



New South Wales

Water Industry Competition Act 2006

**Grant of Network Operator's Licence
Licence No. 09_003**

I, Phillip Costa MP, Minister for Water, under section 10 of the *Water Industry Competition Act 2006*, grant a network operator's licence to:

Aquacell Pty Ltd (ACN 072 487 015)

to construct, maintain and operate water industry infrastructure.

Subject to:

- a) the conditions imposed by the *Water Industry Competition Act 2006*,
- b) the conditions imposed under clause 9(a) and set out in Parts 1 and 2 of Schedule 1 of the *Water Industry Competition (General) Regulation 2008*,
- c) the conditions imposed by the Minister in the attached Schedule A, and
- d) the standard conditions imposed by the Minister in the attached Schedule B being standard Ministerially-imposed licence conditions for network operators in the water industry.

A handwritten signature in blue ink, appearing to read 'Phillip Costa', written over a dotted line.

Minister for Water

Dated this *2nd* day of *February* 20*10*

SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR AQUACELL NETWORK OPERATORS LICENCE

This schedule sets out the conditions which the Minister has determined to impose pursuant to section 13(1)(b) of the Water Industry Competition Act 2006. In addition to these Ministerially-imposed conditions, licensees are subject to obligations imposed by the Act, the Regulation or the standard Ministerially-imposed licence conditions set out in Schedule B. Licensees are encouraged to obtain independent advice as to the conditions and obligations of their licence.

1 Activities authorised

This Licence authorises the Licence Holder and the persons specified in Table 1 to construct, operate and maintain the water industry infrastructure specified in Table 2 for the purposes as specified in Table 3 within the area specified in Table 4, subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1 Authorised persons

Not applicable

Table 2 Specified water industry infrastructure

Infrastructure used for the production, treatment, filtration, storage, or conveyance of non-potable water.

Table 3 Authorised purposes

Cooling tower make-up
Toilet flushing

Table 4 Specified area of operations

1 Bligh Street, Sydney NSW

INTERPRETATION AND DEFINITIONS

Interpretation

In these Licence conditions, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) headings are used for convenience only and do not affect the interpretation of these Licence conditions;
- (c) a reference to a document includes the document as modified from time to time and any document replacing it;
- (d) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (e) references to clauses are references to clauses in these Licence conditions.

Definitions

Expressions used in these Licence conditions that are defined in the Act or the Regulation have the meanings set out in the Act or the Regulation.

In these Licence conditions:

Act	means the <i>Water Industry Competition Act 2006</i>
Licence Holder	means the person who is the holder of this Licence
Minister	means the Minister responsible for the Act
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i>

Superseded

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR AQUACELL PTY LTD NETWORK OPERATORS LICENCE

This schedule provides a comprehensive list of standard conditions which the Minister has determined to impose pursuant to section 13(1)(b) of the Water Industry Competition Act 2006 (the Act). In addition to these standard Ministerially-imposed conditions, Licence Holders are subject to obligations imposed by the Act, the Regulation or the Ministerially-imposed licence conditions set out in Schedule A. Licence Holders are encouraged to obtain independent advice as to the conditions and obligations of their licence. The Minister may vary the conditions in this schedule or impose new conditions, provided there is no inconsistency with the Act or the Regulation.

B1 Ongoing capacity to operate

The Licence Holder must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licence Holder ceases to have this capacity, it must report this to IPART immediately.

B2 Obtaining appropriate insurance

B2.1 Before commencing to operate water industry infrastructure under this Licence, the Licence Holder must:

- (a) obtain appropriate insurance sufficient for the size and nature of the activities authorised under this Licence,
- (b) demonstrate that the insurance obtained is appropriate by providing a report to IPART from an Insurance Expert certifying that in the Insurance Expert's opinion the type and level of insurance obtained by the Licence Holder is appropriate for the size and nature of the activities authorised under this Licence, and
- (c) provide a copy of each certificate of currency of insurance obtained to IPART.

B2.2 The report from the Insurance Expert must:

- (a) identify the key risks of undertaking the activities authorised under this Licence,
- (b) set out the types and levels of insurance obtained by the Licence Holder in the relation to the activities being undertaken,
- (c) provide reasons as to why the types and levels of insurance are appropriate for the size and nature of the activities being undertaken, and
- (d) if any risks arising from undertaking the activities remain uninsured, provide reasons as to why.

B3 Maintaining appropriate insurance

B3.1 The Licence Holder must maintain appropriate insurance sufficient for the size and nature of the activities authorised under this Licence.

