



5-year review of Suez Water Pty Ltd's
Network Operator's licence no. 16_038 and
Retail Supplier's licence no. 16_039R

Report to the Minister

May 2022

Water >>

Tribunal Members

The Tribunal members for this review are:

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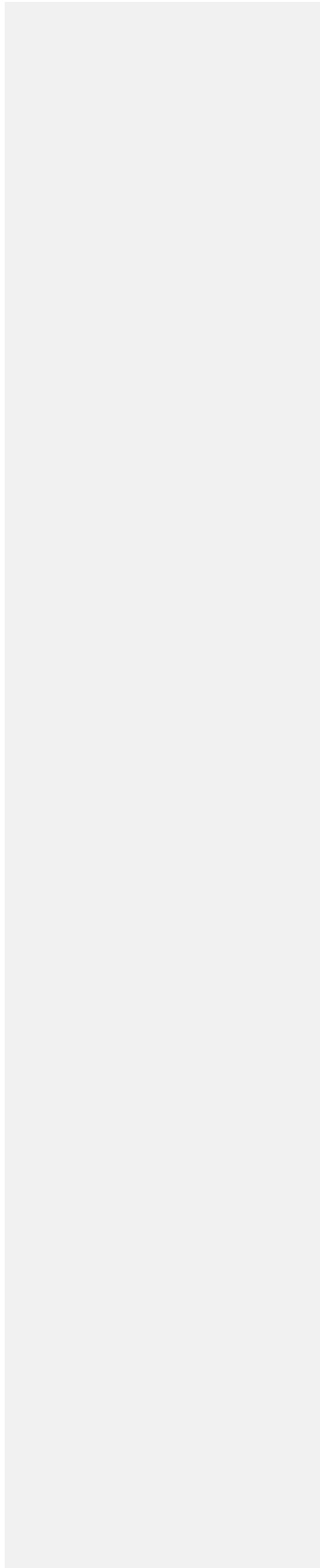
The Independent Pricing and Regulatory Tribunal (IPART)

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Acknowledgment of country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.



Contents

1	Executive Summary	1
1	Introduction	2
1.1	We sought to update licence conditions, having considered whether new risks had emerged	2
1.2	We consulted relevant stakeholders to inform our review	3
1.3	We had regard to licensing principles	3
1.4	We were mindful of changes to the WIC Act licensing framework	4
2	Review of Suez's network operator's licence	5
2.1	We propose material and non-material changes to the licence scope	5
2.2	We propose to remove 2 existing licence conditions	6
3	Review of Suez's retail supplier's licence	7
3.1	We propose non-material changes to the licence scope	7
3.2	We propose to remove 1 existing licence condition	7
4	Recommendations	8
A	Proposed network operator's licence (16_038)	1
B	Proposed network operator's licence (16_038) amendments	16
C	Proposed retail supplier's licence (16_039R)	20
D	Proposed retail supplier's licence (16_039R) amendments	34

1 Executive Summary

The Independent Pricing and Regulatory Tribunal of NSW (IPART) has conducted a 5-year review of Suez Water Pty Ltd's (Suez) network operator's licence and retail supplier's licence under section 85 of the *Water Industry Competition Act 2006* (WIC Act). These licences are for the Kooragang Industrial Water Scheme (KIWS), located in Newcastle NSW.

Our original assessment of Suez'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 recommend that the Minister varies Suez's network operator's licence (number 16_038), and its retail supplier's licence (16_039R). No new risks were identified, and we recommend only minor amendments to the current licences. The proposed changes bring Suez's licences into alignment with our standard licence conditions. We also recommend amending the licences to update language and terminology to improve readability and provide clarity.

We consulted with Suez on the proposed varied licence conditions and considered its response as part of the review process.

While the *Water Industry Competition (General) Regulation 2021* (WIC Regulation) does not require consultation with any persons other than the licensee, we consulted with the Department of Planning and Environment (DPE) as part of the review process and considered its response.

6 Introduction

Suez holds 2 licences under the WIC Act as described in Table 6.1.

Table 6.1 Suez's licences for the Suez scheme

Licence number	Licence type	Date granted	Date last varied
16_038	Network operator's licence	12 December 2016	NA
16_039R	Retail supplier's licence	12 December 2016	NA

Source: <https://www.ipart.nsw.gov.au/Home/Industries/Water/Alternate-water-utilities-WICA/WICA-Licenses-Listing-pages/Current-licences>.

