drinking Water Guidelines and Australian Guidelines for Water Recycling*.
- ▼ Huntlee Water's preliminary design of its potable, non-potable reticulation and sewerage networks, and treatment plant. The design demonstrates technical capacity to design, operate and maintain water industry infrastructure. Huntlee Water was able to provide a detailed breakdown of its peak and average water treatment and supply calculations, with the assumptions used in line with best practice in NSW.
- ▼ Flow Systems' previous technical experience (within Australia), which we assessed by reviewing schemes which are currently being operated by Flow Systems, including the Pitt Town, Discovery Point and Central Park schemes. We consider Flow Systems' previous technical experience is appropriate to provide sufficient technical capacity to Huntlee Water.
- ▼ Flow Systems' human resources capability, which we assessed from the position descriptions and professional experience of specific personnel nominated to the project in the application. We consider the personnel and positions nominated by Flow Systems are appropriate to provide technical capacity to Huntlee Water.

Huntlee Water (with Flow Systems as an Authorised Person) is responsible for design, operation and maintenance of all water industry infrastructure within the scheme, as well as construction of the recycled water treatment plant. The developer is responsible for construction and handover of the reticulation pipework to the applicant.

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<sup>25</sup> Flow Systems will be undertaking these activities on behalf of Huntlee Water.

Hunter Water advised that it supports the application, provided that negotiations concerning bulk water supply were resolved.<sup>26</sup> We understand Hunter Water is finalising a 'Utility Services Agreement' (USA) with Flow Systems, Huntlee Water and the developer. We understand that at this stage, Hunter Water has committed to supply enough water to fully service 250 lots.<sup>27</sup> We understand that augmentation of Hunter Water's infrastructure would be required to supply water to the full Huntlee Stage 1 development. Negotiations regarding funding of the future augmentation works are continuing between Hunter Water and the developer for the Huntlee Stage 1 development, with Flow Systems as a third party to the agreement. We consider that the funding for augmentation of Hunter Water's infrastructure is a commercial issue between Hunter Water and the developer rather than with Huntlee Water (the licence applicant). Therefore, this is not an issue that affects Huntlee Water's technical capacity.

We consider that Huntlee Water has the required technical capacity to have its licence varied to include all water industry infrastructure necessary for Stage 1 works at Huntlee, subject to Flow Systems being specified as an authorised person in the licence.

We recommend no change to Huntlee Water's licence conditions in this area. Flow Systems has been named as an Authorised Person in Table 1.1, 2.1 and 3.1 in Schedule A of the draft licence. Special condition A4.1 and the standard ministerially imposed conditions in Schedule B of the licence should continue to apply.

#### **4.2.2 Financial capacity**

**We are satisfied that Huntlee Water has the financial capacity to construct, operate and maintain water industry infrastructure identified to service the Huntlee Stage 1 development.**

We engaged an external financial consultant, Vincents Chartered Accountants (Vincents), to assess the financial capacity of the applicant. Since Huntlee Water is a newly formed subsidiary of Flow Systems, we asked Vincents to review both companies.

We provided the Deed of Guarantee and Indemnity (the Deed) and the CSA between Huntlee Water and Flow Systems to Vincents as part of its financial assessment. The Deed provides the financial guarantee for the subsidiary company, whilst the CSA provides the contractual arrangements between parent and subsidiary regarding the provision of services necessary to complete the works. The Deed has no cap on liability and no sunset date. Flow Systems will ensure that Huntlee Water will perform and observe the guaranteed obligations necessary to meet any claim during the term and, if required, Flow Systems will

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<sup>26</sup> Letter from Hunter Water, Mr Kim Wood, Hunter Water Corporation, 1 August 2014.

<sup>27</sup> Letter, Mr Brett Lewis, Hunter Water Corporation, 14 July 2015.

perform or observe any guaranteed obligation or otherwise procure its performance.

We are satisfied that the contractual agreements between parent and subsidiary were adequate to guarantee any and all liabilities incurred by Huntlee Water in carrying out its contractual obligations.

With regard to financial capacity, Vincents reported that Flow Systems have a low to medium risk of financial failure.<sup>28</sup> In terms of financial viability of the scheme, Vincents considered the scheme to be low risk. Vincents considered that the Deed was satisfactory to meet the operational financial requirements of the scheme.

Based on its assessment of Flow Systems and the scheme's cash flows, Vincents recommended approval for Huntlee Water to be licensed. In Vincents' opinion, Huntlee Water does not require any additional conditions to ensure they maintain their financial capacity.

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

We received no submission regarding Huntlee Water's financial capacity.

We consider the ongoing negotiations regarding funding of augmentation works to service the entire development are commercial considerations between the developer and Hunter Water rather than the WIC Act licence applicant, and therefore do not affect Flow Systems' financial position or the scheme's viability.

We consider that the information submitted by Huntlee Water demonstrates that it has the financial capacity to construct, operate and maintain sewerage infrastructure.

We recommend no change to Huntlee Water's current licence conditions in this area. Flow Systems has been named as an Authorised Person in Table 1.1, 2.1 and 3.1 in Schedule A of the draft licence. Special condition A4.1 and the standard ministerially imposed conditions in Schedule B of the licence should continue to apply.

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<sup>28</sup> Vincents Chartered Accountants. *Forensic Accountant's Report in the matter of Water Industry Competition Act Financial Capacity Review in respect of the applicants Flow Systems Pty Ltd and Huntlee Water Pty Ltd.*, 13 July 2015, p 6.



