



**WATER AND SEWERAGE INDUSTRY ACT 2008**

## **Statement of Reasons**

### **Water and Sewerage Licence Application**

**Tasmanian Water and Sewerage Corporation Pty Ltd**

**(ACN 162 220 653)**

**22 April 2013**

## **BACKGROUND**

The *Water and Sewerage Industry Act 2008* (W&SI Act) provides for the Tasmanian Economic Regulator to issue licences for the ownership and/or operation of water infrastructure and/or sewerage infrastructure in Tasmania, and the provision of a water service and/or a sewerage service. In February 2013, the Regulator received a licence application from Tasmanian Water & Sewerage Corporation Pty Ltd (ACN 162 220 653) (TWSC) for a licence to:

- 1) own and operate water infrastructure and sewerage infrastructure; and
- 2) provide water services and sewerage services.

## **CONSULTATION**

Notice of the application was also published in the Gazette as required by the W&SI Act. The Regulator invited public comment on the licence application on 9 March 2013 by way of notice in the *Mercury*, *Advocate* and *Examiner* newspapers, and on the Regulator's website. The Regulator also invited submissions from the relevant Ministers as required under the W&SI Act.

Consultation concluded 10 April 2013. The Regulator received one acknowledgement letter from the Minister administering the *Public Health Act 1997*. No submissions were received.

## **REGULATOR'S ASSESSMENT**

### ***Disqualified person***

The W&SI Act states that a licence may not be granted to a disqualified person.

In relation to a corporation, a 'disqualified person' is defined in the W&SI Act as:

*a corporation that, pursuant to a declaration under section 41, is a disqualified person for the purposes of this Act and includes a corporation that is a related entity (within the meaning of the Corporations Act 2001 of the Commonwealth) in relation to the corporation.*

The applicant has not been declared as a disqualified person under section 41 of the W&SI Act.

### ***Section 35(7): Criteria for granting a licence***

Under section 35(7) of the W&SI Act, the Regulator must be satisfied that the following conditions have been met before granting a licence.

**(a) that the applicant has shown honesty and integrity in previous commercial and other dealings.**

The applicant has confirmed that it and its officers or major shareholders have not been involved in any legal proceedings, civil or criminal, commenced or likely to be commenced in relation to the applicant's business activities (including past proceedings) involving claims of dishonesty or lack of integrity.

The Regulator is satisfied that TWSC meets this condition and notes that the water and sewerage licence will require the licensee to maintain honesty and integrity in its commercial and other dealings.

**(b) 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.**

*Technical capacity*

TWSC stated that it will be formed with the proven technical capacity of the three regional water and sewerage corporations (trading as Ben Lomond Water, Southern Water, and Cradle Mountain Water) (the regional corporations) and Onstream. The applicant noted that its technical capacity is demonstrated by the employment of more than 800 employees with specialist, professional, technical and trade skills, qualifications and competencies ranging from customer relations and community engagement to laboratory operation and emergency management, supplemented by professional consultants and trade service organisations to deliver additional specialist skills.

*Financial capacity*

TWSC stated that it will commence operation with predictable revenue, a strong balance sheet and adequate resourcing of qualified accounting and support staff.

TWSC noted that the amalgamated corporation is to be formed with the proven financial capacity (both fiscal and human) of the regional corporations and Onstream, as demonstrated over their period of operation since 1 July 2009.

TWSC provided credit ratings of A for Ben Lomond Water and Southern Water, as assessed by Tasmanian Public Finance Corporation, and A- for Cradle Mountain Water. TWSC noted that the applicant's credit ratings will be provided to the Regulator as early as possible on a "commercial in confidence" basis.

*Organisational capacity*

TWSC stated that it will be supported by 800 full time equivalents spread across the key areas of service delivery, assets, corporate services, human resources, information technology, and billing.

TWSC noted that the Regulator will be informed of the applicant's organisational structure as soon as it is finalised.

