

Author name: F. Verge

Date of submission: Tuesday, 10 April 2018

Submission: Please see the attached letter send to the Minister for Regional Water, The Hon. Niall Blair, MLC. The new residents of Catherine Hill Bay think it is outrageous that Solo Water has not been listed as a Monopoly provider when it so obviously is and should be regulated as such.

The Hon. Niall Blair, MLC
Minister for Primary Industries
Minister for Regional Water
Minister for Trade and Industry
GPO Box 5341
SYDNEY NSW 2001

Dear Mr. Blair,

I am writing to you in reference to your decision to grant a retail supplier's licence (licence number 15_036R) to Solo Water Pty Ltd (ACN 160 013 614) on 22 September 2016. This licence is for the supply of drinking water, non-potable water and sewerage services to the Catherine Hill Bay development on the South Wallarah Peninsula in the Lake Macquarie City Council Local Government Area. Please see Attachment A for the Notice of Decision for your reference.

The decision to grant a retail supplier's licence was made following the recommendations made by the Independent Pricing and Regulatory Tribunal (IPART) in their report to the Minister in November 2015. Please see Attachment B for the report for your reference.

I am writing to you as a future resident of the Catherine Hill Bay development to raise concerns about the conditions of the approval of Solo Water's retail supplier's licence and the negative effect these conditions are having on the residents.

A major reason that we bought the land at this development and not in the CHB township is that as retirees, we did not want to be bothered with worrying about water tanks and water levels. However looking at the costs that Solo Water is allowed to charge, we would have been better off just getting our water tank filled every few months!

IPART made the recommendation in their report to the Minister that Solo Water should not be considered a monopoly supplier for the supply of drinking water, non-potable water and sewerage services at the Catherine Hill Bay development and, as such, will not be subject to price regulation by IPART (refer page 30 in Attachment B). IPART also considered Solo Water's proposed pricing arrangements in their report (refer Table 4.1, page 31 in Attachment B) and determined that the pricing was similar to that of other suppliers that provided these services to nearby areas. IPART concluded that residents of the Catherine Hill Bay development "are not at a commercial disadvantage" (refer page 30 in Attachment B).

IPART note in their report that "a monopoly declaration may only be made in relation to a service, if the Minister is satisfied that it is a service:

- for which there are no other suppliers to provide competition in the part of the market concerned;
- for which there is no contestable market by potential suppliers in the short term in that part of the market; and
- in the case of a water supply service for recycled water, that connection of land to that service is required by or under some other Act."

In the case of the Catherine Hill Bay development, I believe this classifies Solo Water as a monopoly supplier. There is no alternative supplier residents can obtain these services from and therefore no competition in this market. By not declaring Solo Water a monopoly supplier, the Minister has given them the ability to set and modify their pricing without regulation. Solo Water have already demonstrated this ability by significantly increasing their pricing in comparison the proposed rates declared to IPART. This demonstrates a significant commercial disadvantage to the residents of the Catherine Hill Bay development.

Table 1 shows a comparison of the current Solo Water pricing compared with Hunter Water, Central Coast Council (both Wyong Shire and Gosford City regions), Sydney Water and Cooranbong Water (please refer to Attachment C for links to suppliers pricing schedules). Like Solo Water, Cooranbong Water is a private

company, wholly owned and operated by Flow Systems Pty Ltd. Cooranbong Water provides drinking water, non-potable water and sewerage services to the Watagan Park development in Cooranbong, NSW.

Table 1: Pricing Comparison between Water Utilities (charges are annual unless specified otherwise)

Charge	Hunter Water	Central Coast Council (Wyong Shire)	Central Coast Council (Gosford City)	Sydney Water	Cooranbong Water	Solo Water
Potable Water Connection Fee	\$ 130.00	\$ 150.99	\$ 472.62	\$ 0	\$ 270.00	\$ 540.00
Non-potable Water connection Fee	\$ 52.35	N/A	N/A	\$ 0	\$ 5395.50*	\$ 420.00
Sewerage Service Connection Fee	\$ 59.00	\$ 304.66	\$ 256.07	\$ 0		\$ 760.00
Total Connection Fees	\$ 241.35	\$ 455.65	\$ 728.69	\$ 0	\$ 5665.50	\$ 1720.00
Potable Water Supply Charge	\$ 51.69	\$ 164.60	\$ 197.72	\$ 92.04	\$ 51.12	\$ 322.12
Non-potable Water Supply Charge	\$ 22.53	N/A	N/A	\$ 23.04	\$ 22.32	\$ 249.32
Sewerage Service Supply Charge	\$ 625.65	\$ 483.28	\$ 672.42	\$ 595.88	\$ 618.84	\$ 688.12
Environmental Improvement Fee	\$ 39.69	-	-	-	-	-
Drainage Service Charge	-	\$ 128.32	-	-	-	-
Total Annual Supply Charges	\$ 739.56	\$ 776.20	\$ 870.14	\$ 710.96	\$ 692.28	\$ 1259.56
Potable Water Usage Rate	\$ 2.30/kL	\$ 2.29/kL	\$ 2.29/kL	\$ 2.04/kL	\$ 2.30/kL	\$ 3.00/kL
Non-Potable Water Usage Rate	\$ 2.00/kL	N/A	N/A	\$ 1.83/kL	\$ 2.00/kL	\$ 2.40/kL

*This fee is often covered by the developer and included in the land sale price. In the case of the Watagan Park development, land owners are required to cover this cost following construction of their home. This fee is made known to buyers during the sale process.

The suppliers used for comparison are publicly owned, monopoly suppliers and have their pricing regulated by IPART. Cooranbong Water is the only exception in this case. However they were specifically included in this comparison to demonstrate how other private suppliers operate to ensure the community it services is not commercially disadvantaged. Cooranbong Water (and all other subsidiaries of Flow Systems Pty Ltd) have a price parity policy which aligns their supply and usage charges with the local public utility thus indirectly subjecting themselves to regulation by IPART. I imagine this was taken into consideration when granting Cooranbong Water a retail supplier's licence. Solo Water have no such policy and the decision to grant them a retail licence and avoid declaration as a monopoly was based solely on their word.

The pricing comparison shows that Solo Water are approximately:

- 3 to 7 times more expensive for the initial connection of services;
- an average of 67% more expensive for their combined services supply charges;
- an average of 34% more expensive for their drinking water usage rate; and
- an average of 24% more expensive for their non-potable water usage rate.

This suggests Solo Water were untruthful when supplying their proposed pricing to IPART for assessment and places the residents of the Catherine Hill Bay development at a distinct commercial disadvantage compared to residents of nearby areas. This is a direct contradiction to the recommendation made by IPART. It should be highlighted that this information was not publicly available to residents at the time that many purchased their land in the Catherine Hill Bay development so could not be considered as part of the purchase decision.

Based on this information, the residents of the Catherine Hill Bay development ask the Minister to reconsider declaring Solo Water as a monopoly supplier for the supply of drinking water, non-potable water and sewerage services to the Catherine Hill Bay development and refer the monopoly services to IPART for price regulation under section 52(1) of the Water Industry Competition Act 2006 (NSW). Residents of the Catherine Hill Bay development have no alternative other than to use Solo Water's services which clearly defines them as a monopoly supplier. Alternatively, the Minister could support a revision of Solo Water's retail supplier's licence whereby they are required to develop and implement a price parity policy similar to that of Cooranbong Water. This will ensure Solo Water's pricing is regulated to be comparative with that of other nearby monopoly suppliers. This will ensure residents of the Catherine Hill Bay development are not at a significant commercial disadvantage and provide security for residents that the cost of these services will not continue to rise unreasonably in the future.

Should you wish to contact me for further details on any of the above, please do not hesitate to do so on the below details. I appreciate your time and consideration of this matter and look forward to receiving your response.

Yours faithfully,

Fiona Verge



ATTACHMENT A

Link to document on IPART website - <https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/wica-water-licensing-licence-holder-licence-solo-water-pty-ltd-retail-supplier/notice-of-decision-and-letter-from-minister-niall-blair-retail-suppliers-licence-solo-water-pty-ltd-december-2016.pdf>



New South Wales

WATER INDUSTRY COMPETITION ACT 2006 (NSW)

Section 10(5)

**Notice of Decision -
Application for a retail supplier's licence
by Solo Water Pty Ltd**

I, The Hon. Niall Blair MLC, Minister for Lands and Water, have considered the advice and recommendations made by the Independent Pricing and Regulatory Tribunal (IPART) in its report to me on the application by Solo Water Pty Ltd (ACN 160 013 614) (**Applicant**) for a retail supplier's licence under the *Water Industry Competition Act 2006 (NSW)* (**the Act**). I have also considered further information provided by the applicant and the advice of my Department.

Based on my consideration of IPART's report and the further information and advice provided to me:

- (a) I am satisfied that the Applicant is not a disqualified corporation for the purposes of section 10(3)(a) of the Act;
- (b) I am satisfied that the Applicant is not a corporation that is a related entity (within the meaning of the *Corporations Act 2001 (Cth)*) of a disqualified corporation that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise (if granted), for the purposes of section 10(3)(b) of the Act; and
- (c) I am satisfied as to each of the criteria set out in section 10(4) of the Act.

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 and what conditions should be imposed on any such licence granted.

Under section 10(5) of the Act, for the reasons set out above, I have decided to grant a retail supplier's licence to the Applicant, subject to the conditions set out in licence number 15_036R, the Act and the *Water Industry Competition (General) Regulation 2008 (NSW)*. I hereby attach the licence (**Attachment A**).


.....

Minister for Lands and Water

Dated this 22nd day of September 2016



The Hon Niall Blair MLC
Minister for Primary Industries
Minister for Lands and Water

BN16/7049

IPART
Doc No. 216/29974
File No. 13/478-3



Dr Peter Boxall
Chairman
Independent Pricing and Regulatory Tribunal
PO Box K35
HAYMARKET POST SHOP NSW 1240

Dear Dr Boxall *Peter*

I write to advise you that I have today signed the notice of decision and granted a retail supplier's licence to Solo Water Pty Ltd to provide services at the Catherine Hill Bay development – see enclosed.

In addition to the special Ministerially imposed licence conditions proposed in the Tribunal's report to me, I have imposed additional licence conditions A4.1, A4.3 and A4.4 based on advice from my Department, as follows:

Licence Condition A4.1 – Agreement with Unitywater

Before granting a licence, I am required under section 10(4)(a) of the Water Industry Competition Act 2006 to be satisfied that the applicant has, and will continue to have, the capacity (including technical, financial and organisational capacity) to carry out the activities that the licence would authorise.

