



**Environment,
Climate Change
& Water**



Your reference: 10/384
Our reference: MD10/4228
Contact: Jennifer Sage, 9995 6856

Mr James Cox
Chief Executive Officer
Independent Pricing and Regulatory Tribunal NSW
PO Box Q290
QVB POST OFFICE NSW 1230

24 FEB 2011

Lisa
Dear Mr Cox

Thank you for your letter dated 15 December 2010 to the Hon Frank Sartor MP, Minister for Climate Change and the Environment regarding an application made by Orica Australia Pty Ltd under the *Water Industry Competition Act 2006* (WICA) for a network operator's and retail supplier's licence to supply non-potable water to industrial customers at Botany Industrial Park. You invited the Minister to make a submission and I am responding on his behalf.

I understand that the Department of Environment, Climate Change and Water (DECCW) requested an extension from IPART in order to prepare a submission. I appreciate the granting of an extension until Friday 4 March 2011.

Since January 2006 Orica has operated a facility to treat contaminated groundwater from the Botany Sand Beds Aquifer. They also supply treated water to various commercial customers at Botany Park. The operation of Orica's groundwater treatment plant is regulated by DECCW, although not for supply of water. In our experience Orica does have technical capacity to operate and maintain the existing plant. However full consideration of the implications of treating other water sources would be needed before we would support expanding the plant's role.

DECCW has completed a review of Orica's WICA licence application, and I have enclosed a copy of the submission on the application with this letter.

If you have any queries regarding this matter please do not hesitate to contact me or have your officers contact Ms Jennifer Sage, Senior Operations Officer Metropolitan – Infrastructure and Biodiversity, on 9995 6856.

Yours sincerely

Lisa Corbyn
LISA CORBYN
Director General

Enclosure



PO Box A290 Sydney South NSW 1232
59-61 Goulburn St Sydney NSW 2000
Tel: (02) 9995 5000 Fax: (02) 9995 5999
TTY (02) 9211 4723
ABN 30 841 387 271
www.environment.nsw.gov.au

DEPARTMENT OF ENVIRONMENT, CLIMATE CHANGE AND WATER

Comments on the application made by Orica Australia Pty Ltd under the *Water Industry Competition Act 2006*

Environment Protection Licence

Orica Australia Pty Ltd (Orica) constructed a groundwater treatment plant (GTP) at Botany Industrial Park in response to a Notice of Clean-up Action issued by the Department of Environment, Climate Change and Water (DECCW) in 2003 under the *Protection of the Environment Operations Act 1997* (POEO Act) to extract, contain and treat contaminated groundwater at Botany, to prevent its ingress into Botany Bay. Groundwater extraction and processing through the GTP commenced on 21 January 2006.

Operation of Orica's GTP is a scheduled activity (contaminated groundwater treatment) under the POEO Act and is regulated by environment protection licence (EPL) No. 2148, which regulates air emissions and discharge of treated water to the receiving environment. The licence does not regulate the quality of treated water that is sold for re-use or discharges to sewer. DECCW is not in a position to comment on whether the water distributed to Orica's industrial customers is fit for purpose.

Containment of contaminated groundwater

While the EPL for the GTP does encourage the re-use of treated groundwater, the primary objective of Orica's GTP is to contain contaminated groundwater in the Botany Sand Beds aquifer through the extraction and treatment of contaminated groundwater. How successful Orica is in containing this contaminated water relates to the operation and performance of the GTP.

While DECCW strongly supports the objective of the *Water Industry Competition Act 2006* (WIC Act) to promote the recycling and reuse of wastewater, it is noted that the primary goal of Orica's GTP at Botany is to contain contaminated groundwater. Maintaining this primary goal is critical in any considerations for a licence under the WIC Act.

The planning approval for the GTP specifies that it is to be used for the treatment of contaminated groundwater only. The planning approval does not authorise the treatment of other sources of water (eg. wastewater). Similarly, DECCW's EPL does not authorise the treatment of any other sources other than groundwater. It is noted that Clause 106(2) of the State Environment Planning Policy (Infrastructure) 2007, permits development for the purpose of water recycling facilities by any holder of a WIC Act licence without development consent. Given the above, full consideration of the implications of treating other water sources would be required before DECCW would support expanding the GTP's role further than its primary objective.