

Our reference: 12/607-3

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10 January 2014

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Stephen McKewen
Executive Director
Discovery Point Water Factory / Flow Systems
Level 2, 1 Alfred St
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Contact Gary Drysdale
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Dear Mr McKewen

**NOTIFICATION OF DETERMINATION OF LICENCE APPLICATION UNDER WATER
INDUSTRY COMPETITION ACT 2006 (NSW)**

Thank you for the application made by Discovery Point Water Factory (DPWF) under the *Water Industry Competition Act 2006 (NSW) (Act)* for a network operator's licence.

Determination of licence application

The Minister has determined DPWF's application and is satisfied that DPWF has met the licensing criteria under section 10 of the Act and clause 7 of the *Water Industry Competition (General) Regulation 2008 (Regulation)*. The Minister has made this determination after having regard to the application, submissions made and the licensing principles under section 7 of the Act. Therefore, under section 10 of the Act, the Minister has granted a network operator's licence to DPWF, subject to the conditions imposed by the Minister in licence number 13_025, the Act, and the Regulation.

The original copy of the Minister's notice of decision to grant the licence, including the reasons for the decision, is in Attachment A. IPART is required under the Act to make this notice available to the public on our website. The original copy of the licence is also in Attachment A for your record.

Important information on licence obligations

As a licensee, DPWF should ensure that it understands all of its obligations under the Act, Regulation and licence where appropriate. The following sets out only certain obligations in relation to DPWF's obligations as a licensee. DPWF should not rely on the following as a comprehensive statement of its obligations as a licensee.

Important information regarding DPWF's obligations as a licensee before bringing its water and sewerage infrastructure into commercial operation is in Attachment B.

Consultation with stakeholders

For the purposes of clause B4 of the licence, we have agreed to the following requirement of NSW Health (as defined in the licence) and are notifying DPWF of the requirement:

- ▼ DPWF must consult with NSW Health in developing incident and emergency response protocols (as outlined in Australian Guidelines for Water Recycling (AGWR)).

You can contact the NSW Health Water Unit on (02) 9391 9835 or waterqual@doh.health.nsw.gov.au to find the contact details for the appropriate Public Health Unit officer.

We also note that DPWF's water quality plans must specify how they have addressed and implemented the framework for managing recycled water quality and use as detailed in the AGWR, and must be consistent with the AGWR.¹ To achieve this, DPWF will need to develop its water quality plans with the relevant stakeholders, including NSW Health.

IPART's requirements under section 87

For the purposes of monitoring, and reporting on, DPWF's compliance with its licence, IPART requires DPWF under section 87 of the Act to:

- ▼ keep any records necessary to report on its compliance with its licence conditions in accordance with the Network Operator's Reporting Manual on IPART's website, as required by its licence (clause B6); and
- ▼ furnish all reports required under the Network Operator's Reporting Manual to IPART in accordance with the Reporting Manual by 31 August each year.

We note that licensees are required to submit an annual compliance report to IPART on their compliance with licence obligations over the previous financial year by no later than 31 August each year. This annual reporting is required even when a licensee has not yet brought its water and sewerage infrastructure into commercial operation

Please contact Gary Drysdale on the contact details provided above if you have any queries regarding your licence.

Yours sincerely



Hugo Harmstorf
Chief Executive Officer

¹ Regulation, Schedule 1, clause 7.

Attachment A
Notice of decision and licence



New South Wales

WATER INDUSTRY COMPETITION ACT 2006 (NSW)

Section 10(5)

Notice of Decision - Application for a network operator's licence From Discovery Point Water Factory Pty Ltd

I, Andrew Constance, Minister for Finance and Services, under section 10(5) of the *Water Industry Competition Act 2006* (NSW) (the Act), have considered and accepted the advice and recommendations made by IPART in its report to me regarding the application from Discovery Point Water Factory Pty Ltd (142 392 541) (the Applicant) for a network operator's licence under the Act. I attach IPART's report (Attachment A).

Based on my consideration and acceptance of IPART's report:

- (a) I am satisfied that the Applicant is not a disqualified corporation as required under section 10(3) of the Act;
- (b) I am satisfied as to each of the criteria set out in section 10(4) of the Act; and
- (c) I have had regard to the licensing principles set out in section 7 of the Act in determining whether or not to grant a licence and what conditions should be imposed on any such licence granted.