### 4.2.3 Organisational capacity

**We are satisfied that Huntlee Water has the organisational capacity to construct, operate and maintain water industry infrastructure identified to service the Huntlee Stage 1 development.**

Our analysis showed that, through its relationship with Flow Systems, Huntlee Water has demonstrated its organisational capacity to construct, operate and maintain water industry infrastructure at the Huntlee Stage 1 development by:

- ▼ providing evidence of its experience in providing similar services to other schemes, including Pitt Town, Central Park and Discovery Point
- ▼ having an appropriate organisational structure to manage its nominated third parties to deliver the proposed work based on their contractual arrangements and agreements
- ▼ outlining the experience of the personnel currently in the Managing Director, Chief Operating Officer, Executive Manager Project Delivery and Executive Manager Utility Operations roles, which matched that of the role descriptions
- ▼ having previous experience (within Australia) in the water industry and specific personnel nominated to the project, as shown by the CVs of its key personnel provided to us in its application form
- ▼ showing evidence of its capacity to negotiate utility service agreements with network operators, through its correspondence with Hunter Water, and
- ▼ having demonstrated that business risks have been identified and will be managed, through the risk assessment provided to us in its application form.

Huntlee Water relies on its parent company, Flow Systems, for business support. Under the CSA and the Deed, Flow Systems has agreed to provide organisational support (such as design, construction and project management services) to Huntlee Water.

We received no submission regarding Huntlee Water's organisational capacity.

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

We recommend no change to Huntlee Water's licence conditions in this area. Flow Systems has been named as an Authorised Person in Table 1.1, 2.1 and 3.1 in Schedule A of the draft licence. Special condition A4.1 and the standard ministerially imposed conditions in Schedule B of the licence should continue to apply.

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

**We are satisfied that Huntlee Water has the capacity to construct, operate and maintain water industry infrastructure identified to service the Huntlee Stage 1 development in a manner that does not present a risk to public health.**

We assessed Huntlee Water's capacity to manage the following key risks to public health, posed by constructing, operating and maintaining water industry infrastructure in the Huntlee Stage 1 development:

- ▼ **Source water quality:** Huntlee Water will source drinking water from Hunter Water. We understand that drinking water quality will be consistent with the *Australian Drinking Water Guidelines 2006*, and non-potable water would be consistent with the *Australian Guidelines for Water Recycling*.
- ▼ **Water supply interruption:** Interruptions in supply of drinking water or non-potable water could pose a risk to public health. Huntlee Water will establish a Utility Services Agreement with Hunter Water to define communication protocols, pressure monitoring and drinking water storage to minimise interruptions on supply of drinking water to final customers. Huntlee Water proposes to provide tankered or bottled drinking water if required in an emergency. We understand Hunter Water has committed to supplying potable water to fully service the first 250 lots of the development.<sup>29</sup>
- ▼ **Provide non-potable water quality fit for purpose:** Huntlee Water has demonstrated its capacity to treat and provide non-potable water to an appropriate quality level given proposed specific uses. We consider Huntlee Water's proposed sewage treatment and recycled water treatment systems to be robust and consistent with the requirements of the *Australian Guidelines for Water Recycling*.
- ▼ **Potential for inappropriate water use:** Huntlee Water proposes to supply non-potable water to Flow Systems, who will then retail to customers at the Huntlee Stage 1 development. This could present a risk to public health if customers do not use non-potable water for the appropriate purposes. Huntlee Water has indicated that customers will be provided with guidance on appropriate use of non-potable water by Flow Systems. We consider this is the responsibility of the retailer, and will be considering Flow Systems application for a variation to its retail supplier's licence to include the Huntlee Stage 1 development in the coming weeks.

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<sup>29</sup> Letter, Mr Brett Lewis, Hunter Water Corporation, 14 July 2015.

- ▼ **Potential for cross connections:** Huntlee Water has indicated technical controls to ensure the risks of cross connections are minimised. Such controls include lower pressure in the recycled water network relative to the drinking water distribution network, network pressure monitoring, colour coded and labelled pipes and marker tape in the recycled water distribution network. Further, Huntlee Water proposes to conduct quality assurance inspections to non-potable water connections prior to commercial operation and will follow a specific notification protocol in case of possible cross connection incidents. These measures are considered industry best-practice for minimising the risk of cross connections.
- ▼ **Sewerage service interruption:** Huntlee Water has demonstrated its capacity to mitigate this risk through its risk management assessment and sewerage plans. Huntlee Water has indicated that should an interruption to sewerage services occur, sewage would be diverted from the non-potable water facility direct via a by-pass to Hunter Water’s sewerage mains or removed by tankers.

We reviewed Huntlee Water’s preliminary risk assessment and we consider that Huntlee Water has demonstrated its capacity to identify and manage hazards and risks of the drinking water, recycled water and sewerage components of the proposed scheme, to acceptable levels of risk, and will have in place reasonable control and mitigation measures.

We have also considered NSW Health’s submission on Huntlee Water’s capacity to carry out activities that do not present a risk to public health. NSW Health supports the application to vary the licence subject to the applicant addressing a number of issues, including:<sup>30</sup>

- ▼ consultation with NSW Health during the risk assessments, at the Technology Assessment stage, and before commercial production commences, to ensure all relevant health matters have been addressed, and
- ▼ involvement by NSW Health in the development of the final management plans, including incident notification and management procedures.

We have processes and procedures in place to ensure NSW Health is consulted at the appropriate stages as required. The licensee must comply with any requirements of NSW Health that we have agreed to, and that we have notified the licensee about, in writing.

We recommend no change to Huntlee Water’s licence conditions in this area. The relevant licence conditions are B1, B4, B6, B8 in Schedule B of the current licence.

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<sup>30</sup> Letter to IPART, Dr Wayne Smith, NSW Health, 30 July 2014.

#### 4.4 Appropriate arrangements with respect to insurance

**We are satisfied that Huntlee Water has made, and will continue to maintain, appropriate insurance arrangements for the whole of the Huntlee Stage 1 development.**

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

- ▼ 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 including industrial special risks insurance and forefront portfolio insurance.

Our analysis showed that Huntlee Water has demonstrated sufficient insurance coverage in the area of professional indemnity, public liability, workers' compensation and product liability as shown in their insurance certificates in their licence application.