As Solo Water intends to contract Unitywater to undertake retail functions authorised by the licence on its behalf, the terms and conditions under which Unitywater will carry out those activities on behalf of Solo Water are relevant to the question of technical and organisational capacity.

Accordingly the licence requires the licensee to enter into, and provide to the Minister, within 12 weeks of the granting of the licence, a final agreement with Unitywater that is satisfactory to the Minister.

Licence Conditions A4.3 and A4.4 – Unconditional bank guarantee and Deed of Financial Capacity and Guarantee

Solo Water relies on the full support of its related entity, Rico Enterprises Pty Ltd, as trustee for the Rico Family Trust, to provide the required financial capacity to undertake the proposed licensed activities.


To enable me to be satisfied that Solo Water has, and will continue to have, the requisite financial capacity (as required by section 10(4)(a) of the Act), the Licence requires the licensee to have a Deed of Financial Capacity and Guarantee, supported by an unconditional bank guarantee in their favour to the value of

.../2

\$100,000. The deed and the bank guarantee must remain in place for at least five years, and may be extended if required.

Should you have any queries in relation to the above, please contact Mrs Alison Kirk, Director, Water Planning and Policy, on telephone 02 9842 8480.

Yours sincerely

A handwritten signature in blue ink, consisting of a large, stylized 'N' followed by a horizontal line extending to the right.

**The Hon Niall Blair MLC
Minister for Primary Industries
Minister for Lands and Water**

22 SEP 2016

ATTACHMENT B

Link to document on IPART website - <https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/wica-water-licensing-applicant-files-solo-water-pty-ltd-retail-supplier-licence-correspondence/report-to-minister-assessment-of-solo-water-pty-ltds-retail-suppliers-licence-application-november-2015.pdf>



Independent Pricing and Regulatory Tribunal

Assessment of Solo Water Pty Ltd's retail supplier's licence application

Prepared under the
Water Industry Competition Act 2006 (NSW)

Water — Report to the Minister
November 2015



Independent Pricing and Regulatory Tribunal

Assessment of Solo Water Pty Ltd's retail supplier's licence application

**Prepared under the
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Water — Report to the Minister
November 2015

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The Tribunal members for this review are:

Dr Peter J Boxall AO, Chairman

Ms Catherine Jones

Mr Ed Willett

Enquiries regarding this document should be directed to a staff member:

Erin Cini (02) 9113 7778

Mamata Titus (02) 9113 7750

Independent Pricing and Regulatory Tribunal of New South Wales

PO Box K35, Haymarket Post Shop NSW 1240

Level 15, 2-24 Rawson Place, Sydney NSW 2000

T (02) 9290 8400 F (02) 9290 2061

www.ipart.nsw.gov.au

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1 Summary

We recommend that the Minister grants Solo Water Pty Ltd (Solo Water) a retail supplier's licence (licence number 15_036R, see Appendix A) and name Unitywater¹ as an authorised third party on the licence. The licence will authorise Solo Water to supply drinking water, non-potable water² and sewerage services to the Catherine Hill Bay development. This is consistent with the application Solo Water provided to us. The Catherine Hill Bay development is located on the South Wallarah Peninsula in the Lake Macquarie City Council Local Government Area.

Solo Water's subsidiary organisation, Catherine Hill Bay Water Utility Pty Ltd (CHBWU) has applied to the Minister for a network operator's licence (licence number 15_035). If the network operator's licence is granted, CHBWU will commence construction, operation and maintenance of drinking water, non-potable water and sewerage infrastructure at the Catherine Hill Bay development. Solo Water intends to access CHBWU's infrastructure to supply drinking water, non-potable water and provide sewerage services to customers at the development.³ Wyong Shire Council (WSC) will supply drinking water to Solo Water who will in turn supply it to customers at the development.⁴ The non-potable water will be generated by treating sewage collected from customers at the development. The non-potable water will then be returned to the customers for toilet flushing, laundry (specifically the washing machine cold water connection), irrigation of private lots and footpaths, outdoor cleaning and washdown (including car and bin washing). Non-potable water pipework and fittings will be clearly identified, as per standard conventions.

Solo Water currently intends to supply services to up to 470ET⁵ at the development. In future, Solo Water's water and sewerage services scheme (scheme) may be extended to supply services to up to 540ET. This extension is outside the scope of this licence application. If Solo Water intends to extend the scheme to supply services to 540ET, it will need to seek a variation to its retail supplier's licence (licence number 15_036R) and obtain Ministerial approval to do so.

¹ The Northern South East Queensland Distributor Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, trading as Unitywater (ABN 89 791 717 472). It is a Queensland based Local Government Statutory Authority.

² In the WIC Act, non-potable water means water that is not drinking water. Solo Water seeks this licence to supply recycled water.

³ Services Agreement for the provision of construction services, retail services and O&M services at the Catherine Hill Bay development, between CHBWU and Solo Water.

⁴ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

⁵ Water Directorate, *Section 64 Determinations of Equivalent Tenements Guidelines*, January 2009: An Equivalent Tenement (ET) is considered to be the demand or loading a development will have on infrastructure in terms of the water consumption or sewage discharge for an average residential dwelling or house containing 2.4 people.

In assessing Solo Water's licence application, we considered the licensing criteria set out in sections 10(3)-(4) of the *Water Industry Competition Act 2006* (NSW) (WIC Act), and had regard to the licensing principles in section 7(1) of the WIC Act.

In addition to assessing the application against the licensing criteria and principles of the WIC Act, we also considered whether Solo Water should be considered a monopoly supplier and subject to price regulation. We consider that the supply of drinking water and non-potable water and provision of sewerage services to customers at the Catherine Hill Bay development should not be considered a monopoly service. We recommend that Solo Water is not declared a monopoly service in relation to these services at this time.

Should the Minister declare any monopoly services at the current point in time, we recommend that the Minister does not refer any of these services to IPART for determination of pricing or a periodic review of pricing policies, at this time.

We have considered Solo Water's pricing arrangements and consider them to be reasonable. We will include reporting on Solo Water's prices as part of its reporting obligations for the proposed retail supplier's licence (licence number 15_036R). If this data indicates circumstances that warrant a review of our position on this issue, we would write to the Minister accordingly.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the licence application. The Minister may, if circumstances so require, seek further advice from us in relation to the licence application.⁶

⁶ WIC Act, section 10(2).

2 Background

2.1 The applicant

On 29 July 2013, Solo Water applied for a retail supplier's licence to supply drinking water and non-potable water and provide sewerage services to residential and retail customers at the Catherine Hill Bay development. These customers will all be small retail customers⁷.

Solo Water shares common directors with its related entity, Rico Enterprises Pty Ltd (Rico Enterprises) as trustee for (ATF) the Rico Family Trust, trading as Solo Resource Recovery (SRR). SRR is an Australian owned and operated waste management and industrial services organisation. SRR specialises in the collection, transport, processing and disposal of all forms of waste.⁸ Solo Water has confirmed in its application that it has access to SRR's intellectual property and waste disposal capability.

Solo Water relies on the financial support of the Rico Family Trust. This is discussed further in section 4.2.2.

At the time of receiving the retail supplier's licence application, we also received an application from Solo Water's subsidiary organisation, CHBWU, for a network operator's licence (licence number 15_035) to construct, operate and maintain drinking water, non-potable water and sewerage infrastructure at the Catherine Hill Bay development. Solo Water advised us that the CHBWU network operator's licence was required urgently.⁹ We therefore prioritised processing that application to minimise any delays created by our assessment. We submitted our assessment of CHBWU's network operator's licence application to the Minister in September 2015. This is yet to be approved by the Minister. Since then, we have continued processing Solo Water's retail supplier's licence application.

⁷ *Water Industry Competition (General) Regulation 2008 (NSW) (WIC Regulation)*, Part 1, Clause 5(1) explains that a person is a small retail customer in relation to water supply if the maximum rate at which water is supplied, pursuant to one or more water supply contracts, to all premises that the person owns, leases or occupies is less than 15 ML per year.

WIC Regulation, Part 1, Clause 5(2) explains that a person is a small retail customer in relation to the provision of sewerage services if the maximum rate at which sewage is discharged, pursuant to one or more sewerage service contracts, from all premises that the person owns, leases or occupies, is less than 10.5 ML per year, as determined in accordance with guidelines issued by IPART.

⁸ Background information on SRR is available at www.solo.com.au.

⁹ Email to IPART, Stuart Rose, Managing Director, Rose Family Pty Ltd (Rose Family, majority owner of Coastal Hamlets Pty Ltd, the developer at Catherine Hill Bay), 17 July 2015.

2.2 The scheme

Solo Water has been engaged by the developer, Coastal Hamlets Pty Ltd (Coastal Hamlets)¹⁰, to supply drinking water and non-potable water and provide sewerage services to customers at the Catherine Hill Bay development. We understand that it was originally intended that Hunter Water Corporation (Hunter Water) would supply water and sewerage services¹¹ at the development. Hunter Water has since confirmed that it does not intend to supply these services to the Catherine Hill Bay development in the immediate future.¹²

The Solo Water scheme will be constructed at the Catherine Hill Bay development in three stages, ultimately supplying up to 540ET. Currently, Solo Water is only seeking a retail supplier's licence to supply services to 470ET in stages 1 and 2.

In Stage 1, Solo Water will supply services to up to 112ET. Solo Water will supply customers with drinking water, sourced from WSC's network, to meet their entire water demand.¹³ Customers will not be supplied with non-potable water as it will not be of the required quality for reuse.¹⁴ The non-potable water generated will be disposed onto developer owned land located within the Catherine Hill Bay development.¹⁵

In Stage 2, Solo Water will supply services to up to 470ET. Solo Water will supply customers with non-potable water of the required water quality to replace part of their drinking water demand. The non-potable water will then be used for toilet flushing, laundry (specifically the washing machine cold water connection), irrigation of private lots and footpaths, outdoor cleaning and washdown (including car and bin washing). Only the excess non-potable water will be disposed onto land located within the Catherine Hill Bay development.

¹⁰ The ASIC database shows that Coastal Hamlets (ACN 100 126 994) is owned by the Rose Family (ACN 121 631 230) and Moonee Land Pty Ltd (Moonee Land, ACN 081 844 822). The Rose Family owns 80% of shares in Coastal Hamlets, and Moonee Land owns 20% of shares. We conducted a search of the ASIC database on 25 November 2015.