The Regulator is satisfied that TWSC meets this condition and notes that the water and sewerage licence will require the licensee to maintain the technical, financial and organisational capacity to carry out the authorised activities for which the applicant is applying.

**(c) that the applicant has the capacity to carry out those activities in a manner that appropriately manages the risk to public and environmental health.**

The applicant noted that TWSC will be formed from the amalgamation of the regional corporations, each of which has been operating since 1 July 2009 under an interim licence and from 1 July 2011 under a water and sewerage licence which authorises those activities for which the applicant is applying. Under the respective licences, each corporation has been required to operate in a manner that appropriately manages the risk to public and environmental health and that complies with the relevant regulatory requirements. Amongst other requirements, each licensee has been required under its licence to develop, implement and maintain the following plans:

- asset management plan;
- emergency management plan;
- wastewater management plan;
- water quality management plan; and
- compliance implementation plan.

TWSC stated that the Boards of each regional corporation have engaged Deloitte to conduct a review of the corporations' Risk Management Framework and Strategic Risks, which will be combined into the one framework under which the applicant will operate. TWSC noted that Deloitte's review report supports the risk management structures in place across the regional corporations and Onstream. TWSC also indicated that a copy of the final report will be provided to the Regulator once it has been finalised.

The Regulator notes that each of the licensees that will be amalgamated to form TWSC are required under their current licences to maintain the capacity to carry out the authorised activities in a manner that appropriately manages the risk to public and environmental health. The Regulator is satisfied that TWSC meets this condition.

**(d) that the applicant has made, and will maintain, appropriate arrangements in respect of insurance.**

The applicant has confirmed that it has made the appropriate insurance arrangements, to be in place effective 1 July 2013. TWSC stated that renewal of all classes of insurance currently in place across the regional corporations and Onstream will be effected from this date. TWSC further noted that evidence of insurance will be provided to the Regulator as soon as it is available in June 2013.

The Regulator is satisfied that TWSC meets this condition and notes that the licences under which each of the three regional corporations currently operate require the licensees to arrange and maintain appropriate arrangements in respect of insurance.

**(e) such matters as the Regulator considers relevant, having regard to the public interest.**

The applicant has confirmed that:

- 1) it is familiar with the operation of the Tasmanian water industry and sewerage industry and the applicable legislation (as noted earlier, the applicant will be formed from the amalgamation of the three regional corporations, each of whom currently holds a licence authorising the activities for which the applicant is applying); and
- 2) it or its associates have not had a water licence or sewerage licence suspended or cancelled in another Australian jurisdiction.

**(f) such other matters as are prescribed by the regulations.**

There are no other applicable matters prescribed by the relevant regulations concerning the granting of a water licence or sewerage licence.

Based on the information provided by the applicant in support of the licence application and other independent information, the Regulator is satisfied that the conditions prescribed by section 35(7) of the W&SI Act have been met in relation to the application.

## **REGULATOR'S DECISION**

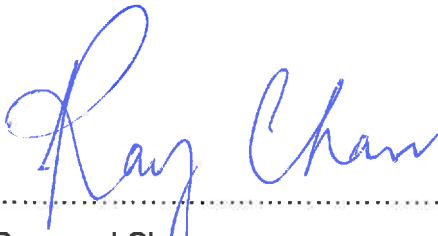
After assessing the application, the Regulator decides to issue a licence to the applicant for:

- 1) owning and operating water infrastructure and sewerage infrastructure; and
- 2) providing water services and sewerage services.

The licence is effective from **1 July 2013** and remains in force until it is cancelled.

The Regulator issues the licence accepting that the information supplied by the applicant in support of its application is true and correct, and that the applicant has made full and diligent inquiry in that regard. The Regulator has relied in good faith on the representations made by the applicant in support of its application.

A copy of the licence is available on the Regulator's website at [www.economicregulator.tas.gov.au](http://www.economicregulator.tas.gov.au).



Raymond Chan

**DELEGATE OF THE REGULATOR**

**22 April 2013**

