

5-year review of Veolia Water Australia's WIC Act network operator's licence

Topic

We have completed our 5-year review of Veolia Water Australia Pty Ltd's (Veolia) network operator's licence under section 85 of the *Water Industry Competition Act 2006* (WIC Act).

Recommendation

We recommend that the Minister vary the conditions of VWA's network operator's licence, to make minor changes and bring it in line with the standard licence conditions for network operator's licences (**Attachment A**), subject to the Minister consulting with VWA.

Approved/Not approved

The Hon Melinda Pavey
Minister for Water, Property and Housing

Key reasons

The then Minister for Water granted Veolia a network operator's licence (no. 09_001) for the Fairfield/Rosehill scheme on 8 April 2009. We commenced our 5-year review of the licence on 8 April 2019. This is the second review of the licence – we previously undertook a 5-year review of the licence on 8 April 2014.

The Report to the Minister in **Attachment B** outlines our full assessment and recommendations and includes a copy of the proposed network operator's licence.

The Minister must consult with Veolia before granting a licence variation

Under section 17 of the WIC Act, the Minister must notify Veolia of any proposal to vary the conditions of its licence and give Veolia reasonable opportunity to make a submission on the

proposed changes. The Minister should consult on the complete proposed licence, after she makes any additional proposed changes. The Minister must consider any submissions. Once this process is complete, the Minister can finalise the licence and should the Minister accept our recommendations, sign the notice of decision (**Attachment C**).

We undertook limited stakeholder consultation

We consulted with Veolia as per our agreed approach with the Department of Planning, Industry and Environment (DPIE). This is that the Minister, not IPART, will provide licensees with the opportunity to comment on proposed changes to the licence.

Our consultation with Veolia only included the existing licence conditions. Veolia had no comments or concerns regarding the conditions of its current licence.

We also sought submissions from the Department of Planning and Environment (DPE)/DPIE on the existing licence conditions and the proposed amended licence. DPE did not provide any comment on the existing licence conditions. DPIE confirmed that it had no comments or concerns regarding the proposed amended licence conditions.

We propose changes to the conditions of Veolia's licence to align them with standard licence conditions

Our proposed changes are detailed in the Report to the Minister. The changes seek to align Veolia's licence with our standard licence conditions for network operators. We consider this approach is appropriate given Veolia's good compliance record.¹

In summary, we propose to:

- ▼ Restructure the licence scope (section 2.1 of the report)²
- ▼ Update three licence conditions in Schedule B (section 2.2 of the report)
- ▼ Add two new licence conditions to Schedule B (section 2.3 of the report)
- ▼ Remove one licence condition from Schedule B (section 2.4 of the report)
- ▼ Standardise the licence structure, language and terminology throughout the licence.

¹ We consider that there are no significant issues that warrant varying Veolia's licence further than applying the standard licence conditions.

² We propose to retain the language of the existing licence to avoid any perceived licence scope changes (which would trigger a licence variation).

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 22/10/19
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Attachments

Number	Description
Attachment A	Proposed network operator's licence
Attachment B	Report to the Minister
Attachment C	Proposed notice of decision

A Proposed network operator's licence



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW)

Network operator's licence

Licence no. 09_001

Veolia Water Australia Pty Ltd

(ACN 061 161 279)

PRELIMINARY

1. Summary

- 1.1. This Licence is granted under section 10(1) of the Act.
- 1.2. The Act prohibits a person from constructing, maintaining or operating any water industry infrastructure otherwise than under the authority of a licence. This Licence authorises the Licensee and other Authorised Persons to carry out such activities that would otherwise be prohibited under the Act.

2. Outline

- 2.1. This Licence is divided into the following sections and schedules:

<p>Section 1 authorises the construction, maintenance and operation of water infrastructure for non-potable water (if applicable).</p>
<p>Section 2 authorises the construction, maintenance and operation of water infrastructure for drinking water (if applicable).</p>
<p>Section 3 authorises the construction, maintenance and operation of sewerage infrastructure (if applicable).</p>
<p>Schedule A sets out special Ministerially-imposed licence conditions that are specific to this Licence.</p>
<p>Schedule B sets out Ministerially-imposed licence conditions that generally apply to network operators' licences granted under the Act.</p>
<p>Schedule C sets out definitions and interpretation provisions.</p>

- 2.2. In addition to the conditions in Schedules A and B to this Licence, the Act and Regulation also contain conditions that apply to this Licence. Nothing in Schedules A or B modify or affect the conditions imposed on this Licence by the Act or Regulation.

