



NEW SOUTH WALES GOVERNMENT

WATER INDUSTRY COMPETITION ACT 2006
(NSW)

RETAIL SUPPLIER'S LICENCE

Sydney Desalination Plant Pty Ltd

(ACN 125 935 177)



New South Wales

**Water Industry Competition Act 2006 (NSW)
Section 15**

Notice of Decision

**Variation of retail supplier's licence
Licence no. 10_011R**

I, The Hon. Don Harwin, MLC, Minister for Energy and Utilities, under section 15 of the Water Industry Competition Act 2006, have considered and accepted the recommendations made by the Independent Pricing and Regulatory Tribunal of New South Wales (IPART) in its report to me on the five-yearly review of the retail supplier's licence granted to Sydney Desalination Plant Pty Ltd (ACN 125 935 177) (licence no. 10_011R), to vary the existing conditions of the licence and impose new conditions on the licence. I attach a copy of 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 to vary the existing conditions of the licence or impose new conditions on the licence.

For the reasons set out above, I have therefore determined to vary the conditions of, and impose new conditions on, retail supplier's licence [no. 10_011R] as follows:

- (i) Delete Schedule A and replace with new Schedule A (attached to this notice).
- (ii) Delete Schedule B and replace with new Schedule B (attached to this notice).

I hereby attach a copy of the licence, as varied (**Attachment B**).

A handwritten signature in blue ink, appearing to read 'Don Harwin', written over a horizontal dotted line.

The Hon. Don Harwin, MLC
Minister for Energy and Utilities

Dated this **3rd** day of **November** 20 **11**

**SCHEDULE A - SPECIAL MINISTERIALLY- IMPOSED LICENCE CONDITIONS
FOR SYDNEY DESALINATION PLANT PTY LTD'S RETAIL SUPPLIER'S
LICENCE**

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

A1 Activities authorised

A1.1 This Licence authorises the Licensee and any authorised persons specified in Table 1:

- a) to supply water by means of the water industry infrastructure specified in Table 2
- b) for the authorised purposes specified in Table 3
- c) to the persons or classes of persons specified in Table 4
- d) within the area of operations specified in Table 5, subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1 Authorised persons

[Not Applicable]

Table 2 Specified water industry infrastructure

Infrastructure used for the production; treatment, filtration, storage, conveyance or reticulation of drinking water under Network Operator's Licence no 10_010 and /or the Sydney Water Operating Licence (as the case may be).

Table 3 Authorised purposes

Drinking water and other purposed for which drinking water could be used safely.

Table 4 Specified persons or classes of persons

Any person other than a Small Retail Customer.

Table 5 Area of operations

Sydney Water Corporations' area of operations (as defined in the Sydney Water Operating Licence).

INTERPRETATION AND DEFINITIONS

Interpretation

In this Schedule A, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) headings are used for convenience only and do not affect the interpretation of this Schedule A;
- (iii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iv) a reference to a "person" includes a natural person and any body or entity whether incorporated or not;
- (v) a reference to a clause is to a clause in this Schedule A;
- (vi) a reference to a schedule is to a schedule to this Licence;
- (vii) a reference to a law or statute includes regulations, rules, codes and other instruments under it, and consolidations, amendments, re-enactments or replacements of them; and
- (viii) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

Definitions

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

In this Schedule A:

Act	means the <i>Water Industry Competition Act 2006</i> (NSW).
Licence	means this retail supplier's licence granted under section 10 of the Act.
Licensee	means the person to whom this Licence is granted under section 10 of the Act.
Minister	means the Minister responsible for Part 2 the Act.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Small Retail Customer	has the meaning given to that term in the Regulation.
Sydney Water Operating Licence	means the operating licence of Sydney Water Corporation as renewed, updated, replaced or varied from time to time.

SCHEDULE B - STANDARD MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR ALL LICENSED RETAIL SUPPLIERS

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

B1 Ongoing capacity to operate

B1.1 The Licensee must have the technical, financial and organisational capacity to carry out the activities authorised by this Licence. If the Licensee ceases to have this capacity, it must report this to IPART immediately in accordance with the Reporting Manual.

B2 Obtaining appropriate insurance

B2.1 *[Not applicable]*

B2.2 The Licensee must:

- a) before commencing to supply water through the Specified Water Industry Infrastructure under this Licence:
 - i) obtain insurance that is appropriate for the size and nature of the activities authorised under this Licence; and
 - i) 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 License is granted or by a later date specified by IPART (if any) demonstrate that the insurance obtained is appropriate for the size and nature of the activities authorised under this Licence by providing a report to IPART from an Insurance Expert that:
 - i) certifies that in the Insurance Expert's opinion, the type 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.

B2.3 *[Not applicable]*

B2.4 *[Not applicable]*

B2.5 *[Not applicable]*

B2.6 *[Not applicable]*

B3 Maintaining appropriate insurance

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

- B3.2 The Licensee must provide a copy of each certificate of currency of the insurance maintained by the Licensee to IPART in accordance with the Reporting Manual.
- B3.3 If there is, or is to be a change in:
- a) the insurer or underwriting panel in respect of an insurance policy held by the Licensee; or
 - b) the type, scope or limit on the amount of insurance held by the Licensee, in relation to the activities authorised under this Licence, the Licensee must provide a report to IPART in accordance with the Reporting Manual.
- B3.4 From time to time when requested in writing by IPART, the Licensee must provide a report to IPART, in the manner, form and time specified by IPART, from an Insurance Expert certifying that in the Insurance Expert's opinion the type and level of the insurance held by the Licensee is appropriate for the size and nature of the activities authorised under this Licence.