I have determined to grant a network operator's licence to the Applicant subject to the conditions set out in licence number 13_025, the Act and the *Water Industry Competition (General) Regulation 2008* (NSW). I hereby attach the licence (Attachment B).

A handwritten signature in blue ink, appearing to read 'A Constance', followed by a dotted line.

Minister for Finance and Services

Dated this 4th day of December 2013



**NEW SOUTH WALES
GOVERNMENT**

***WATER INDUSTRY COMPETITION ACT 2006
(NSW)***

NETWORK OPERATOR'S LICENCE

Discovery Point Water Factory Pty Ltd

(ACN 142 392 541)



New South Wales

Water Industry Competition Act 2006 (NSW)

Grant of network operator's licence Licence no. 13_025

I, Andrew Constance MP, Minister for Finance and Services, under section 10 of the *Water Industry Competition Act 2006 (NSW)*, grant a network operator's licence to:

Discovery Point Water Factory Pty Ltd (ACN 142 392 541)

to construct, maintain and operate water industry infrastructure, subject to:

- (i) the conditions imposed by the *Water Industry Competition Act 2006 (NSW)*;
- (ii) the conditions imposed by reg 9 and set out in Parts 1, 2 and 3 of Schedule 1 to the *Water Industry Competition (General) Regulation 2008 (NSW)*;
- (iii) the conditions imposed by the Minister in the attached Schedule A, being special Ministerially-imposed licence conditions for Discovery Point Water Factory Pty Ltd's network operator's licence; and
- (iv) the conditions imposed by the Minister in the attached Schedule B, being standard Ministerially-imposed licence conditions for all licensed network operators.


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Minister for Finance and Services

Dated this

4th

day of

December

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SCHEDULE A - SPECIAL MINISTERIALLY-IMPOSED LICENCE CONDITIONS FOR DISCOVERY POINT WATER FACTORY PTY LTD'S NETWORK OPERATOR'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 supply

A1.1 This Licence authorises the Licensee and any authorised persons specified in Table 1.1:

- a) to construct, maintain and operate the water industry infrastructure specified in Table 1.2;
- b) for the authorised purposes specified in Table 1.3;
- c) within the area of operations specified in Table 1.4,
subject to the conditions imposed by or under the Act, the Regulation and this Licence.

Table 1.1 Authorised persons

Flow Systems Pty Ltd (ABN 28 136 272 298)
Permeate Partners Pty Ltd (ABN 54 130 112 257)

Table 1.2 Water infrastructure

Infrastructure for the production, filtration, treatment, storage, transport and reticulation of non-potable water.

Table 1.3 Authorised purposes

Toilet flushing, unrestricted irrigation, clothes washing, car washing, general wash-down and water features (landscape architecture).

Table 1.4 Area of operations

The land the subject of the approval granted on 5 May 2011 under section 75O of the *Environmental Planning and Assessment Act 1979* (NSW) by the Director-General, Department of Planning & Infrastructure for application Major Project MP 10_0003; and

The land the subject of the approval granted on 19 March 2012 under section 75J of the *Environmental Planning and Assessment Act 1979* (NSW) by the Deputy Director General, Development Assessment and Systems Performance, Department of Planning & Infrastructure for application Major Project MP 10_0030.

A2 [Not applicable]

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

Definitions

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

In this Schedule A:

Act	means the <i>Water Industry Competition Act 2006</i> (NSW).
Licence	means this network operator'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).

- *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 details, of the change in accordance with the Reporting Manual:
- a) any source from which the water handled by the Specified Water Industry Infrastructure is derived;
 - b) the Authorised Purposes of the water handled by the Specified Water Industry Infrastructure;
 - c) the identity of each licensed retail supplier or public water utility that has access to the infrastructure services provided by the Specified Water Industry Infrastructure for the purpose of supplying water to its customers;
 - d) any other water infrastructure to which the Specified Water Industry Infrastructure is connected;
 - e) the identity of each licensed retail supplier or public water utility that has access to infrastructure services provided by the Specified Water Industry Infrastructure for the purpose of providing sewerage services to its customers;
 - f) any other sewerage infrastructure to which the Specified Water Industry Infrastructure is connected;
 - g) the arrangements for the disposal of waste from the Specified Water Industry Infrastructure.