We commenced a 5-year review of the licences on 14 December 2021.ⁱ This report includes our proposal to vary the existing licence conditions and summarises our analysis and reasons for recommending the following changes:ⁱⁱ

- **Network operator's licence:** vary the existing licence conditions and remove 2 conditions, and
- **Retail supplier's licence:** vary the existing conditions and remove one condition.

6.1 We sought to update licence conditions, having considered whether new risks had emerged

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

We considered Suez's overall compliance history to inform our assessment of emerging risks as a result of the KIWS scheme. We did not identify any new risks to public health, safety, consumers and the environment.

We propose to update and amend licence conditions

The review provided an opportunity to update Suez's network operator's and retail supplier's licence conditions, to align them with other more recent licence conditions. We also propose amending a special Ministerially-imposed licence condition. We consider that the proposed amendment and updated standard licence conditions will:

- address any gaps in the licence
- clarify the intent of licence conditions 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 propose to remove 3 licence conditions

Where licence conditions impose requirements that are already imposed elsewhere (eg, in another part of a licence or the relevant Reporting Manual for WIC Act licensees), and the removal of these requirements do not result in added risk, we propose to remove those conditions.

6.2 We consulted relevant stakeholders to inform our review

We sought a submission from Suez on its existing licences on 14 December 2021.ⁱⁱⁱ We also sought submissions from DPE on the existing licences.^{iv} Neither Suez^v nor DPE^{vi} proposed any changes to Suez's existing licences.

We sought a submission from Suez on the draft proposed licences.^{vii} Suez did not provide a submission on the proposed licences by the requested date.

If the Minister chooses to make further changes to the proposed licences, he 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.^{viii} The Minister must consider any such submissions on the proposed amendments.

6.3 We had regard to licensing principles

We had regard to the licensing principles in section 7 of the WIC Act (Box 6.1). Our recommendation to add, remove and amend Suez's licence conditions to align them with more recent licence conditions, is in line with the licensing principles as it provides:

- Better consumer protection by clarifying requirements for the delineation of responsibilities where there are interconnections with other utilities^{ix}
- Less regulatory duplication by removing licence requirements that already exist in our reporting manual requirements for WIC Act licensees, or by consolidating requirements across conditions to a single condition within a licence (eg, insurance requirements).

Box 6.1 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.

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

The *Water Industry Competition Amendment Bill 2021* (Amending WIC Act) recently passed by the NSW Government will result in significant changes to the licensing framework and consent conditions. The Amending WIC Act includes a changed scope for schemes that will require a licence, and provisions for all current schemes to be transitioned to the new framework where appropriate. Therefore, we have recommended the minimum changes necessary to bring Suez's network operator's and retail supplier's licences in line with the standard licence conditions. We consider this is appropriate given the impending changes to the licensing regime.

7 Review of Suez's network operator's licence

7.1 We propose material and non-material changes to the licence scope

The licence scope is set out in Schedule A of the existing licence. We propose to restructure the licence scope into 3 sections, one for non-potable water, one for drinking water and one for sewerage services. This aligns the licence with our standard template. We consider that applying the standard licence template, while maintaining the language in Suez's existing licence, improves clarity.

We propose one further change to the licence scope – to amend the description used in Table 1.3 of the current licence to describe authorised purposes for the use of non-potable water. The current description does not appropriately describe the licensed end uses or reflect the authorised purposes as they were set out in Suez original application. We consider the change will not materially impact the authorisation for producing non-potable water or its uses but removes inaccuracy.

We usually amend new licences to define the area of operations using GIS coordinates and indicative maps.* This is consistent with our standard licence template. However, currently, Suez are unable to provide GIS coordinates for the existing area of operations. We will continue to describe the area of operations using the original description used in the application and the supporting documents. All licences will be converted to GIS descriptors for area of operation during the transition to the new WIC Act framework during 2022-23.

We also propose minor changes to the language used in Sections 1, 2 and 3 to align the language with our standard template. We consider that applying the standard licence template language, while maintaining the wording in Suez's existing licence, improves clarity without changing the licence scope.

We propose to amend 3 licence conditions in relation to:

1. environmental considerations – amend 2 clauses to match current template
2. insurance requirements – to match current template.