- ▼ A further assessment of the product disclosure statements for each insurance certificate, and the financial ratings of the various underwriters were undertaken by NSW Self Insurance Corporation (SICorp). SICorp concluded that sufficient insurance coverage has been demonstrated, and recommended an additional requirement on the applicant to maintain professional indemnity insurance for a minimum of six years following the completion of the design phase.<sup>31</sup> The additional condition is included in Huntlee Water's current licence.
- ▼ SICorp also considered the Deed of Guarantee and Indemnity, and the associated Corporate Services Agreement (CSA), between Flow Systems and Huntlee Water, and were satisfied that the agreements were adequate to ensure there were no monetary limits on obligations to beneficiaries.
- ▼ The Deed and CSA provide a continuing guarantee and indemnity for any and all liabilities incurred by Huntlee Water in carrying out the obligations under the scheme contract.
- ▼ Further, we intend to consult with SICorp in reviewing an Insurance Expert's report on the proposed insurance arrangements provided by Huntlee Water, prior to commercial operation of the scheme. Such a report would be required under our recommended conditions of the licence.

We received no submission regarding Huntlee Water's insurance arrangements.

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<sup>31</sup> Email to IPART, Mr Wayne Chandler, SICorp, 12 February 2015.

We recommend no change to Huntlee Water's licence conditions in this area. The relevant licence conditions are B2, B3 and B6 in Schedule B of the existing licence.

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

**We are satisfied that the Huntlee Water Pty Ltd has the capacity to construct, operate and maintain water industry infrastructure to service the Huntlee Stage 1 development in a manner that does not present significant risk of harm to the environment.**

Our analysis showed that Huntlee Water, in conjunction with Flow Systems, has:

- ▼ Demonstrated previous experience (within Australia) to prepare environmental impact assessments and implement mitigation measures for the construction and operation of water and sewerage reticulation infrastructure, and recycled water treatment plants.
- ▼ Demonstrated capacity to identify and manage environmental risks from their site-specific environmental risk assessment and impact assessments. We will audit the adequacy of these controls prior to Huntlee Water commencing commercial operation of the scheme.
- ▼ Demonstrated understanding of regulatory approval requirements as confirmed by our own assessment and advice from DPE. The developer has already obtained Part 3A approval from the Planning Advisory Commission (PAC) in 2013, for the Huntlee Stage 1 development. The Part 3A application contained an Environmental Assessment Report, which assessed the impact of the works, including the construction of all utility services.

We assessed the following reports submitted by Huntlee Water:

- ▼ Review of Environmental Factors for the Huntlee Local Water Centre, North Rothbury (Recycled Water Treatment Plant). This report assessed the environmental impacts of the construction, operation and maintenance of the treatment plant.
- ▼ Review of Environmental Factors for the Extension of a Sewage Reticulation System, North Rothbury (Interim Balance Tanks). This report assessed the impacts of storing untreated sewage onsite in holding tanks during the construction of the treatment plant, and allowing for collection and offsite disposal by tanker
- ▼ Review of Environmental Factors for the Proposed Sewage, Recycled Water and Drinking Water Reticulation Systems. This report assessed the impacts of the construction, operation and maintenance of the proposed network reticulation pipe networks throughout the Stage 1 area.

We present our assessment of the reports above in section 4.6.2 of this report.

We consider that the information submitted by Huntlee Water demonstrates that it has the capacity to carry out the construction, operation and maintenance of water industry infrastructure, in a manner that does not present a significant risk of harm to the environment.

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

## **4.6 Licensing principles**

We have had regard to each of following licensing principles in making a recommendation as to whether or not the application to vary Huntlee Water's network operator's licence should be granted, and if so, what conditions to impose.

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

We have had regard to protection of public health through our assessment of Huntlee Water's capacity to construct, operate and maintain the reticulation networks, interim sewage pump out scheme and the recycled water treatment plant in a manner that does not present a risk to public health. As outlined in section 4.3 of this report, we assessed Huntlee Water's capacity to manage the key risks posed to public health by the activities to be licensed.

We consider that Huntlee Water has the organisational capacity, technical capacity and experience to undertake the activities in a way that will satisfactorily manage risks to public health, the environment and consumers, subject to Flow Systems being named as authorised persons in the licence. Redundancy has been provided through on-site storages, and duty/stand-by equipment. If the overall scheme were to fail, drinking water supply can be sourced from Hunter Water, and sewage could be trucked offsite for disposal in emergency situations.

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

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

In having regard to protection of the environment, we considered the approvals obtained/required under the EP&A Act for the activities to be licensed. The EP&A Act is the central legislation that controls planning and development in NSW.

The EPA has advised that Huntlee Water will require an EPL for the scheduled activity of 'sewage treatment' in accordance with the *Protection of the Environment Operations Act 1997*.<sup>32</sup> Huntlee Water advised that an EPL will not be required until the recycled water treatment plant capacity reaches the EPL licensing threshold (greater than 750 kL/day). We understand that the recycled water treatment plant's capacity will not reach the threshold for at least seven years. A further requirement for a licence is the discharge of effluent to land or waters. We understand that Huntlee Water have received advice that the 'product' being supplied is suitable for irrigation without an EPL, is not considered a waste product that requires a licence for disposal to land, and that, at this stage, there are no plans to discharge to waterways.

The development has been approved under Part 3A of the EP&A Act. The parcel of land for the treatment plant has been rezoned to SP2 Infrastructure, allowing construction and operation of the plant. These approvals have been verified through a review of DPE's website, and additional information provided by the applicant.