SECTION 1 – ACTIVITIES AUTHORISED: NON-POTABLE WATER

Subject to the conditions imposed by the Act, the Regulation and Schedules A and B of this Licence, this Licence authorises the Licensee and any Authorised Persons specified in Table 1.1 to construct, maintain and operate the water industry infrastructure specified in Table 1.2:

- a) for one or more of the purposes for water industry infrastructure specified in Table 1.2; and
- b) within the area of operations specified in Table 1.3.

The non-potable water supplied by means of the water industry infrastructure specified in Table 1.2 may only be used for the authorised purposes for non-potable water specified in Table 1.4.

Table 1.1 Authorised Persons

None.

Table 1.2 Water industry infrastructure and purposes for water industry infrastructure

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

Table 1.3 Area of operations

The area bounded by North Street and East Parade, Fairfield, being land situated under Lots 7 to 16 (inclusive) in DP 2728.

Table 1.4 Authorised purposes for non-potable water

Cooling tower make-up, industrial process, wash-down, fire-fighting, irrigation, toilet flushing and washing machine (cold water tap only).

SECTION 2 – ACTIVITIES AUTHORISED: DRINKING WATER

[Not applicable]

Table 2.1 Authorised Persons

[Not applicable]

Table 2.2 Water industry infrastructure and purposes for water industry infrastructure

[Not applicable]

Table 2.3 Area of operations

[Not applicable]

SECTION 3 – ACTIVITIES AUTHORISED: SEWERAGE SERVICES

[Not applicable]

Table 3.1 Authorised Persons

[Not applicable]

Table 3.2 Water industry infrastructure and purposes for water industry infrastructure

[Not applicable]

Table 3.3 Area of operations

[Not applicable]

SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

No special Ministerially-imposed licence conditions apply to this Licence.

SCHEDULE B – GENERAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

1. Ongoing capacity to operate

- 1.1. 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 in accordance with the Reporting Manual.

2. Maintaining appropriate insurance

- 2.1. The Licensee must hold insurance that is appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.
- 2.2. 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.
- 2.3. Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must demonstrate that the insurance held is appropriate for the size and nature of those commercial operation activities, by providing a report to IPART from an Insurance Expert that:
- a) certifies that in the Insurance Expert's opinion, the type, scope and limit of the insurance held by the Licensee is appropriate for the size and nature of those commercial operation activities; and
 - b) is in the form prescribed by the Reporting Manual.
- 2.4. *[Not applicable]*
- 2.5. If, in relation to the activities authorised by this Licence, there is, or is to be, a change in either of the following, the Licensee must provide a report to IPART in accordance with the Reporting Manual:
- 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.
- 2.6. From time to time when requested in writing by IPART, the Licensee must provide a report to IPART, in the manner and form and within the timeframes specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion the type, scope and limit on the amount of insurance held by the Licensee is appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.

[Note: The circumstances in which IPART may request a report under clause 2.6 include (but are not limited to) the following:

- *where IPART considers 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 that the Licensee is carrying out under this Licence;*
- *where there is a change in the type or extent of activities authorised by this Licence; or*
- *where IPART or an approved auditor considers 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 that the Licensee is carrying out under this Licence.]*

3. Complying with NSW Health requirements

- 3.1. 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.

4. Complying with Audit Guidelines

- 4.1. The Licensee must comply with any Audit Guidelines issued by IPART.

5. Reporting in accordance with the Reporting Manual

- 5.1. The Licensee must prepare and submit reports in accordance with the Reporting Manual.

6. Reporting information in relation to the register of licences

- 6.1. The Licensee must notify IPART, and provide IPART with details, of any change in relation to the following, in accordance with the Reporting Manual, within 14 days of the change:
- a) any source from which the water handled by the Specified Water Industry 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 Specified Water Industry Infrastructure for the purpose of supplying water to its customers;

- c) any other water infrastructure to which the Specified Water Industry Infrastructure is connected;
- d) in the case of non-potable water, the authorised purposes for that water;
- e) *[Not applicable]*;
- f) *[Not applicable]*; and
- g) *[Not applicable]*.