¹¹ We understand that Hunter Water did not intend to supply recycled water. Hunter Water intended to supply drinking water and sewerage services at the Catherine Hill Bay development.

¹² Letter to IPART, Kim Wood, Managing Director, Hunter Water, 16 October 2013.

¹³ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

¹⁴ As per the requirements of the *Australian Guidelines for Water Recycling 2006* for internal reuse.

¹⁵ Up to 8.5ha of land is available for disposal of excess non-potable water in stages 1 and 2 of the scheme. This land is privately owned by Coastal Hamlets, the developer. It is reserved for stages 6 and 7 of the development which will only be developed if Stage 3 of the scheme is constructed. The Catherine Hill Bay development will be built in seven stages. Previously, CHBWU intended to dispose of the treated effluent on surrounding Lake Macquarie City Council (LMCC) owned land. The scheme was revised when LMCC opposed this proposal.

If Stage 3 is pursued, Solo Water intends to supply services to up to 540ET, ie, the full capacity of the Catherine Hill Bay development. We understand that Solo Water intends to dispose of any excess treated effluent to the environment as there will not be any land available for disposal within the development. This will impact on Solo Water's area of operations and it will need to seek a variation to the retail supplier's licence (licence number 15_036R), if it is granted by the Minister.

Solo Water will source the drinking water supplied to customers at the Catherine Hill Bay development from WSC. The drinking water supplied by WSC will be sufficient to meet the entire water demand at the development in stages 1 and 2.¹⁶ Solo Water relies on WSC to maintain the quality of the drinking water, upstream of its customer connection point. WSC's drinking water quality will be regulated by NSW Health under the *Public Health Act 2010* (NSW) (Public Health Act) and associated regulations.¹⁷

Solo Water will collect sewage from customers at the Catherine Hill Bay development which will be treated to generate non-potable water, by means of CHBWU's infrastructure. In stage 2, customers will use the non-potable water for toilet flushing, laundry (specifically the washing machine cold water connection), irrigation of private lots and footpaths, outdoor cleaning and washdown (including car and bin washing).¹⁸

The non-potable water system will be topped up with drinking water as required to meet customer demand. WSC will supply sufficient drinking water to meet this requirement. Solo Water can take drinking water directly from WSC's network at one of its approved metered stand pipe locations, by means of a licensed water carter, to supply the Catherine Hill Bay development in case of emergency. The nearest approved stand pipe location to the development is at Wyee Road, Doyalson.¹⁹ Solo Water has explained in its application that if the non-potable water infrastructure fails, drinking water will be used for all water requirements. If the sewerage infrastructure fails, any excess sewage will be pumped out by tanker, and transported to an approved disposal facility. Solo Water intends to engage SRR to tanker away any waste or excess sewage to nearby disposal facilities.²⁰ Excess non-potable water that cannot be disposed to the designated land will also be transported away.

¹⁶ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

¹⁷ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

¹⁸ As explained previously, customers will not be supplied with non-potable water in Stage 1. Instead, any non-potable water generated in Stage 1 will be disposed onto developer owned land within the Catherine Hill Bay development.

¹⁹ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

²⁰ SRR and Solo Water are related entities who share directors. Solo Water will therefore be able to access SRR's resources.

If Solo Water is granted the retail supplier's licence (licence number 15_036R), we recommend that Unitywater should be named as an authorised third party on the licence. Solo Water intends to engage Unitywater to assist in undertaking its retail functions. Initially, Unitywater will undertake customer billing, meter reading, customer enquiries and call centre functions. These functions may be expanded to include the majority of the Solo Water's retail functions, as occupancy at the Catherine Hill Bay development increases. Unitywater currently supplies water and sewerage services to a large customer base in Queensland. It has experience in managing customer account and billing functions and handling customer enquiries and complaints.

3 Consultation and submissions

On 5 February 2014, we provided the licence application to, and invited submissions from, the following Ministers and their relevant departments:

- ▼ Minister administering the *Public Health Act 2010* (NSW) (Minister for Health)
- ▼ Minister administering Chapter 2 of the *Water Management Act 2000* (NSW) (the then Minister for Primary Industries, Minister for Trade and Investment and Minister for Regional Infrastructure and Services)
- ▼ Minister administering the *Protection of the Environment Operations Act 1997* (NSW) (Minister for the Environment), and
- ▼ Minister administering the *Environmental Planning and Assessment Act 1979* (NSW) (the then Minister for Planning and Infrastructure).²¹

At the same time, we also provided a copy of the licence application to the then Minister for Finance and Services as the Minister administering the WIC Act.²²

We notified WSC of the licence application²³ because Solo Water intends to source drinking water from WSC's network and supply it to customers at the Catherine Hill Bay development.²⁴ This drinking water will be sufficient to meet the customers' drinking water demand and top up the non-potable water system.

We also called for submissions on the application from the public.²⁵ We advertised in the Sydney Morning Herald, Wollondilly Advertiser, The Daily Telegraph and The Newcastle Herald on 12 February 2014 for public submissions. The closing date for submissions was 7 March 2014.

²¹ WIC Act, section 9(1)(b) and WIC Regulation, clause 17(1).

²² WIC Act, section 9(1)(a).

²³ Letter to WSC, IPART, 5 February 2014.

²⁴ WIC Act, section 9(1)(b)(iii) and WIC Regulation, clause 17(2).

²⁵ WIC Act, section 9(1)(c).

We received five submissions in total, including submissions from the Minister for Primary Industries²⁶, the then Department of Planning and Infrastructure²⁷ (now called Department of Planning and Environment), NSW Health²⁸, the NSW Environment Protection Authority (EPA)²⁹ and Hunter Water³⁰. These submissions are available on our website and are discussed below. These submissions raised no concerns regarding Solo Water's application for a retail supplier's licence.

NSW Health and Hunter Water supported Solo Water's licence application.³¹

NSW Health requested that it is consulted on the adequacy of Solo Water's final Retail Supply Management Plan (RSMP), any final risk assessments and after the final compliance audit, before Solo Water commences supply of retail services to the customers at the Catherine Hill Bay development.³² This is related to Solo Water's capacity to carry out activities in a manner that does not present a risk to public health and is discussed further in section 4.3.

Hunter Water explained that it has not discussed retailer of last resort (RoLR) arrangements with Solo Water, as there is no requirement to appoint a RoLR under the WIC Act.^{33,34} We consider this to be appropriate. We consider that there is not an immediate need for a RoLR as Solo Water has proposed adequate contingency measures to ensure that services are maintained at the Catherine Hill Bay development. This includes transport of drinking water to the development directly from the WSC network, and transport of excess sewage and non-potable water to a nearby disposal facility, by tanker.

²⁶ Letter to IPART, Katrina Hodgkinson MP, Minister for Primary Industries, 30 March 2014.

²⁷ Letter to IPART, Chris Wilson, Executive Director, Development Assessment Systems and Approvals, Department of Planning and Infrastructure, 13 March 2014.

²⁸ Letter to IPART, Dr Wayne Smith, Director, Environmental Health Branch, NSW Health, 7 March 2014.

²⁹ Letter to IPART, Giselle Howard, Director Metropolitan Branch, EPA, 3 March 2014.

³⁰ Letter to IPART, Kim Wood, Managing Director, Hunter Water, 4 March 2014.

We did not notify Hunter Water of Solo Water's licence application because Solo Water does not intend to connect to, or use, any of Hunter Water's water industry infrastructure to undertake its proposed licence activities. Hunter Water provided a public submission.

³¹ Letter to IPART, Dr Wayne Smith, Director, Environmental Health Branch, NSW Health, 7 March 2014, and Letter to IPART, Kim Wood, Managing Director, Hunter Water, 4 March 2014.

³² Letter to IPART, Dr Wayne Smith, Director, Environmental Health Branch, NSW Health, 7 March 2014.

³³ WIC Act, section 54 states that the Minister may, by order published in the Gazette, declare that a specified person (whether a licensed retail supplier or a public water utility) is the retailer of last resort in relation to the supply of water or the provision of sewerage services within the whole or any specified part of its area of operations.

³⁴ Letter to IPART, Kim Wood, Managing Director, Hunter Water, 4 March 2014.

In addition to inviting submissions, we sought expert advice from:

- ▼ Vincents Chartered Accountants Pty Ltd (Vincents) to inform our financial assessment (see section 4.2.2), and
- ▼ the NSW Self Insurance Corporation (SICorp) to inform our assessment of appropriate insurance arrangements (see section 4.4).

4 Assessment of application

This section of the report contains our assessment of Solo Water's licence application and our recommendations. Our assessment considers each of the following requirements of the WIC Act:

- ▼ A licence must not be granted to:
 - a disqualified corporation, or
 - a corporation that is a related entity of a relevant³⁵ disqualified corporation.
- ▼ A licence may not be granted unless the Minister is satisfied as to each of the following:
 - that the applicant has, and will continue to have, the capacity (including technical, financial and organisational capacity) to carry out the activities that the licence (if granted) would authorise
 - that the applicant has the capacity to carry out those activities in a manner that does not present a risk to public health
 - that the applicant has made, and will continue to maintain, appropriate arrangements with respect to insurance
 - in the case of an application for a licence to supply water, that, if such a licence is granted, sufficient quantities of the water supplied by the licensee will have been obtained otherwise than from a public water utility
 - that the applicant has the capacity to carry out the activities that the licence (if granted) would authorise in a manner that does not present a significant risk of harm to the environment, and
 - such other matters as the Minister considers relevant, having regard to the public interest.³⁶

³⁵ Where the disqualified corporation would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence would authorise if granted. WIC Act, section 10(3)(b).

³⁶ WIC Act, sections 10(3) and (4), and WIC Regulation, Clause 11.

- ▼ In considering whether or not a licence is to be granted, and what conditions are to be imposed on such a licence, regard is to be had to the following principles:
 - the protection of public health, the environment, public safety and consumers generally
 - the encouragement of competition in the supply of water and the provision of sewerage services
 - the ensuring of sustainability of water resources
 - the promotion of production and use of recycled water
 - the promotion of policies set out in any prescribed water policy document
 - the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence, and
 - 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.³⁷

4.1 Disqualified corporation and related entity checks

We consider that Solo water is neither a disqualified corporation nor a corporation that is a related entity of a relevant³⁸ disqualified corporation.