Since the granting of the original licence, the site of the proposed treatment plant has been rezoned to SP2 Infrastructure, allowing development without consent under *State Environment Planning Policy (Infrastructure) 2007* (ISEPP) by a person licensed under the *Water Industry Competition Act 2006* (WIC Act) in a prescribed zone.<sup>33</sup>

In granting this WIC Act licence, the Minister is not a determining authority under Part 5 of the *Environmental Planning & Assessment Act 1979* (EP&A Act). For this application, we have undertaken an environmental assessment having regard to the environmental considerations under the WIC Act.<sup>34</sup>

In having regard to protection of the environment, we assessed the following documents:

- ▼ Review of Environmental Factors for the Huntlee Local Water Centre, North Rothbury (Recycled Water Treatment Plant). This report assessed the environmental impacts of the construction, operation and maintenance of the treatment plant.
- ▼ Review of Environmental Factors for the Extension of a Sewage Reticulation System, North Rothbury (Interim Balance Tanks). This report assessed the impacts of storing untreated sewage onsite in holding tanks during the construction of the treatment plant, and allowing for collection and offsite disposal by tanker.

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<sup>32</sup> Letter to IPART, Ms Carmen Dwyer, NSW Environment Protection Authority, 11 August 2014.

<sup>33</sup> *State Environmental Planning Policy (Infrastructure) 2007*, clause 106.

<sup>34</sup> WIC Act, sections 7(1)(a), and 10(4)(e), and WIC Regulation, clause 7.

- ▼ Review of Environmental Factors for the Proposed Sewage, Recycled Water and Drinking Water Reticulation Systems. This report assessed the impacts of the construction, operation and maintenance of the proposed network reticulation pipe networks throughout the Stage 1 area.

An expert consultant was engaged to undertake a review of the three environmental assessment reports (REFs) pertaining to the proposed construction, operation and maintenance of water industry infrastructure. The purpose of the assessment was to determine if Huntlee Water has taken into account, to the fullest extent possible, all matters affecting or likely to affect the environment by reason of the activity.

The expert environmental consultant concluded:

- ▼ The REFs have examined and taken into account to the fullest extent possible all matters likely to affect the environment by reason of the activity and established that the activity is not likely to significantly affect the environment.
- ▼ The assessments considered the potential impacts of the activity on those factors listed under section 111(2), (3) and (4) of the EP&A Act including impacts to critical habitat conservation agreements and plans of management under the *National Parks and Wildlife Act 1974* (NPW Act), joint management agreements and biobanking agreements under the *Threatened Species Conservation Act 1995* (TSC Act) and wilderness areas under the *Wilderness Act 1987*.
- ▼ The proposal described in the REFs will not affect declared critical habitat. The activity described in the REFs will not significantly affect threatened species, populations or ecological communities or their habitats as defined by the TSC Act pursuant to section 5A of the EP&A Act.
- ▼ The assessments have also addressed the potential impacts on the activity on matters of national environmental significance and any impacts on Commonwealth land and concluded that there will be no significant impacts.
- ▼ The REFs are considered to be of adequate quality and meet all relevant legislative and technical assessment requirements.<sup>35</sup>

An additional issue was identified regarding the excess supply of recycled water at the latter stages of the Huntlee Stage 1 development, as irrigable areas are gradually reduced.

The Huntlee Stage 1 development is broken up into 15 sub-stages, to be developed over a 10-year period, depending on lot take-up. The application and environmental assessment reports note that excess recycled water will be encountered during the winter months as Stage 1 development proceeds towards

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<sup>35</sup> Huntlee Local Water Centre, sewage and recycled water reticulation system REF reviews – Final Report, July 2015, NSW Public Works.



the final land release phases. Huntlee Water has noted that this stage of the development is at least seven years away, based on expected land release forecasts.

Huntlee Water has identified a number of options to use the excess recycled water:

- ▼ When the final sub-stages of Stage 1 are being developed, land areas in Stages 2 and 3 are likely to be available for irrigation.<sup>36</sup> A Recycled Water Irrigation Management Plan will be developed and implemented, in line with the recommendations of the environmental consultant.
- ▼ Commercial opportunities for offsite uses of recycled water will be pursued as the area is developed.
- ▼ Additional storage within the network is also planned.

In the event that all of these options are exhausted and excess recycled water still remains, we understand an EPL for discharge to local waterways will be required by Huntlee Water at that time.<sup>37</sup> Given the recycled water will be of relatively high quality, it is likely that such an EPL would be granted by the Environment Protection Authority.

We consider that Huntlee Water has demonstrated sufficient capacity to operate water industry infrastructure in a manner that does not present a significant risk of harm to the environment for all works required to complete Stage 1.

Considering our environmental assessment had regard to the environmental considerations under the WIC Act,<sup>38</sup> we recommend the licence contains special conditions to ensure Huntlee Water implements the environmental mitigation measures substantially consistent with the environmental risk mitigation measures identified in the REFs. Further, we recommend the licence includes conditions requiring Huntlee Water to construct water industry infrastructure consistently with an approved construction environmental management plan, and to operate and maintain water industry infrastructure consistently with an approved operation environmental management plan.

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<sup>36</sup> Stages 2 and 3 are part of the Masterplan for Huntlee New Town and will bring the total land release to 7500 lots.

<sup>37</sup> The requirement for an EPL is a legislative requirement under the *Protection of the Environment Operations Act 1997*, for a range of scheduled and non-scheduled activities that may cause pollution.

<sup>38</sup> WIC Act, sections 7(1)(a), and 10(4)(e), and WIC Regulation, clause 7.

We recommend the licence contains the following additional special conditions:

A4.2 The Licensee is to implement environmental mitigation measures substantially consistent with the environmental risk mitigation measures identified in:

- a) the Water Centre REF and the Proposed System REF in carrying out any activities authorised under clause A1 of this Licence;
- b) the Proposed System REF in carrying out the activities authorised under clause A2 of this Licence; and
- c) the System Extension REF and the Proposed System REF in carrying out the activities authorised under clause A3 of this Licence.

A4.3 The Licensee must not commence, or authorise the commencement of, construction of any water industry infrastructure which is:

- a) described in Clause A1.1 and Table 1.2 (excluding conveyance and reticulation infrastructure); and
- b) located within Lot 211 DP 828787, Wine Country Rd, North Rothbury (**Relevant Recycling Infrastructure**),

until after the Licensee has provided a Construction Environmental Management Plan (**CEMP**), and IPART has provided written approval of the CEMP to the Licensee.