7. Monitoring

- 7.1. 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 7.
- 7.2. 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).
- 7.3. 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.

8. Delineating responsibilities

- 8.1. 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 8.
- 8.2. 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:
 - 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 any water industry infrastructure that is connected to the Specified Water Industry Infrastructure; or
 - ii) constructs, maintains or operates any water industry infrastructure that is connected to the Specified Water Industry Infrastructure.

8.3. *[Not applicable]*

8.4. The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause 8.2 by, at a minimum, providing for:

- a) 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;
- b) who is responsible for water quality;
- c) who is liable in the event of the unavailability of water;
- d) who is liable in the event of failure of any water industry infrastructure;
- e) the fees and charges payable in respect of the use of the water industry infrastructure; and
- f) who is responsible for handling customer complaints.

8.5. 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.

9. Notification of changes to end-use

9.1. If the Licensee proposes to operate the Specified Water Industry Infrastructure to supply non-potable 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.

10. Notification of commercial operation

10.1. Each time the Licensee has brought any new Specified Water Industry Infrastructure into commercial operation, 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.

11. Notification of non-compliant Plumbing

11.1. If the Licensee becomes aware that a customer's Plumbing is not Code Compliant, the Licensee must, within 10 days, notify the customer and the Plumbing Regulator, in writing, of that fact.

SCHEDULE C – INTERPRETATION AND DEFINITIONS

1. Interpretation

1.1. In this Licence, unless the context requires otherwise:

- a) the singular includes the plural and vice versa;
- b) headings are used for convenience only and do not affect the interpretation of this Licence;
- c) a reference to a document includes the document as modified from time to time and any document replacing it;
- d) a reference to a “person” includes a natural person and any body or entity whether incorporated or not;
- e) a reference to a clause is to a clause in this Licence;
- f) a reference to a section is to a section in this Licence;
- g) a reference to a schedule is to a schedule to this Licence;
- h) 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
- i) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

2. Definitions

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

2.2. In this Licence:

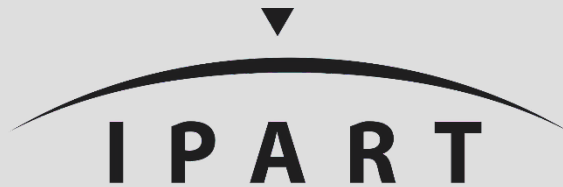
Act means the *Water Industry Competition Act 2006* (NSW).

Audit Guidelines means the document titled “*Audit Guideline – Water Industry Competition Act 2006*”, which is prepared by IPART and is available on IPART’s website at www.ipart.nsw.gov.au, and any other guidelines issued by IPART in relation to audits under the Act.

Authorised Person	means each person specified in, as applicable: <ul style="list-style-type: none"> a) section 1, Table 1.1; b) section 2, Table 2.1; and c) section 3, Table 3.1.
Code Compliant	has the meaning given to that term under section 7 of the <i>Plumbing and Drainage Act 2011</i> (NSW).
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 Veolia Water Australia Pty Ltd (ACN 061 161 279).
Licensee's Code of Conduct	has the meaning given in Schedule B, clause 8.1.
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.

Plumbing	means any pipe, fitting or apparatus that is situated: <ul style="list-style-type: none"> a) downstream of the customer's connection point to a water main, where the water main is Specified Water Industry Infrastructure; b) upstream of a customer's connection point to a sewer main, where the sewer main is Specified Water Industry Infrastructure; or c) upstream of a customer's connection point to a stormwater drain, where the stormwater drain is Specified Water Industry Infrastructure.
Plumbing Regulator	has the meaning given to that term under section 3 of the <i>Plumbing and Drainage Act 2011</i> (NSW).
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Reporting Manual	means the document titled "Network Operator's Reporting Manual", which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au .
Specified Water Industry Infrastructure	means the water industry infrastructure specified in, as applicable: <ul style="list-style-type: none"> a) section 1, Table 1.2; b) section 2, Table 2.2; and c) section 3, Table 3.2.
Verification Monitoring	means verification monitoring as described in the document titled " <i>Australian Drinking Water Guidelines</i> " or the document titled " <i>Australian Guidelines for Water Recycling</i> " as the case may be.
Water Quality Plan	means the water quality plan that the Licensee is required to prepare under the Regulation.