In making this recommendation, we have considered the following information:

- ▼ A statutory declaration signed by two directors stating that:
 - neither Solo Water, nor any director or person concerned in the management of Solo Water is, or would be, a disqualified corporation or a disqualified individual as defined by the WIC Act, and
 - Solo Water is not a related entity of a disqualified corporation that would have a direct or indirect interest in, or influence on, the carrying out of activities that the licence would authorise if granted.
- ▼ Information provided by Solo Water regarding details of the:
 - trustees (past and current) of any trusts in relation to which Solo Water is a beneficiary
 - current beneficiaries of any trusts in relation to which Solo Water is a trustee
 - relevant related entities,³⁹ and

³⁷ WIC Act, section 7.

³⁸ A related entity that would have a direct or indirect interest in, or influence on, the carrying out of the activities that the licence authorises. WIC Act, section 10(3)(b).

³⁹ Solo Water identified the following relevant related entities: Ranclose Investments Pty Ltd, Gwynfi Investments Pty Ltd, Rhys William Richards & Robert Emlyn Richards ATF Carrychip Trust, Independent Water Utilities Pty Ltd, CHBWU, and Rico Enterprises ATF the Rico Family Trust Trading as SRR.

- names of the Chief Financial Officer and Chief Executive Officer for Solo Water and each of Solo Water's relevant related entities.
- ▼ Results of ASIC and Dun & Bradstreet reports that we have obtained for Solo Water, and for its six relevant related entities, confirmed that these companies are not disqualified nor are their directors or persons concerned in the management disqualified individuals.⁴⁰
- ▼ Results of our search of the WIC Act licence database⁴¹, confirming in part the above.

4.2 Capacity (including technical, financial and organisational capacity) to carry out the activities

Solo Water has applied for a retail supplier's licence to authorise supply of drinking water and non-potable water and provision of sewerage services to the customers at the Catherine Hill Bay development.

We assessed Solo Water's technical, financial and organisational capacity to carry out the activities to be licensed. Our assessment was based on Solo Water's capacity at the time of making the application. We have also established processes to assess their ongoing capacity, should the scheme be approved.

4.2.1 Technical capacity

We are satisfied that Solo Water, supported by Unitywater, has the technical capacity to supply drinking water and non-potable water, and provide sewerage services, to the customers at the Catherine Hill Bay development.

Our analysis included a review of:

- ▼ Draft Solo Water RSMP which addresses the supply of drinking water and non-potable water and provision of sewerage services
- ▼ Draft Solo Water Code of Practice for Customer Complaints which describes how Solo water will manage and respond to complaints by customers about services
- ▼ Draft Solo Water Code of Practice for Debt Recovery which describes how Solo Water will manage late payments by customers
- ▼ Solo Water Customer Charter which provides an overview of Solo Water's commitments to the customers at the Catherine Hill Bay development and the customers' rights and obligations

⁴⁰ The relevant searches were completed on 29 October 2015.

⁴¹ There are currently no disqualified corporations or individuals on the register pursuant to the WIC Act, sections 16(1)(e) and 16(1)(f).

- ▼ Draft Solo Water Customer Contract, which provides the terms under which Solo Water will supply drinking water, non-potable water sewerage services to its customers
- ▼ Draft Solo Water Home Owner's Manual, which will be used for communication with customers about appropriate operation of the sewerage and non-potable water system, disposal of sewage, and use of non-potable water
- ▼ letter of intent between Solo Water and Unitywater to provide specialist customer services including billing, handling customer enquiries and complaints⁴²
- ▼ Unitywater Customer Charter which provides an overview of Unitywater's commitments to its customers and the customers' rights and obligations and Unitywater's complaints handling policy as evidence of Unitywater's technical capacity
- ▼ previous retail experience (in Australia) of SRR⁴³
- ▼ previous retail experience (in Australia) of Unitywater as a retail supplier of water and sewerage services in Queensland
- ▼ skills of Solo Water and Unitywater personnel that will undertake retail functions, and
- ▼ executed Services Agreement⁴⁴ between CHBWU and Solo Water, for the supply of services at the Catherine Hill Bay development, which provides the terms and conditions under which Solo Water will supply retail services at the development.

⁴² Letter to Solo Water, Judy Bailey, Executive Manager, Retail Services Division, Unitywater, 11 April 2013.

⁴³ SRR and Solo Water share common directors. Solo Water has confirmed in its application that it has access to SRR's intellectual property.

⁴⁴ Services Agreement for the provision of construction services, retail services and O&M services at the Catherine Hill Bay development, between CHBWU and Solo Water.

We used the above information to assess Solo Water's technical capacity to undertake the following retail supply activities at the Catherine Hill Bay development, with the support of Unitywater:

- ▼ **Billing:** Solo Water explains in its application that it will use a web-based user interface to communicate with its customers and provide billing information. The interface will enable customers to directly access their customer information including water meter readings and usage information; and invoices and billing information. Solo Water has confirmed that it will charge customers fixed service fees and variable usage charges⁴⁵. Solo Water will periodically release information about these charges, including any scheduled rates increases, by means of rates notices and will provide this information on the customer account and on request at any time. Solo Water's RSMP, Customer Charter and Customer Contract address payment disputes, managing financial hardship, (limited) restriction of flow for non-payment, and complaints handling.
- ▼ **Complaints handling:** Solo Water's Code of Practice for Customer Complaints has been developed to be consistent with AS ISO 10002-2006. The Code of Practice, Customer Charter and Customer Contract address Solo Water's complaints handling procedure including lodgement of complaints, the process for responding to the complaints, and the process for reviewing close-out of the complaints. The Code of Practice and Customer Contract also addresses the process for escalation of complaints to Solo Water management and, if required, to the Energy and Water Ombudsman (EWON). Solo Water commits to reviewing the complaints handling process regularly for opportunities for improvement.
- ▼ **Debt recovery:** Solo Water's Code of Practice for Debt Recovery and Customer Charter provide guidance on communications between Solo Water and Debtors. Solo Water will make contact with the customer to investigate reasons for overdue payment, convey a demand for payment, explain the consequences of non-payment, and negotiate arrangements with the customer for repayment of debts. If arrangements cannot be agreed for payment, Solo Water may take any legally allowable enforcement action on debtors, if required. The Code of Practice and Customer Contract addresses how Solo Water will deal with customers suffering from financial hardship and explains escalation of debtor disputes to EWON.

⁴⁵ In its Customer Contract, Solo Water explains that only non-residential customers will be charged variable sewerage service usage charges. Both residential and non-residential customers will be charged variable water service usage charges.

- ▼ **Financial hardship:** Solo Water's Code of Practice for Debt Recovery addresses Solo Water's approach to reaching an agreement for payment of debts by customers who are facing financial hardship. Solo Water intends to offer such customers a plan that will settle the debt and recommence normal payment terms within a specific period to avoid interest charges or further action. Solo Water states in its Customer Charter that it may take any legally allowable enforcement action on debtors, if required. In its Customer Charter, Solo Water commits to not disconnecting services to customers if it believes that the disconnection may cause a public health hazard. Further, Solo Water will not reduce the flow of drinking water or sewerage services below that necessary for basic sustenance and hygiene, as a consequence of the customer's non-payment of debt.
- ▼ **Providing an appropriate level of service:** Solo Water's Customer Charter addresses the level of service for delivery of non-potable water and sewerage services to customers, including information on water quality and flow rate. Solo Water will comply with the requirements of the *Australian Guidelines for Water Recycling 2006 (Phase 1 Managing Health and Environmental Risks) National Water Quality Management Strategy (AGWR)* including educating customers on the responsible use and management of recycled water (addressed in more detail in the point below), ensuring community involvement, managing incidents and emergencies, and committing to regular review and improvements of its RSMP, and Codes of Practice for complaints handling and debt recovery.
- ▼ **Communication with customers:** In its Home Owner's Manual, Solo Water explains appropriate and safe uses of non-potable water and disposal of sewage into the sewerage system including prohibited items for disposal to the sewerage system. Solo Water will also use its website and other media including periodic newsletters and rates notices to communicate with customers. The Home Owner's Manual explains operation of Solo Water's water and sewerage system and endeavours to explain frequently asked customer questions including steps to be taken by the customer in case of a pipe burst and why rainwater must not be directed to the sewerage system.
- ▼ **Continuity of service:** Solo Water's RSMP and Customer Charter address continuity of service during unplanned interruptions due to incidents, operational problems, water quality issues or when water demand exceeds availability, as well as during planned interruptions. Solo Water has developed appropriate contingency arrangements including tankering of drinking water from WSC's network to meet water demand at the Catherine Hill Bay development, and tankering away of excess sewage and non-potable water to a nearby disposal facility. The Customer Charter also addresses the approach that Solo Water will use to communicate any service disruptions with its customers.

- ▼ **Transfer of customers:** Solo Water describes in its RSMP how it will abide by the provisions for transferring customers to another retail supplier in the Transfer Code of Conduct, as set out in the *Water Industry Competition (General) Regulation 2008* (WIC Regulation).
- ▼ **Marketing to customers:** Solo Water describes in its RSMP how it will abide by the provisions for transferring customers to another retail supplier in the Marketing Code of Conduct, as set out in the WIC Regulation.

We received no submissions regarding Solo Water's technical capacity.

We consider that the information submitted by Solo Water demonstrates that it has the technical capacity to supply drinking water, non-potable water and provide sewerage services to its customers at the Catherine Hill Bay development, with the support of Unitywater.

We recommend that Solo Water should be subject to the following licence condition (see draft licence in Attachment A), in relation to technical capacity, if a licence is granted:

- 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.⁴⁶

Further, we recommend that Solo Water should be subject to the following special condition, in relation to technical capacity, if a licence is granted. This condition requires Solo Water to provide prior notification to IPART when it proposes to modify any agreement in connection with the licence application, including the Services Agreement:

A4.1 If a party to an Agreement proposes to:

- (a) terminate the Agreement,
- (b) novate the Agreement,
- (c) assign or transfer any of its rights or obligations under the Agreement to any other person, or
- (d) alter the Agreement in any way that materially reduces the Licensee's technical, financial or organisational capacity to carry out the activities authorised by this Licence, and

the Licensee must provide IPART with written notice as soon as practicable, but no later than 3 months, before the time when the proposed action is to occur. The written notice must include details of how the service provided under the Agreement will be provided subsequent to the proposed termination, novation, assignment, transfer or alteration.

