



WATER AND SEWERAGE INDUSTRY ACT 2008

WATER AND SEWERAGE LICENCE

issued to

**TASMANIAN WATER AND SEWERAGE CORPORATION
(NORTHERN REGION) PTY LIMITED**

ACN 133 655 062

trading as

BEN LOMOND WATER

effective date from

1 July 2011

Tasmanian Water and Sewerage Licence

1. Definitions and Interpretation

1.1. In this licence, words and phrases appearing italicised in bold type:

- 1.1.1. which are defined in the **Act**, have the same meaning when used in this licence; and
- 1.1.2. which are not defined in the **Act**, have the meaning ascribed to them in Part 1 of Schedule 1.

1.2. This licence must be interpreted in accordance with Part 2 of Schedule 1.

2. Issue of Licence

The **Regulator**, in exercise of the powers conferred by section 35 of the **Act**, authorises the **Licensee** to:

- 2.1. own **water infrastructure** for the provision of a **water service** and **sewerage infrastructure** for the provision of a **sewerage service**; and
 - 2.2. operate **water infrastructure** for the provision of a **water service** and **sewerage infrastructure** for the provision of a **sewerage service**; and
 - 2.3. provide a **water service** and a **sewerage service**;
- to another person in the State of Tasmania on and subject to the conditions of this licence.
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3. Term of Licence

Subject to the **Act**, this licence takes effect on and from 1 July 2011 and remains in force until it is cancelled.

4. Compliance with Guidelines and Other Requirements

4.1. The **Licensee** must comply with all applicable **guidelines**.

- 4.2. The **Licensee** must use best endeavours to ensure that each contractor engaged by it complies with the terms and conditions of this licence, to the extent that such terms and conditions are relevant to that contractor.
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5. Provision of Information

- 5.1. The **Licensee** must provide to the **Regulator**, in the manner and form and by a time determined by the **Regulator**, such information as the **Regulator** may from time to time reasonably require and which is, in the opinion of the **Regulator**, relevant to the functions of the **Regulator** under the **Act**.
- 5.2. The **Licensee** must notify the **Regulator** if it commits a material contravention of a requirement imposed by or under the **Act**, **codes**, **regulations**, **guidelines** or this licence as soon as the **Licensee** becomes aware of having committed such a contravention and in any case no later than 5 **business days** after becoming aware of the contravention.
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6. Management Plans

The **Licensee** must develop and submit to the **Regulator** the **management plans** as set out in Schedule 2 of this licence.

7. Advice to the Regulator

- 7.1. The **Licensee** must report to the **Regulator** as soon as possible the occurrence of any of the following circumstances:
- 7.1.1. the **Licensee** is put under external administration as defined in the *Corporations Act 2001* (Cwth); and
 - 7.1.2. the **Licensee** experiences a significant change in its circumstances which may affect the **Licensee's** ability to meet its obligations under the **Act**, **codes**, **guidelines** or this licence.
- 7.2. The **Licensee** must report to the **Regulator** any change of the **Licensee's officer** within 10 **business days** of that change.
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8. Honesty and Integrity

The *Licensee* must maintain honesty and integrity in its commercial and other dealings.

9. Capacity

The *Licensee* must maintain the technical, financial and organisational capacity to carry out the activities authorised under this licence.

10. Public and Environmental Health Risk Management

The *Licensee* must maintain the capacity to carry out the activities authorised under this licence in a manner that appropriately manages the risk to public and environmental health.

11. Insurance

The *Licensee* must arrange and maintain with one or more insurers, adequate contract works and public liability insurance in respect of the potential for any loss, harm or damage caused to any person or property arising out of, or in any way connected with, the action or inaction of the *Licensee* or any of its agents or employees, or of any contractor or subcontractor of the *Licensee* pursuant to this licence.

12. Communications

12.1. A *communication* must be in writing.

12.2. A *communication* is to be regarded as having been given by the sender and received by the addressee:

12.2.1. when delivered in person to the addressee; or

12.2.2. where sent by post, on the 4th *business day* after the date of posting, if the *communication* is posted within Australia; or

- 12.2.3. where sent by post, on the 7th **business day** after the date of posting, if the **communication** is posted outside Australia; or
- 12.2.4. when, according to the sender's transmission report, received by facsimile transmission by the addressee; or
- 12.2.5. where sent by electronic mail, when the **communication** is recorded as having been first received at the electronic mail destination.

13. Management and Operating Contracts

13.1. The **Licensee** must advise the **Regulator** of the entering into, by the **Licensee**, of any contract under the terms of which another person assumes, or will assume, operational responsibility for carrying out any substantive part of the activities authorised by this licence not less than 14 days prior to the commencement of any contract.