B8 Monitoring

- B8.1 The Licensee must undertake any monitoring that is required for the purposes of this Licence, any Plan, the Act or the Regulation in accordance with this clause B8.
- B8.2 The Licensee must keep the following records of any samples taken for monitoring purposes specified in the Water Quality Plan:

B11.1 If the Licensee proposes to operate the Specified Water Industry Infrastructure to supply water for an end-use which is not set out in the most recent Water Quality Plan provided to IPART, the Licensee must notify IPART in writing at least 3 months before commencing such operation.

B12 Notification of changes to Authorised Person

B12.1 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.

B13 Notification of commercial operation

B13.1 This clause B13 applies each time the Licensee has brought any of the Specified Water Industry Infrastructure into commercial operation.

B13.2 The Licensee must:

- a) notify IPART in accordance with the Reporting Manual that it has brought the relevant Specified Water Industry Infrastructure into commercial operation; and
- b) provide such notification within 10 days after it has brought the relevant Specified Water Industry Infrastructure into commercial operation.

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:

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

Verification Monitoring	means verification monitoring as described in the document entitled "Australian Drinking Water Guidelines" or the document entitled "Australian Guidelines for Water Recycling" as the case may be.
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Water Quality Plan	means the water quality plan that the Licensee is required to prepare under the Regulation.
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Attachment B

Important information for licensed network operators before bringing infrastructure into commercial operation

IMPORTANT INFORMATION FOR LICENSED NETWORK OPERATORS

Before bringing infrastructure into commercial operation

The following sets out only a brief summary of a licensed network operator's (**Licensee**) obligations before bringing its water and/or sewerage infrastructure into commercial operation. Licensees should ensure that they understand all of their obligations under the *Water Industry Competition Act 2006* (NSW) (**Act**), the *Water Industry Competition (General) Regulation 2008* (NSW) (**Regulation**) and their licences where appropriate.

1. Preparation of Licence Plans

Before bringing their water and/or sewerage infrastructure into commercial operation, Licensees must prepare and forward to IPART an infrastructure operating plan, a water quality plan and/or a sewage management plan (together, **Licence Plans**), as applicable.²

Each of these Licence Plans must meet the relevant requirements of the Regulation.

IPART will routinely provide a copy of all water quality plans to NSW Health (as defined in the licence) for their assessment and comment on a confidential basis.

2. Audit of Licence Plans

Before Licensees bring their water and/or sewerage infrastructure into commercial operation, IPART requires Licensees to provide to IPART a report prepared by an approved auditor as to:

- ▼ the adequacy of the Licence Plans; and
- ▼ in the case of the infrastructure operating plan, the condition of the Licensee's infrastructure,

having regard to the purpose for which the Licensee is licensed.³ Licensees should provide the report at the same time as they forward the relevant Licence Plan to IPART. Licence Plans audits may be conducted either before or after construction. Please refer to section 2.1.1 of IPART's Audit Guidelines for Greenfield Schemes on our website for details.

Please note that Licensees who choose to undertake Licence Plans audits after construction may wish to have certain aspects of their Licence Plans assessed early and before construction. These early assessments may reduce the risks to licensees of non-compliant design and potential additional costs after construction. A Technology assessment can be undertaken to review certain recycled water aspects of a licensee's Water Quality Plan or a

² Regulation, Schedule 1, clauses 6(1), 7(1), 13(1), 14(1).

³ Regulation, Schedule 1, clauses 6(3), 7(5), 13(3), 14(4).

Sustainability Assessment can review certain aspects of a licensee's Sewage Management Plan.

Licensees may conduct Licence Plans and new infrastructure audits separately or together after construction as this may help to reduce audit costs.

3. Additional Minister's approval of new infrastructure

The grant of a network operator's licence does not automatically allow Licensees to bring their new water or sewerage infrastructure into commercial operation. Licensees must first obtain the written approval of the Minister⁴ before bringing any new infrastructure into commercial operation. The Minister must not give such approval unless he has been provided with a report that indicates that the infrastructure:

- ▼ complies with the requirements of the Regulation and any licence conditions; and
- ▼ is capable of operating safely and in accordance with relevant Licence Plans.⁵

To obtain the Minister's approval, Licensees must provide IPART with a formal request for approval addressed to the Minister along with the report. The report must be prepared by an approved auditor in the manner and form as the Minister directs. Please refer to the discussion of "new infrastructure audits" in section 2.1.1 of IPART's Audit Guideline for Greenfield Schemes on our website for details.

⁴ Regulation, Schedule 1, clause 2(1). The Minister currently administering the Act is the Minister for Finance and Services.

⁵ Regulation, Schedule 1, clause 2(2).