B Report to the Minister



Independent Pricing and Regulatory Tribunal
New South Wales

5-year review prepared under the *Water Industry Competition Act 2006* (NSW)

Veolia Water Australia network operator's licence (09_001)

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Tribunal Members

The Tribunal members for this review are:

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Mr Ed Willett

Ms Deborah Cope

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Executive summary

The Independent Pricing and Regulatory Tribunal of NSW (IPART) has conducted a 5-year review of Veolia Water Australia Pty Ltd's (VWA) network operator's licence under section 85 of the *Water Industry Competition Act 2006* (WIC Act). This is the second 5-year review of the licence.

Our original assessment of VWA's network operator's licence application had regard to the licensing principles in section 7 of the WIC Act. We revisited these principles as part of this 5-year review.

We consulted with VWA and the Minister for Water, Property and Housing's (Minister) Department as part of the review process. We did not receive any comments. We have not proposed any significant changes to the licence conditions.

We recommend that the Minister varies VWA's network operator's licence (licence no. 09_001). The proposed variations seek to align VWA's licence with our standard licence conditions for network operators. We consider that standardising licence conditions across network operators' licences will clarify the intent of the licence obligations, apply an equitable regulatory framework and allow us to more efficiently regulate licensees through consistent audit processes and an established compliance monitoring approach.

We also recommend amending the licence to update the licence structure, and licence language and terminology to improve readability and provide clarity.

1 Introduction

The Minister granted VWA's network operator's licence on 8 April 2009. This review is the second 5-year review of the licence.

This report outlines our recommendations to vary the existing licence conditions, add two new licence conditions and remove one licence condition.¹ It also summarises our analysis and reasons for recommending the changes.

1.1 We sought to update licence conditions and considered whether new risks had emerged

The 5-year review process allows us to consider whether the existing licence conditions are appropriate to efficiently and effectively regulate WIC Act licensees. Licence conditions should direct licensees to achieve the desired outcomes, without imposing unnecessary compliance and administrative costs. This is in line with good regulatory practice.

We identified benefit in updating licence conditions

The review provided an opportunity to update VWA's network operator's licence conditions to align them with other more recent licence conditions. We consider that applying the recently updated standard licence conditions to VWA's licence will:

- ▼ Address gaps in the existing licence
- ▼ Clarify the intent of licence obligations for the licensee
- ▼ Apply an equitable regulatory framework
- ▼ Allow us to more efficiently regulate licensees through improved and more consistent audit processes
- ▼ Improve the efficiency of administering licences until the new licensing regime, the amended WIC Act, comes into effect.

We did not identify additional risks

The review allows us to reconsider licence conditions in light of emerging risks to the scheme. We considered VWA's licence scope and compliance record and formed the view that there are no substantial issues that warrant further varying VWA's network operator's licence.

¹ In accordance with section 85(3) of the WIC Act.

1.2 We consulted with relevant stakeholders to inform our review

We sought a submission from VWA on its existing network operator's licence on 17 April 2019.² VWA confirmed that it had no comments or concerns regarding the existing conditions of its licence on 3 June 2019.³

We sought submissions from the Department of Planning and Environment (DPE) on the existing licence.⁴ DPE did not propose any changes to VWA's existing licence. We sought submissions from the Department of Planning, Industry and Environment (DPIE)⁵ on the proposed amendments.⁶ DPIE made no comments on the proposed changes.⁷

The Minister must notify the licensee of any proposed amendments to licence conditions and give the licensee a reasonable opportunity to make submissions with respect to the proposed amendments.⁸ The Minister must consider any such submissions with respect to the proposed amendments.

We only consulted with VWA on the existing network operator's licence conditions, and not our proposed amendments. We previously agreed to this approach with DPE as it allows the Minister to make further proposed changes to the licence following our recommendation. The Minister should consult with VWA on all proposed changes.