The reasons for our proposed changes are summarised in Table 2.1.^{xi}

Table 2.1 Proposed material changes to licence conditions

Current licence condition(s)	New licence condition	Reasons for the change	We had particular regard to the following licensing principles in making our recommendation
A1.1 and 1.2	A1.1-Review of Environmental Factors	To consolidate and clarify the requirement for Suez to implement environmental mitigation measures consistent with its approved REFs.	The protection of public health, the environment, public safety and consumers under s7(1)(a) of the WIC Act.

Current licence condition(s)	New licence condition	Reasons for the change	We had particular regard to the following licensing principles in making our recommendation
B2	B2-Maintaining appropriate insurance	<p>Consolidate insurance requirements for obtaining insurance (B2) and maintaining insurance (B3) into one clause to reduce repetition and improve clarity.</p> <p>Suez is no longer a greenfield scheme and requirements of this condition are now covered by new condition B2.</p> <p>Clarify when Suez 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.</p>	<p>The protection of consumers under s7(1)(a) of the WIC Act</p> <p>The potential for adverse financial implications for small retail customers under s7(1)(f).</p>

7.2 We propose to remove 2 existing licence conditions

In Schedule B, we propose to remove 2 condition that require Suez to notify IPART of changes to plans and changes to authorised persons as outlined in Table 2.2.

Table 2.2 Proposed deleted licence conditions

Current licence condition	Reason for deleting this condition	Considerations in making our recommendation
B9 Provision of copy of Plan	<ul style="list-style-type: none"> This condition duplicates a requirement in the Reporting Manual for Network Operator's Licensees. 	<ul style="list-style-type: none"> Inefficient regulation caused by duplicative requirements on Suez.
B12 Notification of changes to Authorised Person	<ul style="list-style-type: none"> This condition duplicates a requirement in the Reporting Manual for Network Operator's Licensees. 	<ul style="list-style-type: none"> Inefficient regulation caused by duplicative requirements on Suez.

Note: We updated the *Network Operator's Reporting Manual* to incorporate these reporting requirements on 4 August 2019.

8 Review of Suez's retail supplier's licence

8.1 We propose non-material changes to the licence scope

The licence scope is set out in Schedule A of the existing licence. We propose to restructure the licence scope into 3 sections, one for non-potable water, one for drinking water and one for sewerage services. We propose to align the language used in Sections 1, 2 and 3.

These changes align the licence with our standard template. We consider that applying the standard licence template, while maintaining the language in Suez's existing licence, improves clarity with no material changes to the licence scope.

8.2 We propose to remove 1 existing licence condition

We propose to remove the requirement for Suez to notify IPART of changes to plans.¹

The reasons for our recommendations are outlined in Table 4.1.

Table 4.1 Proposed deleted licence conditions

Current licence condition	Reasons for deleting this condition	Considerations in making our recommendation
B8 Provision of Copy of Plan	▼ This condition duplicates a requirement in section 3.10 of the <i>Reporting Manual</i> .	▼ Inefficient regulation caused by duplicative requirements on Suez.

¹ The deleted clause wording is provided in Table D.2 of Appendix D.

9 Recommendations

Recommendation

- 1 We recommend that the Minister vary the conditions of Suez's network operator's licence (16_038) and retail supplier's licence (16_039R) in accordance with the proposed varied licences in Appendix A and C.

Upon making a decision to vary the licences or otherwise, the Minister may provide IPART with a notice of the decision and the reasons for the decision. Where the Minister provides us with a notice of the decision, we will make that notice available to the public on our website, in accordance with the requirements of the WIC Act. We will also notify the licensee of each varied licence.

Appendices

A Proposed network operator's licence (16_038)



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW)

Network operator's licence

Licence no. 16_038

(ACN 051 950 068)

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 operator's 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 modifies or affects 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 to 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

<ol style="list-style-type: none">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 other water infrastructure may be used for one or more of the following purposes for water industry infrastructure:<ol style="list-style-type: none">a) production of non-potable water;b) treatment of non-potable water;c) filtration of non-potable water;d) storage of non-potable water; ande) 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 other water infrastructure may be used for one or more of the following purposes for water industry infrastructure:<ol style="list-style-type: none">a) storage of non-potable water;b) conveyance of non-potable water; andc) treatment of non-potable water;
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Table 1.3 Area of operations

- 1) The Industrial Water Plant Area.
- 2) The pipeline from Shortland Wastewater Treatment Works connection point to the Industrial Water Plant Area as described in section 2.6.3.1 of the Kooragang Industrial Water Scheme REF
- 3) The pipeline from the Industrial Water Plant Area to Burwood Beach Wastewater System connection point as described in section 2.6.3.3 of the Kooragang Industrial Water Scheme REF.
- 4) The pipeline from the Industrial Water Plant to Shortland Wastewater Treatment Works discharge pipeline connection point as described in section 2.6.3.4 of the Kooragang Industrial Water Scheme REF.
- 5) The pipeline from the Industrial Water Plant Area to industrial customer(s) as described in section 4.2.2 of the Kooragang Industrial Water Scheme Addendum REF.