⁴⁶ WIC Act Network Operator's Licence Reporting Manual.

4.2.2 Financial capacity

We are satisfied that Solo Water, supported by the Rico Family Trust, has the financial capacity to supply drinking water, non-potable water and provide sewerage services, to the customers at the Catherine Hill Bay development.

Solo Water relies on the full support of its related entity, Rico Enterprises ATF the Rico Family Trust, trading as SRR, to provide financial capacity. In making our assessment of Solo Water's financial capacity, we have considered the following information:

- ▼ Executed Deed of Financial Capacity and Guarantee between the applicant and Rico Enterprises ATF Rico Family Trust (as guarantor), dated 26 June 2015 (Deed)
- ▼ Rico Family Trust *Interim Accounts for the period July 2014 to 28 February 2015*
- ▼ CHBWU, *Cash Flow Projects Year 1 to Year 20*
- ▼ Rico Family Trust, *Financial Statements for the year ended 30 June 2010*
- ▼ Rico Family Trust, *Financial Statements for the year ended 30 June 2011*
- ▼ Rico Family Trust, *Financial Statement for the year ended 30 June 2012*
- ▼ Rico Family Trust, *Financial Statement for the year ended 30 June 2013*
- ▼ Rico Family Trust, *Financial Statement for the year ended 30 June 2014*
- ▼ Rico Family Trust, *Finance Facilities confirmation letter from Commonwealth Bank dated 3 November 2015*
- ▼ Rico Family Trust, *Finance Facilities confirmation letter from National Australia Bank dated 2 November 2015*
- ▼ Rico Family Trust, *Finance Facilities confirmation letter from Westpac dated 3 November 2015*
- ▼ Rico Family Trust, *additional information provided by Wynn Owen under email received by IPART on 2 July 2013*
- ▼ Rico Family Trust, *additional information provided by Wynn Owen under email received by IPART on 12 June 2015*
- ▼ Australian Securities & Investments Commission, *Historical Company Extract for Solo Water Pty Ltd*, 13 June 2013
- ▼ Australian Securities & Investments Commission, *Historical Company Extract for CHBWU*, 20 July 2015
- ▼ Australian Securities & Investments Commission, *Rico Enterprises*, 20 July 2015, and
- ▼ Australian Taxation Office, *Guidelines on Unpaid Present Entitlements and Division 7Aa*, 22 June 2011.

- ▼ Signed minutes of directors' meeting, Rico Investments Pty Ltd (Rico Investments), 2 November 2015, confirming that Rico Investments will not be seeking pay out of quarantined pre-December 2009 unpaid present entitlements, as detailed in the financial year ended 30 June 2014 financial statements for a period of 60 months after the later of the date the Minister grants a retail supplier's licence to Solo Water and the date the Minister grants a network operator's licence to Solo Water⁴⁷.

We engaged an independent financial consultant, Vincents, to assess the financial capacity of Solo Water and the viability of the scheme. Vincents also assessed the financial capacity of the Rico Family Trust because Solo Water has not undertaken any significant operations since their incorporation and as such, do not currently hold material levels of assets or liabilities. Solo Water will rely on the financial support of the Rico Family Trust to undertake the proposed licensed activities.

The Deed between Solo Water and the Rico Family Trust provides a guarantee for Solo Water that the Rico Family Trust will provide the financial support necessary to meet any claim during the term of the Deed. Vincents reported that the limitations on liability of the Deed are satisfactory, taking into account the cash flow projections for the project. The Deed has a term of five years (60 months). The liability is capped in any year under the term to \$500,000 and to \$1,500,000 during the term of the Deed.

Vincents reported that Solo Water has a low risk of financial failure. In terms of financial viability of the project, Vincents considered the project operations will be cash flow positive from its commencement. Further, Solo Water's cash flow will be supported by the developer, Coastal Hamlets, for the first four years of its operation. Subsequent to the fourth year, the majority of revenue will come from customer connections and rates revenue.

Based on its assessment of Solo Water, the Rico Family Trust, and the scheme's cash flows, Vincents considers that Solo Water requires no special licence conditions relating to financial capacity.

We would like to emphasise that our financial assessment represents the applicant's financial capacity at a point in time. Our recommendation to grant Solo Water a licence should not be viewed as an endorsement of the future ongoing viability of the corporation. The assessment is based on a combination of information sources, none of which is to be regarded as individually determinative. This assessment is done for our own purposes and for the Minister's purposes in assessing the application. The conclusion is not to be

⁴⁷ Solo Water will be an authorised person on CHBWU's network operator's licence (15_035), if it is granted by the Minister.

relied upon for any other purpose by any other person. We will continue to monitor Solo Water's ongoing financial capacity, as is required by the WIC Act.⁴⁸

We note that Vincents' assessment was made on the basis that the insurance policies obtained by the applicant are adequate for its proposed operations. We consider this assumption is reasonable (see section 4.4 for our assessment of insurance).

We reviewed the Deed and consider that it is adequate to provide a continuing guarantee and indemnity for all liabilities incurred by Solo Water in carrying out the obligations under the scheme contract.

We received no submissions regarding Solo Water's financial capacity.

We consider that the information submitted by Solo Water demonstrates that it has the financial capacity to supply drinking water and non-potable water and provide sewerage services to customers at the Catherine Hill Bay development, with the support of the Rico Family Trust.

We recommend that Solo Water should be subject to the following standard licence condition (see draft licence in Appendix A), in relation to financial capacity, if a licence is granted:

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.

Further, we recommend that Solo Water should be subject to the following special condition, in relation to financial capacity, if a licence is granted. This condition requires Solo Water to provide prior notification to IPART when it proposes to modify any agreement in connection with the licence application, including the Deed:

A4.1 If a party to an Agreement proposes to:

- (a) terminate the Agreement,
- (b) novate the Agreement,
- (c) assign or transfer any of its rights or obligations under the Agreement to any other person, or

⁴⁸ WIC Act, section 10(4)(a) states that a WIC Act licence may not be granted unless the Minister is satisfied that the applicant has, and will continue to have, the capacity (including technical, financial and organisational capacity) to carry out the activities that the licence (if granted) would authorise. Further, WIC Act, section 13(2)(a) states that the Minister may impose conditions to ensure that the licensee has, and continues to have, the capacity (including technical, financial and organisational capacity) to carry out the activities authorised by the licence. It is a standard condition (B1) of a WIC Act licence that a licensee must maintain the ongoing capacity (including technical, financial and organisational capacity) to operate.

- (d) alter the Agreement in any way that materially reduces the Licensee’s technical, financial or organisational capacity to carry out the activities authorised by this Licence, and

the Licensee must provide IPART with written notice as soon as practicable, but no later than three months, before the time when the proposed action is to occur. The written notice must include details of how the service provided under the Agreement will be provided subsequent to the proposed termination, novation, assignment, transfer or alteration.

4.2.3 Organisational capacity

We are satisfied that Solo Water, supported by Unitywater, has the organisational capacity to supply drinking water and non-potable water, and provide sewerage services, to the customers at the Catherine Hill Bay development.

In making our assessment of Solo Water’s organisational capacity, we have considered the following information:

- ▼ Solo Water has provided evidence of SRR’s corporate experience with providing retail services to customers of its waste collection services including operating customer service centres, undertaking educational programs on recycling services and managing customer communication.
- ▼ Solo Water has clarified that it has access to SRR’s intellectual property. Solo Water and SRR share common directors.
- ▼ Solo Water has provided detailed position descriptions for the Solo Water and Unitywater staff that will be undertaking retail functions.
- ▼ Solo Water has provided evidence of a Services Agreement with CHBWU demonstrating Solo Water’s commitment to supply retail services at the Catherine Hill Bay development as well as Solo Water’s capacity to access CHBWU’s infrastructure to supply these services.
- ▼ Solo Water has shown evidence of its capacity to negotiate an agreement with a public water utility through its correspondence with WSC and evidence of availability and quality of drinking water, sufficient to meet the customer water demand at the Catherine Hill Bay development.
- ▼ Solo Water has explained that it will use SRR’s⁴⁹ environmental management, quality assurance and occupational health and safety systems are aligned with appropriate standards.⁵⁰ Solo Water will access SRR’s systems.

⁴⁹ Solo Water and SRR are related entities that share common directors.

⁵⁰ Quality management system has been certified to ISO9001, environmental management system has been certified to ISO14001 and occupational health and safety system has been certified to AS4801.

NSW Health requested that it is consulted on the adequacy of Solo Water's final RSMP, any final risk assessments and after the final compliance audit, before Solo Water commences supply of retail services to the customers at the Catherine Hill Bay development.⁵¹ Our current practices will ensure that NSW Health is consulted at various stages throughout the development and auditing of the licensee's management plans. The WIC Regulation requires RSMPs for 'greenfield schemes' to be submitted prior to the licensee commencing to carry out activities under its retail supplier's licence.⁵² Further, if the Minister or IPART so demands, or if any significant change is made to its RSMP, the licensee must provide the Minister or IPART with an audit report as to the adequacy of the RSMP.⁵³

We recommend that Solo Water should be subject to the following standard licence conditions (see draft licence in Appendix A), in relation to organisational capacity, if a licence is granted:

- 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.
- 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.

Further, we recommend that Solo Water should be subject to the following special condition, in relation to organisational capacity, if a licence is granted. This condition requires Solo Water to provide prior notification to IPART when it proposes to modify any agreement in connection with the licence application, including the Deed:

- A4.1 If a party to an Agreement proposes to:
 - (a) terminate the Agreement,
 - (b) novate the Agreement,
 - (c) assign or transfer any of its rights or obligations under the Agreement to any other person, or

⁵¹ Letter to IPART, Dr Wayne Smith, Director, Environmental Health Branch, NSW Health, 7 March 2014.

⁵² WIC Regulation, Schedule 2, Cl. 7A(1).

⁵³ WIC Regulation, Schedule 2, Cl. 7A(3)(a).

- (d) alter the Agreement in any way that materially reduces the Licensee's technical, financial or organisational capacity to carry out the activities authorised by this Licence, and

the Licensee must provide IPART with written notice as soon as practicable, but no later than 3 months, before the time when the proposed action is to occur. The written notice must include details of how the service provided under the Agreement will be provided subsequent to the proposed termination, novation, assignment, transfer or alteration.