1.3 We had regard to the licensing principles in the WIC Act in making our recommendations

We had regard to the licensing principles in section 7 of the WIC Act (Box 1.1). Our recommendation to add, remove and amend VWA's licence conditions to align them with more recent licence conditions is in line with the licensing principles as it provides:

- ▼ Increased protection of public health and public safety (by having clear requirements for meeting plumbing standards).⁹
- ▼ Better consumer protection (by having clear plumbing and safety standards, and by clarifying requirements for the delineation of responsibilities where there are interconnections with other utilities).¹⁰
- ▼ Ensured sustainability of water resources (by having clearer auditing and reporting requirements for licensees).¹¹

We consider that our proposed changes do not materially impact the remaining licensing principles.

² Letter to VWA, Chief Executive Officer, IPART, 17 April 2019.

³ Letter to IPART, NSW General Manager – Water, Veolia Water Australia Pty Ltd, 3 June 2019.

⁴ Email to DPE, Director Regulation and Compliance, IPART, 20 May 2019.

⁵ DPE and DPIE were the respective Minister's departments at the time of consultation.

⁶ Email to DPIE, Director Regulation and Compliance, IPART, 20 September 2019.

⁷ Email to IPART, A/Director Metropolitan Water and Utilities, 10 October 2019.

⁸ WIC Act, section 17.

⁹ WIC Act, section 7(1)(a).

¹⁰ WIC Act, section 7(1)(a).

¹¹ WIC Act, section 7(1)(c).

Box 1.1 Licensing principles under section 7(1) of the WIC Act

“In considering whether or not a licence is to be granted under this Part and what conditions are to be imposed on such a licence, regard is to be had to the following principles:

- (a) the protection of public health, the environment, public safety and consumers generally,
- (b) the encouragement of competition in the supply of water and the provision of sewerage services,
- (c) the ensuring of sustainability of water resources,
- (d) the promotion of production and use of recycled water,
- (e) the promotion of policies set out in any prescribed water policy document,
- (f) the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence,
- (g) 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.”

Source: WIC Act, section 7.

1.4 We were mindful of changes to the WIC Act licensing framework

The *Water Industry Competition Amendment (Review) Act 2014* (Amending WIC Act) will result in significant changes to the WIC Act licensing framework and consent conditions. The Amending WIC Act includes a changed scope for schemes that will require a licence and provisions to transition currently licensed schemes to the new framework where appropriate. Therefore, we have recommended minimal changes and primarily seek to bring VWA’s network operator’s licence in line with the standard network operator’s licence conditions. We consider this is appropriate given the impending changes to the WIC Act and licensing regime.¹²

1.5 We recommend changes to VWA’s network operator’s licence conditions to align them with more recent licences

The following section outlines our analysis and our recommendations. In summary, we propose to update VWA’s network operator’s licence (the proposed licence is in **Attachment A**) as follows:

- ▼ Restructure the licence scope in Schedule A into three parts, Section 1, Section 2 and Section 3 (section 2.1 of this report).
- ▼ Update three conditions in Schedule B related to insurance, reporting information for our register of licences and delineating responsibilities (section 2.2).
- ▼ Add two new licence conditions in Schedule B related to notification of changes to end use, and notification of non-compliant plumbing (section 2.3).
- ▼ Remove one licence condition from Schedule B related to the provision of licence plans (section 2.4).
- ▼ Standardise licence structure, language and terminology throughout the licence.

¹² The Amending WIC Act is expected to come into force in late 2019.

2 Our review of VWA’s network operator’s licence

2.1 We propose immaterial changes to the licence scope

The licence scope is set out in Schedule A of the existing licence. We propose to restructure Schedule A into three sections, one for non-potable water, one for drinking water and one for sewerage infrastructure. This aligns the licence with our standard template. We consider that applying the standard licence template, while maintaining the language in VWA’s existing licence, improves clarity with no material changes to the licence scope.

2.2 We propose material changes to three licence conditions

We propose to amend three licence conditions on:

- ▼ Insurance requirements
- ▼ Reporting information related to the Register of Licences
- ▼ Delineating responsibilities where there are interconnections with other infrastructure.