Table 1.4 Authorised purposes for non-potable water

- 1) Industrial Purposes (including cleaning, wash down, cooling tower make up, and dust suppression)
- 2) Toilet flushing
- 3) Municipal/open space irrigation

SECTION 2 – ACTIVITIES AUTHORISED: DRINKING WATER

Subject to the conditions imposed by the Act, the Regulation and Schedules A and B to this Licence, this Licence authorises the Licensee and any Authorised Persons specified in Table 2.1 to construct, maintain and operate the water industry infrastructure specified in Table 2.2:

- a) for one or more of the purposes for water industry infrastructure specified in Table 2.2; and
- b) within the area of operations specified in Table 2.3.

Table 2.1 Authorised Persons

None

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

Subject to the conditions imposed by the Act, the Regulation and Schedules A and B to this Licence, this Licence authorises the Licensee and any Authorised Persons specified in Table 3.1 to construct, maintain and operate the water industry infrastructure specified in Table 3.2:

- a) for one or more of the purposes for water industry infrastructure specified in Table 3.2; and
- b) within the area of operations specified in Table 3.3.

Table 3.1 Authorised Persons

None

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

1. Review of Environmental Factors

- 1.1 Where the Licensee carries out any activities authorised by this Licence, the Licensee must implement environmental risk mitigation measures substantially consistent with the environmental risk mitigation measures identified in the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF.

- 1.2 To the extent that there is any inconsistency between the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF, the Kooragang Industrial Water Scheme Addendum REF is to prevail.

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. [Not Applicable]
- 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) the arrangements for the disposal of waste from the Specified Water Industry Infrastructure.

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 section 46 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. [Not Applicable].
- 8.3. Within 6 months of the date on which this Licence is granted 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.
- 8.4. The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause 8.3 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

[Not Applicable]

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 – under the Water Industry Competition Act 2006*”, which is prepared by IPART and is available on [IPART's website](#), 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.
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).
Kooragang Industrial Water Scheme REF	means the document entitled “Kooragang Industrial Water Scheme (KIWS) Review of Environmental Factors” (SKM, Final, September 2011).
Kooragang Industrial Water Scheme Addendum REF	means the document entitled “Kooragang Industrial Water Scheme Addendum Review of Environmental Factors” (Hunter Water Australia, Final, May 2013).
Licence	means this network operator's licence granted under section 10 of the Act.
Licensee	means Suez Water Pty Ltd (ACN 051 950 068).
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 2021</i> (NSW).
Reporting Manual	means the document titled "Network Operator's Reporting Manual and Retail Supplier's Reporting Manual under <i>Water Industry Competition Act 2006</i> ", which is prepared by IPART and is available on IPART's website .
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 Proposed network operator's licence (16_038) amendments

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

Current licence condition(s)		New licence condition	
Section 1 Table 1.3,	<ol style="list-style-type: none"> 1. Production of non-potable water; 2. Treatment of non-potable water; 3. Filtration of non-potable water; 4. Storage of non-potable water; and 5. Conveyance of non-potable water. 	<p>Table 1.4</p> <ol style="list-style-type: none"> 1. Industrial Purposes (including cleaning, wash down, cooling tower make up, and dust suppression) 2. Toilet flushing 3. Municipal/open space irrigation 	
A11	The Licensee, or any Authorised Person specified in the Licence, must undertake the activities that are authorised by the Licence in a manner which is substantially consistent with the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF. This includes, but is not limited to, the implementation of environmental mitigation measures.	<p>A2 Review of Environmental Factors</p> <p>A11 Where the Licensee carries out any activities authorised by this Licence, the Licensee must implement environmental risk mitigation measures substantially consistent with the environmental risk mitigation measures identified in the Kooragang Industrial Water Scheme REF and the Kooragang Industrial Water Scheme Addendum REF.</p>	
B2	Obtaining appropriate insurance	B2.	Maintaining appropriate insurance
B2.1	[Not applicable]	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.
B2.2	<p>The Licensee must:</p> <ol style="list-style-type: none"> a) on the date on which this Licence is granted for the Specified Water Industry Infrastructure under this Licence: <ol style="list-style-type: none"> i) hold insurance that is appropriate for the size and nature of the activities authorised under this Licence; and ii) provide a copy of each certificate of currency of the insurance obtained to IPART; and b) within 6 months of the date on which this Licence is granted or by a later date specified by IPART (if any), demonstrate that the insurance held 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: <ol style="list-style-type: none"> i) certifies 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 the Licence; and ii) is in the form prescribed by the Reporting Manual. 	<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. <i>[Not applicable].</i></p> <p>B2.4. <i>[Not applicable].</i></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: <ol 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>	