4.3 Capacity to carry out those activities in a manner that does not present a risk to public health

We are satisfied that Solo Water has the capacity to supply drinking water and non-potable water and provide sewerage services, in a manner that does not present a risk to public health.

We assessed Solo Water's capacity to manage the following key risks to public health, posed by supply of drinking water, non-potable water and provision of sewerage services to the Catherine Hill Bay development:

- ▼ **Source water quality:** Solo Water will source drinking water from WSC. WSC's drinking water quality is regulated by NSW Health under the Public Health Act and associated regulations.⁵⁴ Solo Water has committed to developing incident notification and communication protocols with WSC to ensure that it is notified of all drinking water quality events in a timely manner. Solo Water's subsidiary organisation, CHBWU, will continuously monitor the drinking water chlorine residual and non-potable water quality.

Solo Water has demonstrated its capacity to generate non-potable water of an appropriate quality through CHBWU's network operator's licence application. We reviewed that application which states that CHBWU will treat sewage to the quality required under the AGWR for the intended end-uses. The non-potable water generated using CHBWU's sewage treatment infrastructure and technology (authorised under licence number 15_035) will be the source of non-potable water for this scheme. Solo Water will address any incidents related to the non-potable water quality in accordance with its Customer Contract and Customer Charter. The non-potable water system will be shut down in case of poor quality water and drinking water obtained from WSC will be supplied instead.

Solo Water will handle any complaints received from customers in accordance with its Code of Practice for Customer Complaints. Solo Water will communicate with the customers about any potential water quality issues in accordance with the Customer Charter.

⁵⁴ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

- ▼ **Customer exposure through end-use:** Solo Water will supply non-potable water to its customers at the Catherine Hill Bay development. This could present a risk to public health if the customers do not use the non-potable water for the appropriate purposes. Solo Water has demonstrated its capacity to mitigate this risk.

In its Customer Charter, Solo Water commits to regularly informing its customers on appropriate and safe usage of non-potable water and the sewerage system. In its Customer Contract, Solo Water explains allowable discharge to the sewerage system and prohibited items that may cause damage to the sewerage and recycled water systems. Solo Water will make this information available on its website and in a Home Owner's Manual that will be provided to all customers.

To prevent cross contamination, Solo Water commits to using separate drinking water and non-potable water pipework in its Customer Charter. Further, it will only engage accredited plumbers to undertake any installation works. It will publish guidelines for the plumbers and customers for appropriate installation within the customer's boundary. Solo Water confirms in its Home Owner's Manual that all non-potable water pipework will be appropriately labelled and/or lilac pipework will be used, as per standard conventions.

- ▼ **Water supply interruption:** Interruptions in supply of water to the Catherine Hill Bay development could pose a risk to public health. Solo Water has demonstrated its capacity to mitigate this risk through its application and risk assessment by outlining the control measures and mitigation strategies for water supply interruptions. Solo Water has explained that it will continue to provide water at a reasonable flow for basic health and hygiene purposes, even if a customer has failed to pay its service charges. Solo Water has highlighted that in these circumstances residential customers will not be disconnected from the water or sewerage system. Solo Water has indicated that should an interruption to non-potable water supply occur, drinking water would be supplied through the non-potable water system.⁵⁵ Solo Water would have control over this as the licensed network operator for this scheme, CHBWU, is Solo Water's subsidiary organisation. If the drinking water infrastructure fails, drinking water obtained directly from WSC's network can be transported to the development by tanker. In its Customer Charter and Customer Contract, Solo Water commits to communicating with its customers about water supply interruptions including both planned and unplanned interruptions.

⁵⁵ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014, explaining that WSC has agreed to supply sufficient drinking water to the Catherine Hill Bay development to top up the non-potable water network. This is sufficient to cover the whole water demand at the development in case of infrastructure failure.

- ▼ **Sewerage service interruption:** Interruptions to the provisions of sewerage services could pose a risk to public health. Solo Water has demonstrated its capacity to mitigate this risk through its application and risk assessment by outlining the control measures and mitigation strategies for sewerage service interruptions. Solo Water has indicated that should an interruption to sewerage services occur, the sewage will be transported to a nearby disposal and treatment facility by tanker. Solo Water would have control over this as the licensed network operator for this scheme, CHBWU, is Solo Water's subsidiary organisation. In its Customer Charter and Customer Contract, Solo Water commits to communicating with its customers about water supply interruptions including both planned and unplanned interruptions.

NSW Health supports Solo Water's application for a retail supplier's licence and has not identified any issues in regard to Solo Water's capacity to protect public health in undertaking retail activities.⁵⁶

We recommend that Solo Water should be subject to the following standard licence condition (see draft licence in Attachment A), in relation to its capacity to protect public health, if a licence is granted:

- 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.

4.4 Appropriate arrangements with respect to insurance

We are satisfied that Solo Water has made, and will continue to maintain, appropriate insurance arrangements.

In making our assessment of Solo Water's insurance arrangements, we have considered Solo Water's:

- ▼ public and products liability insurance
- ▼ Deed, and
- ▼ Solo Water's risk management assessment.

We requested advice from SICorp on the appropriateness of Solo Water's insurance arrangements, with respect to the activities to be licensed.

⁵⁶ Letter, NSW Health, 27 February 2014, available from our website at www.ipart.nsw.gov.au.

As part of the review, SICorp examined Solo Water's proposed scope of work; risk assessment for supply of drinking water and non-potable water and provision of sewerage services; insurance coverage in the area of public and products liability insurance, as shown in Solo Water's insurance certificates, policy and product disclosure statements; and the Deed. Further, SICorp reviewed the draft licence conditions with regard to obtaining and maintaining appropriate insurance arrangements.

SICorp concluded that the insurances held by Solo Water, Solo Water's risk management procedures and the Deed are adequate for the purposes of Solo Water's retail supplier's licence application.³⁷

We received no submissions on Solo Water's proposed insurance arrangements.

We consider that the information submitted by Solo Water demonstrates that it has made, and will continue to maintain, appropriate insurance arrangements.

We recommend that Solo Water should be subject to the following standard licence conditions (see draft licence in Attachment A), in relation to its insurance arrangements, if a licence is granted:

B2.5 Before commencing to supply water and provide sewerage services through the Specified Water Industry Infrastructure under this Licence, the Licensee must:

- (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:
 - (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.

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.

³⁷ Emails to IPART, Wayne Chandler, Insurance and Reinsurance Strategy Manager, SICorp, 18 August 2015, 28 August 2015 and 7 October 2015.

B3.3 If there, 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.]*

4.5 Sufficient quantities of water supplied by the licensee obtained otherwise than from a public water utility

We are satisfied that Solo Water will obtain sufficient quantities of water not from a public water utility.

We consider that the information submitted by Solo Water demonstrates that it will obtain sufficient quantities of water otherwise than from a public water utility.

Solo Water intends to collect a total of 212kL/day of sewage from its customers at the Catherine Hill Bay development in Stage 2 of the scheme. This sewage will be treated to generate non-potable water which will be used by the customers at the development for toilet flushing, cold water connections to washing machines, unrestricted irrigation of private lots and footpaths, outdoor cleaning and washdown (including car washing and bin washing). Solo Water estimates an average non-potable water demand of 165 kL/day in Stage 2. There will be sufficient sewage collected from the customers to meet this non-potable water demand. Drinking water will only be used to top-up the non-potable water system as required (eg, during times of high water demand).

WSC will supply sufficient drinking water to Solo Water to top up the non-potable water system and meet customer demand in case of failure of the non-potable water infrastructure.⁵⁸ Solo Water has designed its sewage treatment and non-potable water infrastructure with sufficient redundancy to limit the likelihood of this occurring.

We consider that Solo Water should not be subject to any licence conditions in relation to its source water, if a licence is granted.

4.6 Capacity to carry out those activities in a manner that does not present a significant risk of harm to the environment

We are satisfied that Solo Water has the capacity to supply drinking water and non-potable water and provide sewerage services to the Catherine Hill Bay development, in a manner that does not present a significant risk of harm to the environment.

We assessed Solo Water's capacity to manage the following key risks to the environment posed by supplying drinking water, non-potable water and sewerage services to the Catherine Hill Bay development:

- ▼ **Recycled water end uses:** Solo Water has, in its Home Owner's Manual, which will be provided to all customers, explained the appropriate and safe use of non-potable water and best water management practices for users.
- ▼ **Sewerage system:** Solo Water has, in its Home Owner's Manual, explained the appropriate use of the sewerage system including appropriate discharges to the sewer; and consequences of illegal discharge, including damage to the sewerage system and recycled water treatment plant.

We received no submissions regarding whether Solo Water has the capacity to supply drinking water and non-potable water and provide sewerage services at the Catherine Hill Bay development in a manner that does not present a significant risk of harm to the environment.

We consider that the information submitted by Solo Water demonstrates that it has the capacity to supply drinking water and non-potable water and provide sewerage services to the customers at the Catherine Hill Bay development in a manner that does not present a significant risk of harm to the environment.

We consider that Solo Water should not be subject to any licence conditions in relation to its capacity to not present a significant risk of harm to the environment, if a licence is granted.

⁵⁸ Letter to Solo Water, Greg Cashin, Commercial Manager Water and Sewer, WSC, 12 March 2014.

4.7 Licensing principles

We have had regard to each of following licensing principles in making a recommendation as to whether or not the retail supplier's licence should be granted, and if so, what conditions to impose.

4.7.1 Protection of public health

We have had regard to protection of public health through our assessment of Solo Water's capacity to supply drinking water and non-potable water and provide sewerage services to customers at the Catherine Hill Bay development in a manner that does not present a risk to public health. As outlined in section 4.3 of this report, we assessed Solo Water's capacity to manage the key risks posed to public health by the activities to be licensed.

NSW Health supports CHBWU's licence application and identified no specific risks to public health.⁵⁹

If the Minister grants a retail supplier's licence to Solo Water, we consider that public health will be protected in relation to the activities licensed.

4.7.2 Protection of the environment

We have had regard to protection of the environment through our assessment of Solo Water's capacity to supply drinking water, non-potable water and provide sewerage services to customers at the Catherine Hill Bay development in a manner that does not present a significant risk of harm to the environment in section 4.6.

If the Minister approves this licence, we consider that the environment will continue to be protected in relation to the activities licensed.