The reasons for our proposed changes are in Table 2.1.¹³

Table 2.1 Proposed licence condition amendments which have resulted in material changes

Current licence clause(s)	New licence clause	Reasons for the change	We had particular regard to the following licensing principles in making our recommendation
B2 Obtaining appropriate insurance	B2 Maintaining appropriate insurance	<ul style="list-style-type: none"> ▼ Clarify when VWA must hold insurances, ie, before commencing licensed activities and not when the licence is granted. We consider this is appropriate as there may be substantial lag time between obtaining a licence and commencing the licensed activities. ▼ Consolidate insurance requirements for obtaining insurance (B2) and maintaining insurance (B3) into one clause to reduce repetition and improve clarity. 	<ul style="list-style-type: none"> ▼ The protection of consumers under s7(1)(a) of the WIC Act ▼ The potential for adverse financial implications for small retail customers under s7(1)(f).
B3 Maintaining appropriate insurance			

¹³ The current and new licence clause wording is provided in Table B.1 of Appendix B.

Current licence clause(s)	New licence clause	Reasons for the change	We had particular regard to the following licensing principles in making our recommendation
B7 Reporting information in relation to the Register of Licences	B6 Reporting information in relation to the register of licences	<ul style="list-style-type: none"> ▼ Clarify VWA's reporting requirements on the Register of Licences. ▼ Specify when VWA must report on changes related to the non-potable water. ▼ Clarify the manner and form which VWA must follow when notifying us. ▼ Remove the obligation for VWA to report on changes to waste disposal arrangements as this condition only relates to schemes providing sewerage services. 	<ul style="list-style-type: none"> ▼ Ensuring the sustainability of water resources under s7(1)(c).
B10 Delineating responsibilities - interconnections	B8 Delineating responsibilities	<ul style="list-style-type: none"> ▼ Allows IPART to specify when VWA's code of conduct to manage interconnection must be established by, if one has not already been established under clause 25 of the <i>Water Industry Competition (General) Regulation 2008</i> (NSW) (WIC Regulation). ▼ Require that the code of conduct includes what fees and charges are payable, and by whom, in respect of use of the licensed infrastructure. 	<ul style="list-style-type: none"> ▼ The protection of public health, public safety and consumers under s7(1)(a) of the WIC Act ▼ Ensuring the sustainability of water resources under s7(1)(c).

2.3 We propose to add two new licence conditions

We propose to include two new licence conditions on:

- ▼ Notification of changes to end use (clause B9 of the proposed licence)
- ▼ Notification of non-compliant Plumbing (clause B11 of the proposed licence).

The reasons for our proposed changes are in Table 2.2.¹⁴

Table 2.2 Proposed new licence clauses

New licence clause	Reasons for including this clause	We had particular regard to the following licensing principles in making our recommendation
B9 Notification of changes to end-use	<ul style="list-style-type: none"> ▼ Require VWA to notify us if it proposes to use non-potable water for a use that is not covered in its approved water quality plan. ▼ This allows us to confirm that the scheme generates non-potable water of a quality which is appropriate for the intended end-uses. 	<ul style="list-style-type: none"> ▼ The protection of public health, public safety and consumers under s7(1)(a) of the WIC Act.

¹⁴ The current and new licence clause wording is provided in Table B.2 of Appendix B.

New licence clause	Reasons for including this clause	We had particular regard to the following licensing principles in making our recommendation
B11 Notification of non-compliant Plumbing	<ul style="list-style-type: none"> ▼ Require VWA to notify the customer and the regulator of non-compliant plumbing ▼ This reduces the risk of adverse impacts on VWA's customers resulting from improper and illegal plumbing connections. 	<ul style="list-style-type: none"> ▼ The protection of public health, public safety and consumers under s7(1)(a) of the WIC Act.

2.4 We propose to remove one existing licence condition

We propose to remove the requirement for VWA to provide IPART with its licence plans as this requirement is already in the network operator's Reporting Manual. The reason for our proposed change is in Table 2.3.¹⁵

Table 2.3 Proposed deleted licence clause

Current licence clause	Reason for including this clause	Considerations in making our recommendation
B9 Provision of copy of Plan	<ul style="list-style-type: none"> ▼ This condition duplicates a requirement in section 3.10 of the Reporting Manual for Network Operator's Licensees. 	<ul style="list-style-type: none"> ▼ Inefficient regulation caused by duplicative requirements on VWA.

Note: We updated the *Network Operator's Reporting Manual* on 4 August 2019 to include the requirement for licensees to provide us with a copy of its Plans at the same time that it provides a copy to an approved auditor as required under the WIC Regulation.