Current licence condition(s)		New licence condition
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: <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.	
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.	
	<i>[Note: The situations in which IPART may request a report under condition B3.4 include (but are not limited to) the following:</i> <ul style="list-style-type: none"> • <i>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;</i> • <i>where there is a change in the type or extent of activities authorised under this Licence; or</i> • <i>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.]</i> 	
		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.
		<i>[Note: The circumstances in which IPART may request a report under condition 2.6 include (but are not limited to) the following:</i> <ul style="list-style-type: none"> • <i>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;</i> • <i>where there is a change in the type or extent of activities authorised by this Licence; or</i> • <i>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.]</i>

Table B.2 Proposed deleted licence conditions

Current licence condition	
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.
B12	Notification of changes to Authorised Person
B 12.1	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 I PART 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.

C Proposed retail supplier's licence (16_039R)



NEW SOUTH WALES GOVERNMENT

Water Industry Competition Act 2006 (NSW) **Retail supplier's licence**

Licence no. 16_039R

Suez Water Pty Ltd

(ACN 051 950 068)

PRELIMINARY

2. Summary

- 2.1. This Licence is granted under section 10(1) of the Act.
- 2.2. The Act prohibits a person from supplying water, or providing a sewerage service, by means of 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.

3. Outline

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

Section 1 authorises the supply of non-potable water (if applicable).
Section 2 authorises the supply of drinking water (if applicable).
Section 3 authorises the supply of sewerage services (if applicable).
Schedule A sets out special Ministerially-imposed licence conditions that are specific to this Licence.
Schedule B sets out Ministerially-imposed licence conditions that generally apply to retail suppliers' licences granted under the Act.
Schedule C sets out definitions and interpretation provisions.

- 3.2. 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 modifies or affects the conditions imposed on this Licence by the Act or Regulation.

SECTION 1 – AUTHORISATION TO SUPPLY NON-POTABLE WATER

Subject to the conditions imposed by the Act, the Regulation and Schedules A and B to this Licence, this Licence authorises the Licensee and any Authorised Persons specified in Table 1.1 to supply non-potable water:

- a) to the persons or classes of persons 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 may only be used for the authorised purposes for non-potable water specified in Table 1.4.

Table 1.1 Authorised Persons

Kooragang Water Pty Ltd (ACN 609 789 808)

Table 1.2 Person or classes of persons

Any person other than a Small Retail Customer.

Table 1.3 Area of operations

Newcastle City Council local government area.

Table 1.4 Authorised purposes for non-potable water

1. industrial process water;
2. cooling towers; and
3. on-site reuse.

SECTION 2 – AUTHORISATION TO SUPPLY DRINKING 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 2.1 to supply drinking water:

- a) to the persons or classes of persons specified in Table 2.2; and
- b) within the area of operations specified in Table 2.3.

Table 2.1 Authorised Persons

Kooragang Water Pty Ltd (ACN 609 789 808)

Table 2.2 Person or classes of persons

Any person other than a Small Retail Customer

Table 2.3 Area of operations

Newcastle City Council local government area.

SECTION 3 – AUTHORISATION TO PROVIDE SEWERAGE SERVICES

Subject to the conditions imposed by the Act, the Regulation and Schedules A and B to this Licence, this Licence authorises the Licensee and any Authorised Persons specified in Table 3.1 to provide sewerage services:

- a) to the persons or classes of persons specified in Table 3.2; and
- b) within the area of operations specified in Table 3.3.