4.7.3 Protection of public safety

We have had regard to the protection of public safety through our assessment of Solo Water's technical capacity to supply drinking water and non-potable water and provide sewerage services to customers at the Catherine Hill Bay development. As outlined in section 4.2.1 of this report, we assessed Solo water's capacity to manage key risks to public safety by the activities to be licensed.

We have also considered Solo Water's risk assessment and proposed control and mitigation measures to supply the proposed services at the development.

⁵⁹ Letter to IPART, Dr Wayne Smith, Director, Environmental Health Branch, NSW Health, 7 March 2014.

We received no submissions regarding the protection of public safety.

If the Minister grants a retail supplier's licence to Solo Water, we consider that public safety will be protected in relation to the activities licensed.

4.7.4 Protection of consumers generally

We have had regard to the protection of consumers through our assessment of Solo Water's technical capacity to supply drinking water and non-potable water and provide sewerage services to customers at the Catherine Hill Bay development. As outlined in section 4.2.1 of this report, we assessed Solo Water's capacity to protect consumers through its RSMIP, Customer Charter and risk assessment.

We received no submissions regarding the protection of customers.

If the Minister approves this licence application, we consider that consumers generally will continue to be protected in relation to the activities licensed.

4.7.5 Encouragement of competition

Historically, Hunter Water has provided monopoly water supply and sewerage services in the Hunter regions. Hunter Water has confirmed that it does not intend to provide these services to the Catherine Hill Bay development in the immediate future. Hunter Water supports Solo Water's licence application because it promotes greater levels of competition within the lower Hunter region for the provision of water, wastewater and non-potable water services.⁶⁰

We understand that Hunter Water originally intended to supply water and provide sewerage services at the Catherine Hill Bay development. Coastal Hamlets engaged Solo Water to provide these services at the development because Hunter Water no longer intends to.

We consider this licence would enable a new entity to supply drinking water and non-potable water and provide sewerage services to the Catherine Hill Bay development, thus encouraging competition in the provision of these services. This is consistent with the long title of the WIC Act.

⁶⁰ Letter to IPART, Kim Wood, Managing Director, Hunter Water, 4 March 2014.

4.7.6 Ensuring sustainability of water resources

Solo Water will supply non-potable water to its customers at the Catherine Hill Bay development. The non-potable water will be sourced from treated sewage which would otherwise have been discharged into the environment. The recycling of water will also replace the use of drinking water which will ultimately be sourced from the Central Coast and Hunter Regions' surface and groundwater sources, thereby contributing to the sustainability of those water resources.

4.7.7 Promotion of production and use of recycled water

Solo Water will provide non-potable water (including recycled water) to the Catherine Hill Bay development and promote use of non-potable water as a substitute for drinking water for toilet flushing, laundry (specifically the washing machine cold water connection), irrigation of private lots and footpaths, outdoor cleaning and washdown (including car and bin washing).

4.7.8 Promotion of policies set out in any prescribed water policy document

The Metropolitan Water Plan is the only prescribed water policy document under the WIC Regulation. The Metropolitan Water Plan outlines strategies to secure greater Sydney's water supply now and in the future. The Catherine Hill Bay development is not within the greater Sydney area. Therefore, the policies set out in the Metropolitan Water Plan do not apply.

In January 2014, the NSW Government released the Lower Hunter Water Plan⁶¹ which is a package of water supply and demand management measures to ensure the region can withstand severe drought. Although this is not a prescribed water policy document, we considered whether Solo Water's supply of services at the Catherine Hill Bay development is consistent with the document.

The Lower Hunter Water Plan includes actions to supply, save and substitute water in relation to non-potable water and notes that there are continuing actions, including:

...private sector suppliers are likely to play a bigger role in providing water supply, wastewater and non-potable water services to new developments, particularly in areas remote from urban centres.⁶²

Solo Water's proposal to supply drinking water and non-potable water and provide sewerage services at the Catherine Hill Bay development is consistent with the Lower Hunter Water Plan.

⁶¹ NSW Department of Finance and Services, *Lower Hunter Water Plan*, January 2014.

⁶² NSW Department of Finance and Services, *Lower Hunter Water Plan*, January 2014, p 2.

4.7.9 Potential for adverse financial implications for small retail customers

We have had regard to the potential for adverse financial implications for small retail customers through our assessment of Solo Water's technical capacity to supply drinking water and non-potable water and provide sewerage services to its customers. As outlined in section 4.2.1, we have assessed Solo Water's capacity to manage financial hardship. Solo Water has explained its proposed water and sewerage charges for the Catherine Hill Bay development. We consider these charges are reasonable in comparison to customers of other nearby service providers (eg, Hunter Water, WSC and Gosford Council's customers) (see also section 4.9.1). We will include reporting on Solo Water's prices as part of its reporting obligations.

4.7.10 Promotion of equitable sharing of the costs of water industry infrastructure that significantly contributes to water security

Solo Water will source drinking water from WSC. The price that Solo Water will pay WSC should incorporate a share of the cost of any infrastructure that significantly contributes to water security in the region.

WSC has explained that the price at which it will supply drinking water to Solo Water will include water supply contributions, in accordance with WSC's regulated Developer Servicing Plans.⁶³

4.8 Public interest considerations

We identified no additional matters with regard to the public interest in relation to Solo Water's proposal to supply drinking water and non-potable water and provide sewerage services to the customers at the Catherine Hill Bay development.

We consider that Solo Water should not be subject to any licence conditions in relation to public interest, if a licence is granted.

4.9 Additional matters considered

In addition to assessing the application against the licensing criteria and principles of the WIC Act, we also considered whether the applicant's services should be subject to price regulation, at this time.

⁶³ Letter to IPART, Greg Cashin, Commercial Manager Water and Sewer, WSC, 15 October 2013.

4.9.1 Monopoly supply and price regulation

We recommend that the Minister does not declare Solo Water to be a monopoly supplier in relation to the supply of drinking water and non-potable water and provision of sewerage services at the Catherine Hill Bay development.

Should the Minister declare any monopoly services at the Catherine Hill Bay development, we recommend that the Minister does not refer these services to IPART for a determination of pricing or a periodic review of pricing policies, at this time.

The Minister *may* declare a licensed retail supplier or licensed network operator to be a monopoly supplier in relation to a specified water supply or sewerage service in a specified area to a specified class of customers.⁶⁴

The Minister can declare a monopoly supplier at any time. This declaration does not have to link to the grant or variation of a licence or a change in licence conditions. If the Minister declares a monopoly supplier, the Minister may then refer the monopoly services to IPART for price regulation.⁶⁵

A monopoly declaration may only be made in relation to a service, if the Minister is satisfied that it is a service:

- ▼ for which there are no other suppliers to provide competition in the part of the market concerned
- ▼ for which there is no contestable market by potential suppliers in the short term in that part of the market, and
- ▼ in the case of a water supply service for recycled water, that connection of land to that service is required by or under some other Act.⁶⁶

We have considered the market for each of the retail services⁶⁷ within the Catherine Hill Bay development (the specified area) for all classes of customer. Solo Water will supply drinking water, non-potable water and sewerage services to the customers at the Catherine Hill Bay development. We consider that these are not monopoly services.

We note that, in its application, Solo Water has explained its proposed pricing arrangements. Solo Water has assured us that its customers are not at a commercial disadvantage, in comparison with residents of nearby areas, when

⁶⁴ WIC Act, section 51.

⁶⁵ Determination of the pricing and/or periodic review of the pricing policies. WIC Act, section 52(1).

⁶⁶ WIC Act, section 51(2)(b).

⁶⁷ The retail services at the Catherine Hill Bay development include supplying drinking water, non-potable water and sewerage services to the customers.

considering any changes to its proposed pricing arrangements.⁶⁸ A comparison of Solo Water's proposed prices showing that they are reasonable when compared with nearby water utilities' pricing arrangements is provided in Table 4.1 below.

Table 4.1 Summary of Solo Water's proposed pricing arrangements for 2015-16 compared to nearby water utilities

Service	Unit of charge	Solo Water	Hunter Water ^a	Wyong Shire Council ^a	Gosford Council ^a	DPI Water performance monitoring data for local water utilities with 200 – 1,500 properties (median) ^b
Water	Service charge (\$/year)	17.51	17.75	166.87	173.54	287 ^c
	Usage charge (\$/kL)	2.19	2.22	2.26	2.26	1.47 ^c
Recycled water	Service charge (\$/year)	17.51	N/A	N/A	N/A	N/A
	Usage charge (\$/kL)	1.75	N/A	N/A	N/A	N/A
Sewerage	Service charge (\$/year)	621.00	593.58	477.03	641.14	520 ^d
Stormwater drainage ^e	Service charge (\$/year)	79.05	71.86	118.14	113.20	N/A
Open space and parks maintenance ^f	Service charge (\$/year)	142.34	N/A	N/A	N/A	N/A

^a IPART, *Fact Sheet - Water and sewerage charges and typical customer bills from 1 July 2015*.

^b In Stage 2, Solo Water will supply services to up to 470ET. If Stage 3 is pursued, it will supply services to up to 540ET.

^c NSW Department of Primary Industries Water (previously NSW Office of Water), *2013-14 NSW Water Supply and Sewerage Performance Monitoring Report*, Appendix E, p 93.

^d NSW Department of Primary Industries Water (previously NSW Office of Water), *2013-14 NSW Water Supply and Sewerage Performance Monitoring Report*, Appendix F, p 96.

^e The water main transferring drinking water from WSC's network to the Catherine Hill Bay development is located in a fire trail in a national park. The stormwater drainage charge will be to cover the cost of maintaining a fire track through the national park, in case of erosion caused by rain events. Maintenance of the fire track through the national park is an obligation that has been placed on Solo Water by NSW National Parks and Wildlife Services as the main is located in a fire trail. (Emails to IPART, Wynn Owen, Finance Director, Solo Water, 6 November 2015 and 9 November 2015.)

^f The open space and parks maintenance charge will be to cover the cost of maintaining area within the Catherine Hill Bay development for disposal of non-potable water that is not used by the customers (Email to IPART, Wynn Owen, Finance Director, Solo Water, 6 November 2015).

Note: All charges are based on residential prices proposed by the water utilities.

⁶⁸ Email to IPART, Wynn Owen, Finance Director, Solo Water, 29 October 2015.

Should the Minister declare any monopoly services, we recommend that the Minister does not refer these monopoly services to IPART for price regulation, at this time.