¹⁵ The current and new licence clause wording is provided in Table B.3 of Appendix B.

3 Recommendations

We recommend that the Minister for Water, Property and Housing:

- 1 Vary the conditions of VWA's network operator's licence to make minor changes and bring it in line with the standard licence conditions for network operator's licences (**Attachment A**) subject to consulting with VWA.

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

Upon making a decision to vary the licence or otherwise, the Minister may provide IPART with a notice of the decision and the reasons for the decision. We will make the information in the notice available to the public on our website, in accordance with the requirements of the WIC Act. We will also notify the licensee of the amended licence.



Appendices



A Proposed network operator's licence

B Proposed licence condition amendments

Table B.1 Proposed licence clause amendments which have resulted in material changes

Current licence clause(s)	New licence clause
<p>B2 Obtaining appropriate insurance</p> <p>B2.1 Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> i) certifies that in the Insurance Expert's opinion, the type and level of the insurance obtained by the Licensee is appropriate for the size and nature of the activities authorised under the Licence; and ii) is in the form prescribed by the Reporting Manual. <p>B2.2 <i>[Not applicable]</i></p>	<p>B2. Maintaining appropriate insurance</p> <p>B2.1. The Licensee must hold insurance that is appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.</p> <p>B2.2. 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.</p> <p>B2.3. Before commencing to commercially operate the Specified Water Industry Infrastructure under this Licence, the Licensee must demonstrate that the insurance held is appropriate for the size and nature of those commercial operation activities, by providing a report to IPART from an Insurance Expert that: <ul style="list-style-type: none"> a) certifies that in the Insurance Expert's opinion, the type, scope and limit of the insurance held by the Licensee is appropriate for the size and nature of those commercial operation activities; and b) is in the form prescribed by the Reporting Manual. </p> <p>B2.4. <i>[Not applicable]</i></p>
<p>B3 Maintaining appropriate insurance</p> <p>B3.1 The Licensee must maintain insurance that is appropriate for the size and nature of the activities authorised under this Licence.</p> <p>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.</p> <p>B3.3 If there is to be a change in: <ul style="list-style-type: none"> 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.</p> <p>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 and level of the insurance held by the Licensee is appropriate for the size and nature of the activities authorised under this Licence.</p>	<p>B2.5. If, in relation to the activities authorised by this Licence, there is, or is to be, a change in either of the following, the Licensee must provide a report to IPART in accordance with the Reporting Manual: <ul style="list-style-type: none"> 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. </p> <p>B2.6. From time to time when requested in writing by IPART, the Licensee must provide a report to IPART, in the manner and form and within the timeframes specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion the type, scope and limit on the amount of insurance held by the Licensee is appropriate for the size and nature of the activities that the Licensee is carrying out under this Licence.</p> <p><i>[Note: The circumstances in which IPART may request a report under clause 2.6 include (but are not limited to) the following:</i></p> <ul style="list-style-type: none"> • where IPART considers 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 that the Licensee is carrying out under this Licence; • where there is a change in the type or extent of activities authorised by this Licence; or • where IPART or an approved auditor considers 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 that the Licensee is carrying out under this Licence.]
<p><i>[Note: The situations in which IPART may request a report under clause B3.4 include (but are not limited to) the following:</i></p> <ul style="list-style-type: none"> • when IPART has reason to believe that there may be a change in the type or level of insurance held by the Licensee in relation to activities authorised under this Licence; • where there is a change in the type or extent of activities authorised under this Licence; or • when IPART or an approved auditor has reason to believe that the type or level of insurance held by the Licensee may not be appropriate for the size and nature of the activities authorised under this Licence.] 	