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

- *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.]*

B4 Complying with NSW Health requirements

- B4.1 The Licensee must carry out the activities authorised by this Licence in compliance with any requirements of NSW Health that:
- a) IPART has agreed to; and
 - b) are notified from time to time to the Licensee by IPART in writing.

B5 Complying with Audit Guidelines from IPART

- B5.1 The Licensee must comply with any Audit Guidelines issued by IPART.

B6 Reporting in accordance with the Reporting Manual

- B6.1 The Licensee must prepare and submit reports in accordance with the Reporting Manual.

B7 Reporting information in relation to the Register of Licences

B7.1 Within 14 days of any change in relation to the following, the Licensee must notify IPART, and provide IPART with details, of the change in accordance with the Reporting Manual:

- 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 paragraph (a) is derived;
- c) whether or not any of the Licensee's customers are Small Retail Customers; or
- d) any order under section 54 of the Act by which the Licensee is declared to be a retailer of last resort.
- e) [Not applicable]
- f) [Not applicable]
- g) [Not applicable]

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.

B9 Delineating responsibilities

B9.1 If a code of conduct has not been established under clause 25 of the Regulation, the Licensee must establish a code of conduct (**Licensee's Code of Conduct**) in accordance with this clause B9.

B9.2 The Licensee's Code of Conduct must set out the respective responsibilities of:

- a) the Licensee; and
- b) each licensed network operator, licensed retail supplier and/or public water utility that:
 - i) supplies water or provides sewerage services by means of; or
 - ii) constructs, maintains or operates,
any water industry infrastructure that is connected to the Specified Water Industry Infrastructure,by, at a minimum, providing for:
 - c) who is responsible for repairing, replacing or maintaining any pipes, pumps, valves, storages or other infrastructure connecting the Specified Water Industry Infrastructure to the other water industry infrastructure;
 - d) who is responsible for water quality;
 - e) who is liable in the event of the unavailability of water;
 - f) who is liable in the event of failure of the Specified Water Industry Infrastructure;

- g) the fees and charges payable in respect of the use of the Specified Water Industry Infrastructure; and
- h) who is responsible for handling customer complaints.

B9.3 *[Not applicable]*

B9.4 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 the Licensee and the other licensed network operators, licensed retail suppliers and/or public water utilities referred to in clause B9.2.

B9.5 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.

B10 Notification of changes to Authorised Person

B10.1 If an Authorised Person ceases, proposes to cease, or receives notification to cease providing any of the services relating to the activities authorised by this Licence, the Licensee must provide IPART with written notice as soon as practicable but no later than 28 days before the date of cessation of the services. The written notice must include details of how the services previously undertaken by the Authorised Person will continue to be undertaken.

B11 Infrastructure to be used

B11.1 The Licensee must only source and supply water by means of water industry infrastructure maintained and operated by a licensed network operator or public water utility.

B11.2 *[Not applicable]*

B12 *[Not applicable]*

INTERPRETATION AND DEFINITIONS

Interpretation

In this Schedule B, unless the context requires otherwise:

- (i) the singular includes the plural and vice versa;
- (ii) headings are used for convenience only and do not affect the interpretation of this Schedule B;
- (iii) a reference to a document includes the document as modified from time to time and any document replacing it;
- (iv) a reference to a "person" includes a natural person and any body or entity whether incorporated or not;
- (v) a reference to a clause is to a clause in this Schedule B;
- (vi) a reference to a schedule is to a schedule to this Licence;

- (vii) a reference to a law or statute includes regulations, rules, codes and other instruments under it, and consolidations, amendments, re-enactments or replacements of them; and
- (viii) explanatory notes do not form part of this Licence, but in the case of uncertainty may be relied on for interpretation purposes.

Definitions

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

In this Schedule B:

Act	means the <i>Water Industry Competition Act 2006</i> (NSW).
Audit Guidelines	means the document entitled "Audit Guideline – Water Industry Competition Act 2006" which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au , and any other guidelines issued by IPART in relation to audits under the Act.
Authorised Person	means the authorised persons specified in, as applicable: <ul style="list-style-type: none">(i) Schedule A, clause A1, Table 1.1;(ii) Schedule A, clause A2, Table 2.1; and(iii) Schedule A, clause A3, Table 3.1.
Authorised Purposes	means the authorised purposes specified in, as applicable: <ul style="list-style-type: none">(i) Schedule A, clause A1, Table 1.3;(ii) Schedule A, clause A2, Table 2.3; and(iii) Schedule A, clause A3, Table 3.3.
Insurance Expert	means an insurance broker which holds an Australian financial services licence under Part 7.6 of the <i>Corporations Act 2001 (Cth)</i> 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.
Licensee	means the person to whom this Licence is granted under section 10 of the Act.
Licensee's Code of Conduct	has the meaning given in clause B9.1.
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 the retail supply management plan that the Licensee is required to prepare under the Regulation.
Regulation	means the <i>Water Industry Competition (General) Regulation 2008</i> (NSW).
Reporting Manual	means the document entitled "Retail Supplier's Reporting Manual", which is prepared by IPART and is available on IPART's website at www.ipart.nsw.gov.au .
Small Retail Customer	has the meaning given to that term in the Regulation.
Specified Area of Operations	means the area of operations specified in, as applicable: <ul style="list-style-type: none">(i) Schedule A, clause A1, Table 1.5;(ii) Schedule A, clause A2, Table 2.5; and(iii) Schedule A, clause A3, Table 3.5.
Specified Water Industry Infrastructure	means the water industry infrastructure specified in, as applicable:

- (i) Schedule A, clause A1, Table 1.2;
- (ii) Schedule A, clause A2, Table 2.2; and
- (iii) Schedule A, clause A3, Table 3.2.