Table 3.1 Authorised Persons

[Not Applicable]

Table 3.2 Person or classes of persons

[Not Applicable]

Table 3.3 Area of operations

[Not Applicable]

SCHEDULE A – SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS

1. Notification of changes to Authorised Person

- 1.1. 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, or a later date approved by IPART in writing. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken.

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. [Not Applicable]
- 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 licensed network operator or public water utility from whose water industry infrastructure the Licensee supplies water to its customers;
 - b) any source from which the water handled by the water industry infrastructure referred to in clause 6.1a) is derived;
 - c) whether or not any of the Licensee's customers are Small Retail Customers;
 - d) any order under section 54 of the Act by which the Licensee is declared to be a retailer of last resort; and
 - e) [Not Applicable].

7. Delineating responsibilities

7.1. If a code of conduct has not been established under section 46 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 7.

7.2. [Not Applicable]

7.3. Within 6 months of the date on which this Licence is granted 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 Licensed Water Industry Infrastructure; or
 - ii) constructs, maintains or operates any water industry infrastructure that is connected to the Licensed Water Industry Infrastructure.

7.4. The Licensee's Code of Conduct must set out the respective responsibilities of the entities specified in clause 7.3 by, at a minimum, providing for:

- a) who is responsible for repairing, replacing or maintaining any pipes, pumps, valves or storages or other infrastructure connecting the Licensed 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.

7.5. 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.

8. Infrastructure to be used

8.1. The Licensee must only source and supply water by means of water industry infrastructure, if that water industry infrastructure is maintained and operated by a licensed network operator or public water utility.

8.2. [Not Applicable].

9. Notification of supply of water or provision of sewerage services

9.1. [Not Applicable]

9.2. [Not Applicable]

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 under the Water Industry Competition Act 2006*”, which is prepared by IPART and is available on [IPART's website](#), 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.
Insurance Expert	means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001</i> (Cth) that authorises the broker to provide financial product advice for, and deal in, contracts of insurance within the meaning of Chapter 7 of that Act.
IPART	means the Independent Pricing and Regulatory Tribunal of New South Wales established under the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> (NSW).
Licence	means this retail supplier's licence granted under section 10 of the Act.
Licensed Water Industry Infrastructure	means the water industry infrastructure by means of which the non-potable water, drinking water and/or sewerage services (as applicable) under this Licence are supplied.
Licensee	means Suez Water Pty Ltd Licence no. 16_039R.
Licensee's Code of Conduct	has the meaning given in Schedule B, clause 7.1.
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.
Regulation	means the <i>Water Industry Competition (General) Regulation 2021</i> (NSW).

Reporting Manual means the document titled “Network Operator’s Reporting Manual and Retail Supplier’s Reporting Manual under *Water Industry Competition Act 2006*”, which is prepared by IPART and is available on [IPART's website](http://www.ipart.nsw.gov.au) at www.ipart.nsw.gov.au.

Small Retail Customer has the meaning given to that term in the Regulation.

D Proposed retail supplier's licence (16_039R) amendments

Table D.1 Proposed deleted licence conditions

Current licence condition	
B8.	Provision of copy of Plan
B8.1	Whenever the Licensee makes a significant amendment to a Plan, the Licensee must provide a copy of the amended Plan to IPART at the same time that it provides a copy to the approved auditor engaged to prepare a report as to the adequacy of the amended Plan, as required under the Regulation.

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- i We review licences granted under the WIC Act at intervals of not more than five years, with the first 5-year review commencing on the fifth anniversary of the granting of the licence, as per WIC Act, section 85(2).
 - ii In accordance with section 85(3) of the WIC Act.
 - iii Letter to Suez Water Pty Ltd, IPART, dated 13 December 2021, and sent by email on 14 December 2021.
 - iv Email to DPIE, Principal Analyst, IPART, 14 December 2021.
 - v Email to IPART, KIWS Plant Manager, Suez Water, 24 February 2022.
 - vi Email to IPART, Director Water Utilities, DPIE, 14 February 2022.
 - vii Email to Suez, IPART, 30 March 2022.
 - viii WIC Act, section 17.
 - ix WIC Act section 7(1)(a) and 7(1)(f).
 - x Area of operations are currently defined using a combination of Lots and Deposited Plans.
 - xi The current and new licence clause wording is provided in Appendix B.