A4.4 In addition to any requirements imposed by or under the Act or the Regulation, the Licensee must not commence commercial operation of, or authorise commercial operation of, the Relevant Recycling Infrastructure until the Licensee has provided:

- a) a report addressing how the environmental mitigation measures identified in the CEMP have been implemented during the design and construction of the Relevant Recycling Infrastructure (**Report**); and
- b) an Operational Environmental Management Plan (**OEMP**),

to IPART, and IPART has provided written approval of the Report and the OEMP to the Licensee.

A4.5 The Licensee must operate and maintain the Relevant Recycling Infrastructure consistently with the OEMP.

A4.6 If the Licensee proposes to vary its environmental mitigation measures referred to in clause A4.2, it must first notify IPART in accordance with the Reporting Manual. The Licensee must not vary its environmental mitigation measures without the prior written approval of IPART.

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

We have had regard to the protection of public safety through our assessment of Huntlee Water's, and its prescribed third parties', technical capacity to construct water industry infrastructure as described in this report. As outlined in section 4.3 of this report, we assessed Huntlee Water's capacity to manage key risks to public safety by the activities to be added to the licence.

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

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

We have had regard to the protection of consumers through the assessment of Huntlee Water's technical capacity to construct water industry infrastructure as described in this report. As outlined in section 4.3 of this report, we assessed Huntlee Water's capacity to protect consumers through the expertise supplied by Flow Systems, the parent company of Huntlee Water, who have the technical experience constructing, operating and maintaining similar schemes.

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

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

Historically, Hunter Water Corporation had a monopoly on sewerage services and drinking water supply in the Newcastle and Hunter regions. This project will enable a new entity to provide drinking water, sewerage services and recycled water to a discrete development, thus encouraging competition in the provision of these services.

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

Recycled water will be sourced from sewage that would otherwise have been treated and discharged to the environment. It will replace drinking water for toilet flushing, cold water clothes washing, irrigation, car washing and general wash-down water. Furthermore, the non-potable water will negate the need to unnecessarily use potable water for toilet flushing, cold water clothes washing, irrigation, street cleaning and cooling tower water.

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

Huntlee Water will provide non-potable water to the Huntlee Stage 1 development and promote the use of non-potable as a substitute for potable water. All lots within the development will be supplied with non-potable water, minimising the demand for potable water.

Through its website and other marketing material, Huntlee Water has also committed to promoting the use of non-potable water in the community.

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

- ▼ The Metropolitan Water Plan is the only prescribed water policy document in the WIC Regulation. It does not apply to the Huntlee Stage 1 development.
- ▼ However, the NSW Government Lower Hunter Water Plan is in place, and 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 Huntlee Water's provision of services at Huntlee Stage 1 development is consistent with the document.
- ▼ The eventual supply of non-potable water by Huntlee Water to the Huntlee development is consistent with the objectives of the Lower Hunter Water Plan. The Plan includes actions to supply, save and substitute water, through 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.<sup>39</sup>
- ▼ We consider Huntlee Water's supply of drinking water, recycled water, and provision of sewerage services at the Huntlee Stage 1 development promotes the policies set out in the Lower Hunter Water Plan.

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

This principle applies to retail supplier licence applications. It will be considered in our assessment of Flow Systems application to vary its retail supplier's licence application to include the Huntlee Stage 1 development scheme.

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<sup>39</sup> NSW Department of Finance and Services, *2014 Lower Hunter Water Plan*, January 2014, p 3.

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

The Lower Hunter Water Plan states that:

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

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

### **4.7 Public interest considerations**

**We did not identify any additional matters with regard to the public interest in relation to Huntlee Water's capacity to construct, operate and maintain water industry infrastructure to service the Huntlee Stage 1 development.**

Our assessment concluded that there were no additional matters that were raised with regard to public interest during the stakeholder consultation process, which covered the entire Huntlee Stage 1 development and our analysis of the of the licence application.

We consider that Huntlee Water should not be subject to additional licence conditions in respect to public interest considerations.

### **4.8 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.

#### **4.8.1 Monopoly supply and price regulation**

**We recommend that the Minister does not declare Huntlee Water to be a monopoly supplier in relation to the construction, operation and maintenance of water industry infrastructure at the Huntlee Stage 1 development.**

**Should the Minister declare any monopoly services at the Huntlee Stage 1 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.**

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

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>41</sup>

The Minister can declare a monopoly supplier at any time. This declaration does not have to link to the grant or variation of a licence or a change in licence conditions. If the Minister declares a monopoly supplier, the Minister may then refer the monopoly services to IPART for price regulation.<sup>42</sup>

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.<sup>43</sup>

We have considered the market for each of the services within the Huntlee Stage 1 development site (the specified area) for all classes of customer. We consider the drinking water and sewerage services to be licensed could be considered monopoly supply. However, at this time, we recommend that the network operator not be declared in relation to a water supply or sewerage service, nor subject to price regulation.

We note that, in its application, Huntlee Water has indicated that it would match and peg prices to those of Hunter Water in the area. For this reason, 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.

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<sup>41</sup> WIC Act, section 51.

<sup>42</sup> Determination of the pricing and/or periodic review of the pricing policies. WIC Act, section 52(1).

<sup>43</sup> WIC Act, section 51(2).

## 5 Recommendations

We recommend that the Minister:

- ▼ grants a variation to the existing network operator's licence (licence number 15\_030) to Huntlee Water Pty Ltd, subject to the revised conditions as set out in the draft variation of licence conditions in attachment A, and
- ▼ does not declare Huntlee Water Pty Ltd to be a monopoly supplier in relation to the supply of drinking and recycled water, and the provision of sewerage services to residential and commercial customers at the Huntlee Stage 1 development.

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

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>44</sup>

The Minister is required to provide us with a notice of the decision and of the reasons for the decision on making a decision whether or not to grant the licence<sup>45</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>46</sup>

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<sup>44</sup> WIC Act, section 10(2).