B3.2 From time to time when requested in writing by IPART, the Licence Holder 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 and level of insurance obtained by the Licence Holder is appropriate for the size and nature of the activities authorised under this Licence.

B3.3 Whenever there is a change in the type, level or period of insurance held by the Licence Holder in relation to the activities authorised under this Licence, the Licence

Holder must provide a copy of the certificate of currency to IPART within 10 days of the change being made.

B4 Complying with NSW Health requirements

The Licence Holder must carry out the activities authorised by this Licence in compliance with any requirements of NSW Health that IPART has agreed to and are notified from time to time to the Licence Holder by IPART in writing.

B5 Reporting in accordance with the Reporting Manual

The Licence Holder must prepare and submit reports in accordance with the applicable Reporting Manual issued by IPART and available from IPART's website www.ipart.nsw.gov.au.

B6 Reporting information in relation to the Register of Licences

Whenever any of the following information changes, the Licence Holder must provide the updated information to IPART within 14 days of the change:

- (a) each source from which the water handled by the infrastructure is derived,
- (b) the identity of each licensed retail supplier or public water utility that has access to the infrastructure services provided by the infrastructure for the purpose of supplying water to its customers,
- (c) a description of any other water infrastructure to which the infrastructure is connected.

B7 Monitoring

B7.1 Any monitoring required to be undertaken by the Licence Holder for the purposes of this Licence or any Plans required under the Regulation must be undertaken in accordance with the requirements set out below.

B7.2 The following records must be kept of any samples collected:

- (a) The date(s) on which the sample was taken,
- (b) The time(s) at which the sample was collected,
- (c) The point or location at which the sample was taken, and
- (d) The name of the person who collected the sample.

B7.3 A laboratory accredited for the specified tests by an independent body acceptable to NSW Health, such as the National Association of Testing Authorities (NATA) or equivalent, shall carry out all analyses of samples.

B8 Provision of copy of Plans

B8.1 Whenever the Licence Holder makes any change to its Plans, the Licence Holder must provide a copy of the amended plan to IPART.

B8.2 Whenever the Licence Holder makes a significant change to its Plans, the Licence Holder is to provide a copy of the amended plan to IPART at the same time it provides a copy to the approved auditor engaged to provide a report to the adequacy of the changed Plans as required under the Regulation.

B9 Delineating responsibilities – interconnections

B9.1 Where a water industry code of conduct under clause 25 of the Regulation has not been established by order published in the Gazette and the water industry infrastructure

specified in Schedule A, clause 1, Table 2 of this Licence is connected to any other water industry infrastructure, the Licence Holder must establish a code of conduct in relation to the respective responsibilities of the Licence Holder and each licensed network operator, licensed retail supplier and/or public water utility that is responsible for the other water industry infrastructure.

B9.2 The arrangements are to be agreed in writing between the Licence Holder and the other licensed networks operators, licensed retail suppliers and/or public water utilities prior to commencing commercial operation of the water industry infrastructure specified in Schedule A, clause 1, Table 2 of this Licence.

B9.3 The arrangements must address the following matters:

- (a) responsibility for the repair, replacement or maintenance of any pipes, pumps, valves, storages or other infrastructure connecting the water industry infrastructure specified in Schedule A, clause 1, Table 2 of this Licence to any other water industry infrastructure,
- (b) responsibility for water quality,
- (c) liability in the event of the unavailability of water,
- (d) liability in the event of infrastructure failure,
- (e) responsibility for handling customer complaints.

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Definitions

Expressions used in these Licence conditions that are defined in the Act or the *Regulation* have the meanings set out in the Act or the *Regulation*.

In these Licence conditions:

Act	means the <i>Water Industry Competition Act 2006</i>
Gazette	means the NSW Government Gazette
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i>
Insurance Expert	means an independent reputable insurer registered with the Australian Prudential Regulation Authority or an independent reputable insurance broker registered under the <i>Insurance (Agents and Brokers) Act 1984 (Cth)</i>

Licence	means the network operator's licence / retail supplier's licence authorising the Licence Holder to construct, maintain and operate water industry infrastructure / supply water or provide sewerage services by means of water industry infrastructure in accordance with section 10 of the Act
Licence Holder	means a person who is the holder of a Licence
Minister	means the Minister responsible for the Act
NSW Health	means the NSW Department of Health
Plans	means any infrastructure operating plan, water quality plan or sewerage management plan required to be prepared by a Licence Holder under the <i>Water Industry Competition (General) Regulation 2008</i>
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i>
Reporting Manual	means the applicable Network Operators Reporting Manual or Retail Suppliers Reporting Manual as produced by IPART and available on IPART's website www.ipart.nsw.gov.au

Superseded