Current licence clause(s)	New licence clause
<p>B7 Reporting information in relation to the Register of Licences</p>	<p>B6. Reporting information in relation to the register of licences</p>
<p>B7.1 Within 14 days of any change in relation to the following, the Licensee must notify IPART, and provide details, of the change in accordance with the Reporting Manual:</p> <ul style="list-style-type: none"> 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) <i>[Not applicable]</i> f) <i>[Not applicable]</i> g) the arrangements for the disposal of waste from the Specified Water Industry Infrastructure. 	<p>B6.1. The Licensee must notify IPART, and provide IPART with details, of any change in relation to the following, in accordance with the Reporting Manual, within 14 days of the change:</p> <ul style="list-style-type: none"> a) any source from which the water handled by the Specified Water Industry 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 Specified Water Industry Infrastructure for the purpose of supplying water to its customers; c) any other water infrastructure to which the Specified Water Industry Infrastructure is connected; d) in the case of non-potable water, the authorised purposes for that water; e) <i>[Not applicable]</i>; f) <i>[Not applicable]</i>; and g) <i>[Not applicable]</i>.
<p>B10 Delineating responsibilities - interconnections</p>	<p>B8. Delineating responsibilities</p>
<p>B10.1 Where a water industry code of conduct under clause 25 of the Regulation has not been established by order published in the Gazette and some or all of the Specified Water Industry Infrastructure is connected to water industry infrastructure owned by a person other than the Licensee, the Licensee must make arrangements in relation to the respective responsibilities of the Licensee and each licensed network operator, licensed retail supplier and/or public water utility that is responsible for the other water industry infrastructure.</p>	<p>B8.1. 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 8.</p>
<p>B10.2 The arrangements are to be agreed in writing between the Licensee and the licensed network operators, licensed retail suppliers and/or public water utilities (as the case may be) prior to commencing commercial operation of the Specified Water Industry Infrastructure.</p>	<p>B8.2. 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:</p> <ul style="list-style-type: none"> a) the Licensee; and b) each licensed network operator, licensed retail supplier and/or public water utility that: <ul style="list-style-type: none"> i) supplies water or provides sewerage services by means of any water industry infrastructure that is connected to the Specified Water Industry Infrastructure; or ii) constructs, maintains or operates any water industry infrastructure that is connected to the Specified Water Industry Infrastructure.
<p>B10.3 The arrangements must address the following matters:</p> <ul style="list-style-type: none"> a) responsibility for the repair, replacement or maintenance of any pipes, pumps, valves, storages or other infrastructure connecting some or all of the Specified Water Industry Infrastructure to any water industry infrastructure owned by a person other than the Licensee, 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. 	<p>B8.3. <i>[Not applicable]</i></p> <p>B8.4. The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause 8.2 by, at a minimum, providing for:</p> <ul style="list-style-type: none"> a) 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; b) who is responsible for water quality; c) who is liable in the event of the unavailability of water; d) who is liable in the event of failure of any water industry infrastructure; e) the fees and charges payable in respect of the use of the water industry infrastructure; and f) who is responsible for handling customer complaints.
<p>B10.4 The arrangements made under this clause B10 are to remain in place until a water industry code of conduct is established under clause 25 of the Regulation.</p>	<p>B8.5. 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.</p>
<p>B10.5 The Licensee must not contravene the water industry code of conduct to the extent that it makes the Licensee responsible or liable for the matters set out in it.</p>	

Table B.2 Proposed new licence clauses

New licence clause
B9. Notification of changes to end-use
B9.1. If the Licensee proposes to operate the Specified Water Industry Infrastructure to supply non-potable 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.
B11. Notification of non-compliant Plumbing
B11.1. If the Licensee becomes aware that a customer's Plumbing is not Code Compliant, the Licensee must, within 10 days, notify the customer and the Plumbing Regulator, in writing, of that fact.

Table B.3 Proposed deleted licence clause

Current licence clause
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.

C Proposed notice of decision



New South Wales

Water Industry Competition Act 2006 (NSW)

Section 15

**Notice of Decision -
Variation of Network Operator's
Licence No. 09_001**

I, the Hon. Melinda Pavey, MP, Minister for Water, Property and Housing, have decided to amend Veolia Water Australia Pty Ltd's (ACN 061 161 279) licence number 09_001 (**Licence**) under section 15 of the *Water Industry Competition Act 2006* (NSW) (**Act**). The reasons for my decision are set out below.

I have considered and accepted the Independent Pricing and Regulatory Tribunal (**IPART**)'s advice and recommendations in its report to me on the 5-year review of the licence. I attach IPART's report (**Attachment A**).

I have also had regard to the licensing principles set out in section 7 of the Act in considering whether or not to grant the Licence variation and what conditions should be imposed on the Licence.

I attach the Licence, as varied (**Attachment B**).

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The Hon. Melinda Pavey, MP
Minister for Water, Property and Housing

Dated this day of 20