<sup>45</sup> WIC Act, section 10(5).

<sup>46</sup> WIC Act, section 10(6).







## **Appendices**



## **A Draft varied licence**





**NEW SOUTH WALES  
GOVERNMENT**

*WATER INDUSTRY COMPETITION ACT 2006  
(NSW)*

**NETWORK OPERATOR'S LICENCE**

**Huntlee Water Pty Ltd**

**(ACN 167 418 608)**

## **SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR HUNTLEE WATER PTY LTD'S NETWORK OPERATOR'S LICENCE**

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

### **A1 Activities authorised - non-potable water**

- A1.1 This Licence authorises the Licensee and any authorised persons specified in Table 1.1 to construct, maintain and operate the water industry infrastructure which is specified in Table 1.2, and is substantially consistent with the water industry infrastructure described in the Water Centre REF and the Proposed System REF:
- a) for one or more of the authorised purposes specified in Table 1.3; and
  - b) within the area of operations specified in Table 1.4,
- subject to the conditions imposed by or under the Act, the Regulation and this Licence.

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

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Flow Systems Pty Ltd (ABN 28 136 272 298)

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

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- 1) A treatment plant for non-potable water and other water infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or the other water infrastructure may also be used for one or more of the following:
    - a) production of non-potable water;
    - b) treatment of non-potable water;
    - c) filtration of non-potable water;
    - d) storage of non-potable water; and
    - e) conveyance of non-potable water.
  - 2) A reticulation network for non-potable water and other water infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or the other water infrastructure may also be used for one or more of the following:
    - a) storage of non-potable water;
    - b) conveyance of non-potable water; and
    - c) treatment of non-potable water.
- 

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

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Toilet flushing, irrigation, clothes washing, car washing and dust suppression.

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**Table 1.4 Area of operations**

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a) Land situated under Folio identifiers:

Lot	DP
211 (part)	828787
221 (part)	1064738
21 (part)	1050597
12 (part)	729973
33, 38, 39	755211
6, 7, 8, 9, 10, 11	729973
36, 37, 43	755211
230 (part) & 231	879198
200 (part)	828486
201	828486
241 (part)	1105591
10	1105639
2, 3, 4, 5 (part)	729973

b) The section of Wine Country Drive, North Rothbury, situated between the intersection of:

- i) The north-eastern corner of Lot 21 of DP 1050597 and Wine Country Drive, and
  - ii) The southern corner of Lot 10 of DP 1105639 and Wine Country Drive.
- 

**A2 Activities authorised – drinking water**

A2.1 This Licence authorises the Licensee and any authorised persons specified in Table 2.1 to construct, maintain and operate the water industry infrastructure which is specified in Table 2.2, and is substantially consistent with the water industry infrastructure described in the Proposed System REF:

- a) for the authorised purposes specified in Table 2.3; and
- b) within the area of operations specified in Table 2.4,  
subject to the conditions imposed by or under the Act, the Regulation and this Licence.

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**Table 2.1 Authorised persons**

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Flow Systems Pty Ltd (ACN 136 272 298)

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**Table 2.2 Water industry infrastructure**

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

- a) storage of drinking water;
  - b) conveyance of drinking water; and
  - c) treatment of drinking water.
- 

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**Table 2.3 Authorised purposes**

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Drinking water

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**Table 2.4 Area of operations**

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- a) Land situated under Folio identifiers:
- |                    |         |
|--------------------|---------|
| Lot                | DP      |
| 211 (part)         | 828787  |
| 221 (part)         | 1064738 |
| 21 (part)          | 1050597 |
| 12 (part)          | 729973  |
| 33, 38, 39         | 755211  |
| 6, 7, 8, 9, 10, 11 | 729973  |
| 36, 37, 43         | 755211  |
| 230 (part) & 231   | 879198  |
| 200 (part)         | 828486  |
| 201                | 828486  |
| 241 (part)         | 1105591 |
| 10                 | 1105639 |
| 2, 3, 4, 5 (part)  | 729973  |
- b) The section of Wine Country Drive, North Rothbury, situated between the intersection of:
- The north-eastern corner of Lot 21 of DP 1050597 and Wine Country Drive, and
  - The southern corner of Lot 10 of DP 1105639 and Wine Country Drive.
- 

### **A3 Activities authorised – sewerage services**

A3.1 This Licence authorises the Licensee and any authorised persons specified in Table 3.1 to construct, maintain and operate the water industry infrastructure which is specified in Table 3.2, and is substantially consistent with the water industry infrastructure described in the System Extension REF and the Proposed System REF:

- for one or more of the authorised purposes specified in Table 3.3; and
- within the area of operations specified in Table 3.4, subject to the conditions imposed by or under the Act, the Regulation and this Licence.

**Table 3.1 Authorised persons**

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Flow Systems Pty Ltd, ACN 136 272 298

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**Table 3.2 Water industry infrastructure**

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- A treatment plant for sewage and other sewerage infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or the other sewerage infrastructure may also be used for one or more of the following:
    - production of treated non-potable water from sewage;
    - treatment of sewage;
    - filtration of sewage;
    - storage of sewage; and
    - conveyance of sewage.
  - A reticulation network for sewage and other sewerage infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or the other sewerage infrastructure may also be used for one or more of the
-



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following:

- a) storage of sewage; and
  - b) conveyance of sewage.
- 

### **Table 3.3 Authorised purposes**

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Sewage collection, sewage transport, sewage treatment, sludge/waste disposal to offsite sewage treatment plant, transfer of non-potable water to reticulation network for non-potable water, irrigation using excess non-potable water and dust suppression using excess non-potable water.