We will include reporting on Solo Water's pricing arrangements as part of its reporting obligations for the proposed retail supplier's licence (licence number 15_036R). If this data indicates circumstances that warrant a review of our position on this issue we would write to the Minister accordingly.

5 Recommendations

We recommend that the Minister:

- ▼ **grants a retail supplier's licence (licence number 15_036R) to Solo Water, subject to the conditions as set out in the attached draft licence (licence number 15_036R), and**
- ▼ **does not declare Solo Water to be a monopoly supplier in relation to the supply of drinking water and non-potable water and provision of sewerage services at the Catherine Hill Bay development.**

Should the Minister declare any monopoly services at the Catherine Hill Bay development, we recommend that the Minister does not refer these services to IPART for a determination of pricing or a periodic review of pricing policies, at this time.

The Minister must consider, but is not bound to accept, any advice or recommendation in this report in determining the licence application. The Minister may, if circumstances so require, seek further advice from us in relation to the licence application.⁶⁹

The Minister is required to provide us with a notice of the decision and of the reasons for the decision on making a decision whether or not to grant the licence⁷⁰. We will then make the information in the notice available to the public on our website, in accordance with the requirements of the WIC Act.⁷¹

⁶⁹ WIC Act, section 10(2).

⁷⁰ WIC Act, section 10(5).

⁷¹ WIC Act, section 10(6).



Appendices

A Draft licence



**NEW SOUTH WALES
GOVERNMENT**

WATER INDUSTRY COMPETITION ACT 2006
(NSW)

RETAIL SUPPLIER'S LICENCE

Solo Water Pty Ltd

(ACN 160 013 614)

SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR Solo Water 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 - non-potable water

- A1.1 This Licence authorises the Licensee and any authorised persons specified in Table 1.1:
- a) to supply water by means of the water industry infrastructure specified in Table 1.2;
 - b) for one or more of the authorised purposes specified in Table 1.3;
 - c) to the persons or classes of persons specified in Table 1.4;
 - d) within the area of operations specified in Table 1.5,
- subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1.1 Authorised persons

The Northern SEQ Distributor-Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, trading as Unitywater.

Table 1.2 Water industry infrastructure

-
- 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 the other water infrastructure may also be used for one or more of the following:
 - a) production of non-potable water;
 - b) treatment of non-potable water;
 - c) filtration of non-potable water;
 - d) storage of non-potable water; and
 - e) 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 the other water infrastructure may also be used for one or more of the following:
 - a) storage of non-potable water;
 - b) conveyance of non-potable water; and
 - c) treatment of non-potable water.
-

Table 1.3 Authorised purposes

Toilet flushing, laundry machine cold water connection, irrigation of private lots and footpaths, outdoor cleaning and washdown (including car and bin washing).

Table 1.4 Persons or classes of persons

Persons within the areas of operations specified in Table 1.5 of this Schedule A.

Table 1.5 Area of operations

Lot 100 DP1129872, Lot 101 DP1129872, Lot 106 DP1129872, Lot 1 DP1141989, Lot 1 DP1129299, Lot 103 DP1194707, Lot 101 DP1194707, Lot 102 DP1194707, Lot 213 DP883941, Lot 1 Section I DP163, Lot 1 Section K DP163, Flowers Drive Road Reserve, and Montefiore Street Road Reserve.

A2 Activities authorised – drinking water

- A2.1 This Licence authorises the Licensee and any authorised persons specified in Table 2.1:
- to supply water by means of the water industry infrastructure specified in Table 2.2;
 - for the authorised purposes specified in Table 2.3;
 - to the persons or classes of persons specified in Table 2.4;
 - within the area of operations specified in Table 2.5, subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 2.1 Authorised persons

The Northern SEQ Distributor- Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, trading as Unitywater.

Table 2.2 Water industry infrastructure

A reticulation network for drinking water and other water infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or the other water infrastructure may also be used for one or more of the following:

- storage of drinking water;
 - conveyance of drinking water; and
 - treatment of drinking water.
-

Table 2.3 Authorised purposes

Provision of drinking water and fire water

Table 2.4 Persons or classes of persons

Persons within the areas of operations specified in Table 2.5 of this Schedule A.

Table 2.5 Area of operations

- The area of the transfer pump station on Lot 12 DP598580 and Lot 13 DP598580.
- The area of the transfer pipeline on Lot 649 DP1027231, Lot 204 DP1164883, Lot 12 DP1180296, Lot 145 DP755266, Lot 105 DP1129872, Lot 100 DP1129872, Lot 101 DP1129872, Kanangra Drive, Pacific Highway Road Reserve, Montefiore Street Road Reserve
 - Lot 100 DP1129872, Lot 101 DP1129872, Lot 106 DP1129872, Lot 1 DP1141989,
-

Lot 1 DP1129299, Lot 103 DP1194707, Lot 101 DP1194707, Lot 102 DP1194707,
Lot 213 DP883941, Lot 1 Section I DP163, Lot 1 Section K DP163, Flowers Drive
Road Reserve, and Montefiore Street Road Reserve.

A3 Activities authorised – sewerage services

- A3.1 This Licence authorises the Licensee and any authorised persons specified in Table 3.1:
- a) to provide sewerage services by means of the water industry infrastructure specified in Table 3.2;
 - b) for the authorised purposes specified in Table 3.3;
 - c) to the persons or classes of persons specified in Table 3.4;
 - d) within the area of operations specified in Table 3.5,
subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 3.1 Authorised persons

The Northern SEQ Distributor-Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, trading as Unitywater.

Table 3.2 Water industry infrastructure

- 1) A treatment plant for sewage and other sewerage infrastructure used, or to be used, in connection with the treatment plant, where components of the treatment plant or the other sewerage infrastructure may also be used for one or more of the following:
 - a) production of treated non-potable water from sewage;
 - b) treatment of sewage;
 - c) filtration of sewage;
 - d) storage of sewage; and
 - e) conveyance of sewage.
 - 2) A reticulation network for sewage and other sewerage infrastructure used, or to be used, in connection with the reticulation network, where components of the reticulation network or the other sewerage infrastructure may also be used for one or more of the following:
 - a) storage of sewage; and
 - b) conveyance of sewage.
-

Table 3.3 Authorised purposes

Sewage collection, transport, treatment, effluent transfer to non-potable water system

Table 3.4 Persons or classes of persons

Persons within the areas of operations specified in Table 3.5 of this Schedule A.

Table 3.5 Area of operations

Lot 100 DP1129872, Lot 101 DP1129872, Lot 106 DP1129872, Lot 1 DP1141989,
Lot 1 DP1129299, Lot 103 DP1194707, Lot 101 DP1194707, Lot 102 DP1194707,
Lot 213 DP883941, Lot 1 Section I DP163, Lot 1 Section K DP 163, Flowers Drive Road

A4 Special conditions

A4.1 If a party to an Agreement proposes to:

- a) terminate the Agreement;
- b) novate the Agreement;
- c) assign or transfer any of its rights or obligations under the Agreement to any other person; or
- d) alter the Agreement in any way that materially reduces the Licensee's technical, financial or organisational capacity to carry out the activities authorised by this Licence,

the Licensee must provide IPART with written notice as soon as practicable, but no later than 3 months, before the time when the proposed action is to occur. The written notice must include details of how the service provided under the Agreement will be provided subsequent to the proposed termination, novation, assignment, transfer or alteration.

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).
Agreement	means any agreement or deed provided to IPART in connection with the Licensee's application for this Licence.
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).

DRAFT

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 *[Not applicable]*

B2.3 *[Not applicable]*

B2.4 *[Not applicable]*

B2.5 Before commencing to supply water and provide sewerage services through the Specified Water Industry Infrastructure under this Licence, the Licensee must:

- a) obtain insurance that is appropriate for the size and nature of the activities authorised under this Licence;
- a) provide a copy of each certificate of currency of the insurance obtained to IPART; and
- b) 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.

B2.6 *[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;

- d) any order under section 54 of the Act by which the Licensee is declared to be a retailer of last resort; and
- e) any licensed network operator or public water utility by means of whose sewerage infrastructure the Licensee provides sewerage services to its customers.
- 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 (by a date specified by IPART) 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 Before commencing to supply water or provide sewerage services through the Specified Water Industry Infrastructure under this Licence 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.

- B9.4 *[Not applicable]*.

- 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 The Licensee must only provide sewerage services by means of water industry infrastructure maintained and operated by a licensed network operator or public water utility.

B12 Notification of operation

- B12.1 This clause B12 applies each time the Licensee has commenced to supply water or provide sewerage services through any of the Specified Water Industry Infrastructure under this Licence.
- B12.2 The Licensee must:
- a) notify IPART in accordance with the Reporting Manual that it has commenced to supply water through the relevant Specified Water Industry Infrastructure; and
 - b) provide such notification within 10 days after such commencement.
- B12.3 The Licensee must:
- a) notify IPART in accordance with the Reporting Manual that it has commenced to provide sewerage services through the relevant Specified Water Industry Infrastructure; and
 - b) provide such notification within 10 days after such commencement.

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 Water Industry Infrastructure	means the water industry infrastructure specified in, as applicable: <ul style="list-style-type: none"> (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.

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ATTACHMENT C

Hunter Water

https://www.hunterwater.com.au/Resources/Documents/Fact-Sheets/Customer-Charges/Customer_Charges_Jun17.pdf

https://www.hunterwater.com.au/Resources/Documents/Fact-Sheets/Customer-Charges/Miscellaneous_Fees_Jun17.pdf

Wyong Shire Council

<http://www.gosford.nsw.gov.au/docs/default-source/About-council-documents/2017-2018-fees-and-charges.pdf?sfvrsn=44>

Gosford City Council

<http://www.gosford.nsw.gov.au/docs/default-source/About-council-documents/2017-2018-fees-and-charges.pdf?sfvrsn=44>

Sydney Water

<http://www.sydneywater.com.au/SW/accounts-billing/understanding-your-bill/prices-for-your-home/index.htm>

<http://www.sydneywater.com.au/SW/accounts-billing/understanding-your-bill/prices-for-other-services/index.htm>

Solo Water

<http://solowater.com.au/wp-content/uploads/2017/10/IMS-SERV-F-2099-SW-Pricing-Schedule.pdf>

Cooranbong Water

http://flowsystems.com.au/governance/Cooranbong/Cooranbong_Residential_Fees_and_Charges_Policy.pdf

http://flowsystems.com.au/governance/Cooranbong/Cooranbong_Infrastructure_Fees.pdf