13.2. The **Licensee** must submit to the **Regulator**:

- 13.2.1. the identity and contact details of the other person;
- 13.2.2. details of the nature of the activities that the other person will assume responsibility for carrying out; and
- 13.2.3. details of the qualifications and experience of the other person.

Signed


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Glenn Peter Appleyard

CHAIRMAN

TASMANIAN ECONOMIC REGULATOR

10 June 2011

Schedule 1 - Definitions and Interpretation

1. Definitions

In this licence, unless the context otherwise requires:

“Act” means the *Water and Sewerage Industry Act 2008* (Tas);

“communication” means a written notice, notification, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to or in connection with this licence;

“guideline” means any guideline issued in accordance with the provisions of the *Act*;

“Licensee” means ‘Tasmanian Water and Sewerage Corporation (Northern Region) Pty Limited’ (ACN 133 655 062);

“Licensee’s officer” means the person nominated by the *Licensee* to be responsible for regulatory compliance and may include a director, company secretary or chief executive officer;

“management plan” means any of the plans referred to in clause 1.1 of Schedule 2;

“reporter” means an appropriately qualified person engaged by the *Licensee* with the approval of the *Regulator* to report to the *Regulator* on compliance with and adequacy of the *management plans* in accordance with terms of reference approved by the *Regulator*.

2. Interpretation

In this licence, unless the context otherwise requires:

2.1. headings are for convenience only and do not affect the interpretation of this licence;

2.2. words importing the singular include the plural and vice versa;

2.3. words importing a gender include any gender;

- 2.4. an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- 2.5. a reference to a condition, clause, Schedule or Part is to a condition, clause, Schedule or Part of this licence;
- 2.6. a reference to terms of an offer or agreement is to all terms, conditions and provisions of the offer or agreement;
- 2.7. a reference to any statute, regulation, proclamation, order in council, ordinance or by-law includes all statutes, regulations, proclamations, orders in council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws and determinations issued under that statute;
- 2.8. a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- 2.9. a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- 2.10. when italicised, other parts of speech and grammatical forms of a word or phrase defined in this licence have a corresponding meaning;
- 2.11. a period of time:
- 2.11.1. which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
- 2.11.2. which commences on a given day or the day of an act or event is to be calculated inclusive of that day;

- 2.12. an event which is required under this licence to occur on or by a stipulated day which is not a **business day** may occur on or by the next **business day**;
- 2.13. in the event of any inconsistency between the conditions of this licence, the **Act** or **regulations**, the **Act** or **regulations** will prevail to the extent of such inconsistency; and
- 2.14. in the event of any inconsistency between the conditions of this licence and the Schedules, the conditions of this licence prevail to the extent of such inconsistency.

Schedule 2 – Other Licence Conditions

1. Management Plans

- 1.1. The aspects of the **Licensee's** operations that shall be the subject of **management plans** are:
- 1.1.1. compliance;
 - 1.1.2. asset management; and
 - 1.1.3. emergency management.
- 1.2. The **management plans** required under clause 1.1 of this Schedule 2 must be submitted to the **Regulator** on such date as notified by the **Regulator** and subsequently as required and advised by the **Regulator**.
- 1.3. The **management plans** are to be made in accordance with and take account of any **guidelines**.
- 1.4. The **Regulator** may require the **Licensee** to provide a report or reports to the **Regulator** which includes:
- 1.4.1. details of the **Licensee's** actual performance against the standards, indicators and targets included in the **management plans**;
 - 1.4.2. if the **Licensee's** actual performance is below the targets included in the **management plans**, the reasons for the failure to meet the targets and strategies for achieving the targets in the future;
 - 1.4.3. projections of the **Licensee's** future performance against the standards, indicators and targets included in the **management plans**;
 - 1.4.4. a description of the strategies adopted or to be adopted by the **Licensee** to achieve or exceed the performance targets included in the **management plans**; and

- 1.4.5. details of the **Licensee's** adherence to relevant Australian Standards and other standards.
- 1.5. For the avoidance of doubt, the requirement under clause 1.4 of this Schedule 2 to prepare a report or reports containing the information listed in paragraphs 1.4.1 to 1.4.5 of that clause does not limit the powers of the **Regulator**, under clause 5 of this licence or the **Act**, to require the **Licensee** to produce information.
- 1.6. The **Regulator** may require and advise the **Licensee** that reports prepared in accordance with clause 1.4 of this Schedule 2 are to be accompanied by a report prepared by a **reporter**.
- 1.7. The **Regulator** may require and advise the **Licensee** to arrange the provision of a report by a **reporter** at such times and on such conditions as are specified in terms of reference provided by the **Regulator** and in accordance with any relevant **guideline**.