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### **Table 3.4 Area of operations**

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a) Land situated under Folio identifiers:

Lot	DP
211 (part)	828787
221 (part)	1064738
21 (part)	1050597
12 (part)	729973
33, 38, 39	755211
6, 7, 8, 9, 10, 11	729973
36, 37, 43	755211
230 (part) & 231	879198
200 (part)	828486
201	828486
241 (part)	1105591
10	1105639
2, 3, 4, 5 (part)	729973

b) The section of Wine Country Drive, North Rothbury, situated between the intersection of:

- i) The north-eastern corner of Lot 21 of DP 1050597 and Wine Country Drive, and
  - ii) The southern corner of Lot 10 of DP 1105639 and Wine Country Drive.
- 

## **A4 Special conditions**

A4.1 If a party to an Agreement proposes to:

- a) terminate the Agreement;
- b) novate the Agreement;
- c) assign or transfer any of its rights or obligations under the Agreement to any other person; or
- d) alter the Agreement in any way that materially reduces the Licensee's technical, financial or organisational capacity to carry out the activities authorised by this Licence,

the Licensee must provide IPART with written notice as soon as practicable, but no later than 3 months, before the time when the proposed action is to occur. The written notice must include details of how the service provided under the Agreement will be provided subsequent to the proposed termination, novation, assignment, transfer or alteration.

A4.2 The Licensee is to implement environmental mitigation measures substantially consistent with the environmental risk mitigation measures identified in:

- a) the Water Centre REF and the Proposed System REF in carrying out any activities authorised under clause A1 of this Licence;
- b) the Proposed System REF in carrying out the activities authorised under clause A2 of this Licence; and
- c) the System Extension REF and the Proposed System REF in carrying out the activities authorised under clause A3 of this Licence.

A4.3 The Licensee must not commence, or authorise the commencement of, construction of any water industry infrastructure which is:

- a) described in Clause A1.1 and Table 1.2 (excluding conveyance and reticulation infrastructure); and
- b) located within Lot 211 of DP 828787, Wine Country Rd, North Rothbury (**Relevant Recycling Infrastructure**),

until after the Licensee has provided IPART with a Construction Environmental Management Plan (**CEMP**), and IPART has provided written approval of the CEMP to the Licensee.

A4.4 In addition to any requirements imposed by or under the Act or the Regulation, the Licensee must not commence commercial operation of, or authorise commercial operation of, the Relevant Recycling Infrastructure until the Licensee has provided:

- a) a report addressing how the environmental mitigation measures identified in the CEMP have been implemented during the design and construction of the Relevant Recycling Infrastructure (**Report**); and
- b) an Operational Environmental Management Plan (**OEMP**),

to IPART, and IPART has provided written approval of the Report and the OEMP to the Licensee.

A4.5 The Licensee must operate and maintain the Relevant Recycling Infrastructure consistently with the OEMP.

A4.6 If the Licensee proposes to vary its environmental mitigation measures referred to in clause A4.2, it must first notify IPART in accordance with the Reporting Manual. The Licensee must not vary its environmental mitigation measures without the prior written approval of IPART.

## **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;

- (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; and
- (viii) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

## 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 <i>Water Industry Competition Act 2006</i> (NSW).
Agreement	means any agreement or deed provided to IPART in connection with the Licensee's application for this Licence.
Construction Environmental Management Plan ( <b>CEMP</b> )	means a site or project specific plan which, in relation to construction works: <ul style="list-style-type: none"> <li>(a) complies with the basic structure detailed in the "Guideline for the Preparation of Environmental Management Plans", Department of Infrastructure, Planning and Natural Resources (2004); and</li> <li>(b) identifies the environmental risks associated with the licensed activities and the mitigation measures to be implemented.</li> </ul>
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> (NSW).
Licence	means this network operator'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.
Operational Environmental Management Plan ( <b>OEMP</b> )	means a site or project specific plan which, in relation to the operational phase: <ul style="list-style-type: none"> <li>(a) complies with the basic structure detailed in the "Guideline for the Preparation of Environmental Management Plans", Department of Infrastructure, Planning and Natural Resources (2004); and</li> <li>(b) identifies the environmental risks associated with the licensed activities and the mitigation measures to be implemented.</li> </ul>
Proposed System REF	means the Review of Environmental Factors for the Proposed Sewage, Recycled Water and Drinking Water Reticulation Systems (RPS Australia East Pty Ltd, June 2015).
Regulation	means the <i>Water Industry Competition (General) Regulation</i>

2008 (NSW).

Reporting Manual	means the document entitled “Network Operator's Reporting Manual” which is prepared by IPART and is available on IPART's website at <a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> .
System Extension REF	means the Review of Environmental Factors for the Extension of a Sewage Reticulation System, North Rothbury (RPS Australia East Pty Ltd, June 2015).
Water Centre REF	means the Review of Environmental Factors for the Huntlee Local Water Centre, North Rothbury (RPS Australia East Pty Ltd, June 2015).

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

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

- a) obtain insurance that is appropriate for the size and nature of the activities authorised under this Licence;
- b) provide a copy of each certificate of currency of the insurance 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, scope or limit on the amount of the insurance obtained by the Licensee is appropriate for the size and nature of the activities authorised under the Licence; and
  - ii) is in the form prescribed by the Reporting Manual.

B2.2 *[Not Applicable]*

### **B3 Maintaining appropriate insurance**

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

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

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

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

B3.4 From time to time when requested in writing by IPART, the Licensee must provide a report to IPART, in the manner, form and time specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion, the type, scope or limit on the

amount of the insurance held by the Licensee, is appropriate for the size and nature of the activities authorised under this Licence.

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

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

**B3.5** The Licensee must maintain professional indemnity insurance during the Design Phase and for a minimum period of 6 years from the date of the completion of the Design Phase.

#### **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 any of the following, the Licensee must notify IPART, and provide IPART with details, of the change in accordance with the Reporting Manual:

- a) any source from which the water handled by the Specified Water Industry Infrastructure is derived;
- b) the Authorised Purposes of the water handled by the Specified Water Industry Infrastructure;
- c) the identity of each licensed retail supplier or public water utility that has access to the infrastructure services provided by the Specified Water Industry Infrastructure for the purpose of supplying water to its customers;
- d) any other water infrastructure to which the Specified Water Industry Infrastructure is connected;
- e) the identity of each licensed retail supplier or public water utility that has access to infrastructure services provided by the Specified Water Industry Infrastructure for the purpose of providing sewerage services to its customers;

- f) any other sewerage infrastructure to which the Specified Water Industry Infrastructure is connected; and
- g) the arrangements for the disposal of waste from the Specified Water Industry Infrastructure.

## **B8 Monitoring**

- B8.1 The Licensee must undertake any monitoring that is required for the purposes of this Licence, any Plan, the Act or the Regulation in accordance with this clause B8.
- B8.2 The Licensee must keep the following records of any samples taken for monitoring purposes specified in the Water Quality Plan:
- a) the date on which the sample was taken;
  - b) the time at which the sample was collected;
  - c) the point or location at which the sample was taken; and
  - d) the chain of custody of the sample (if applicable).
- B8.3 The Licensee must ensure that analyses of all samples taken for the purposes of Verification Monitoring are carried out by a laboratory accredited for the specified tests by an independent body that is acceptable to NSW Health, such as the National Association of Testing Authorities or an equivalent body.

## **B9 Provision of copy of Plan**

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

## **B10 Delineating responsibilities – interconnections**

- B10.1 If a code of conduct has not been established under clause 25 of the Regulation, the Licensee must (by a date specified by IPART) establish a code of conduct (**Licensee's Code of Conduct**) in accordance with this clause B10.
- B10.2 The Licensee's Code of Conduct must set out the respective responsibilities of:
- a) the Licensee; and
  - b) each licensed network operator, licensed retail supplier and/or public water utility that:
    - (i) supplies water or provides sewerage services by means of; or
    - (ii) constructs, maintains or operates,any water industry infrastructure that is connected to the Specified Water Industry Infrastructure,
- by, at a minimum, providing for:
- c) who is responsible for repairing, replacing or maintaining any pipes, pumps, valves, storages or other infrastructure connecting the Specified Water Industry Infrastructure to the other water industry infrastructure;
  - 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.
- B10.3 Before the Licensee brings the Specified Water Industry Infrastructure into commercial operation or by a later date specified by IPART (if any), the Licensee's Code of Conduct must be agreed in writing between the Licensee and the other licensed network operators, licensed retail suppliers and/or public water utilities referred to in clause B10.2.
- B10.4 *[Not Applicable]*
- B10.5 The Licensee must not contravene the Licensee's Code of Conduct to the extent that it makes the Licensee responsible or liable for the matters set out in it.

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

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

### **B12 Notification of changes to Authorised Person**

- B12.1 If an Authorised Person ceases, proposes to cease, or receives notification to cease providing any of the services relating to the activities authorised by this Licence, the Licensee must provide IPART with written notice as soon as practicable but no later than 28 days before the date of cessation of the services. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken.

### **B13 Notification of commercial operation**

- B13.1 This clause B13 applies each time the Licensee has brought any of the Specified Water Industry Infrastructure into commercial operation.
- B13.2 The Licensee must:
- a) notify IPART in accordance with the Reporting Manual that it has brought the relevant Specified Water Industry Infrastructure into commercial operation; and
  - b) provide such notification within 10 days after it has brought the relevant Specified Water Industry Infrastructure into commercial operation.

## **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;
- (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; and
- (viii) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

## 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> (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>(i) Schedule A, clause A1, Table 1.1;</li> <li>(ii) Schedule A, clause A2, Table 2.1; and</li> <li>(iii) Schedule A, clause A3, Table 3.1.</li> </ul>
Authorised Purposes	means the authorised purposes specified in, as applicable: <ul style="list-style-type: none"> <li>(i) Schedule A, clause A1, Table 1.3;</li> <li>(ii) Schedule A, clause A2, Table 2.3; and</li> <li>(iii) Schedule A, clause A3, Table 3.3.</li> </ul>
Design Phase	means the period during which any design works are carried out in relation to the water industry infrastructure that the Licensee is authorised to construct, maintain and operate under this Licence.
Insurance Expert	means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001</i> (Cth) that authorises the broker to provide financial product advice for, and deal in, contracts of insurance within the meaning of Chapter 7 of that Act.
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> (NSW).
Licence	means this network operator’s licence granted under section 10 of the Act.
Licensee	means a person to whom this Licence is granted under section 10 of the Act.
Licensee’s Code of Conduct	has the meaning given in clause B10.1.

Minister	means the Minister responsible for Part 2 of the Act.
NSW Health	means the Water Unit of NSW Ministry of Health and any of the local health districts as defined by the NSW Ministry of Health.
Plan	means any infrastructure operating plan, water quality plan or sewage management plan that the Licensee is required to prepare under the Regulation.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Reporting Manual	means the document entitled “Network Operator’s Reporting Manual” which is prepared by IPART and is available on IPART’s website at <a href="http://www.ipart.nsw.gov.au">www.ipart.nsw.gov.au</a> .
Specified Area of Operations	means the area of operations specified in, as applicable: <ul style="list-style-type: none"> <li>(i) Schedule A, clause A1, Table 1.4;</li> <li>(ii) Schedule A, clause A2, Table 2.4; and</li> <li>(iii) Schedule A, clause A3, Table 3.4.</li> </ul>
Specified Water Industry Infrastructure	means the water industry infrastructure specified in, as applicable: <ul style="list-style-type: none"> <li>(i) Schedule A, clause A1, Table 1.2;</li> <li>(ii) Schedule A, clause A2, Table 2.2; and</li> <li>(iii) Schedule A, clause A3, Table 3.2.</li> </ul>
Verification Monitoring	means verification monitoring as described in the document entitled “Australian Drinking Water Guidelines” or the document entitled “Australian Guidelines for Water Recycling” as the case may be.
Water Quality Plan	means the water quality plan that the Licensee is required to prepare under the Regulation.