

Water and Sewerage Industry Act 2008

Interim Licence

issued to

Tasmanian Water and Sewerage
Corporation (Northern Region) Pty Ltd

ACN 133 655 062

**Interim Licence issued by the Minister for Primary Industries and Water,
pursuant to Section 89 of the *Water and Sewerage Industry Act 2008*.**

Issued June 2009

Incorporating amendments 1. effective from 1 July 2010

1 GRANT OF INTERIM LICENCE

1.1 Grant of Interim Licence

1.1.1 The **Minister**, in exercise of the powers conferred by Section 89 of the **Act** authorises the **Licensee** to undertake **Regulated Activities** in the State of Tasmania.

2 DEFINITIONS AND INTERPRETATION

2.1 Definition and Interpretation

2.1.1 In this **Interim Licence**, words and phrases appearing italicised in bold type:

- (a) which are defined in the **Act**, have the same meaning when used in this **Interim Licence**; and
- (b) which are not defined in the **Act** have the meaning ascribed to them in Part 1 of Schedule A.

2.1.2 Explanatory Notes included in this **Interim Licence** are marked in italicised parenthesis and do not form part of this **Interim Licence**.

2.1.3 This **Interim Licence** must be interpreted in accordance with Part 2 of Schedule A.

3 INFORMATION ABOUT THE INTERIM LICENCE

3.1 Purpose of the Interim Licence

3.1.1 The purpose of this **Interim Licence** is to set out the terms and conditions with which the **Licensee** is to comply in owning and operating water and sewerage infrastructure and undertaking **Regulated Activities** as declared by the **Minister**.

3.2 Term of the Interim Licence

3.2.1 Subject to this **Interim Licence** and the **Act** this **Interim Licence** takes effect on 1 July 2009 for a period of two (2) years, or until a **Licence** is granted under Section 35(1) of the **Act**, whichever is the earlier.

3.3 Review of the Interim Licence

3.3.1 This **Interim Licence** may be reviewed by the **Minister** at any time during the term of the **Interim Licence** specified in clause 3.2.1.

3.3.2 The **Licensee** may request in writing that the **Minister** review this **Interim Licence**.

3.4 Amendment of the Interim Licence

3.4.1 This **Interim Licence** may be amended by the **Minister**, following consultation with the **Regulators** and the **Licensee**.

3.4.2 The **Licensee** may request in writing that the **Minister** amend this **Interim Licence**.

3.5 Enforcement of the Interim Licence

3.5.1 The **Licensee** is required to comply with a Notice issued by the **Minister**, where the **Minister** states in the Notice that the **Minister** is satisfied that the **Licensee** has contravened the conditions of this **Interim Licence** and requires the **Licensee** to do one or more of the following:

- (a) to send specified information to customers;
- (b) to pay compensation to customers in such circumstances as the **Minister** considers appropriate;
- (c) to publish notices containing specified information;
- (d) to take specified action, or to cease taking specified action, to rectify the contravention; or
- (e) to take specified action, or to cease taking specified action, to prevent any future contravention.

*[Note: if the **Minister** is satisfied that the **Licensee** has contravened the conditions of this licence the **Minister** may revoke this licence.]*

3.5.2 A notice under Clause 3.5.1 may be expressed to apply indefinitely, for a specified period of time or for a period of time ending on the occurrence of a specified event or state of affairs.

3.5.3 Nothing in this section prevents the **Interim Licence** from being cancelled or suspended at the request of the **Licensee**.

3.6 Availability of the Interim Licence

3.6.1 The **Licensee** must:

- (a) publish this **Interim Licence** on the **Licensee**'s website; and
- (b) make a written copy of this **Interim Licence** available to a **Customer** upon request.

3.7 Transfer of the Interim Licence

3.7.1 This **Interim Licence** cannot be transferred.

4 RESPONSIBILITIES

4.1 Responsibility of the Licensee under the Interim Licence and other laws

4.1.1 The **Licensee** must comply with this **Interim Licence** and all applicable laws in relation to the water and sewerage infrastructure that it owns and water and sewerage services that it provides.

*[Note: Section 5 of the **Act** stipulates that its objective is “to protect the long-term interests of customers and to provide for the safe, environmentally responsible, efficient and sustainable provision of reliable and secure water services and sewerage services to the Tasmanian community.”*

The **Licensee** also has obligations under a number of laws including but not limited to:

- a) *Water and Sewerage Industry Act 2008;*
- b) *Water and Sewerage Corporations Act 2008;*
- c) *Water Management Act 1999;*
- d) *Environmental Management and Pollution Control Act 1994;*
- e) *Environmental Protection and Biodiversity Conservation Act 1995(Cth);*
- f) *Public Health Act 1997*
- g) *Fluoridation Act 1968;*
- h) *Water Act 2007 (Cth); and*
- i) *Land Use Planning and Approvals Act 1993.]*

4.1.2 The **Licensee** may contract out the provision, construction, operation, management or maintenance of any of the systems, services and regulated activities that are the subject of this **Interim Licence**.

4.1.3 Contracting out under Clause 4.1.2 does not relieve the **Licensee** of its responsibility to comply with its obligations under this **Interim Licence**.

4.1.4 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.

4.2 Powers not limited

4.2.1 This **Interim Licence** does not restrict the **Licensee's** power to carry out any functions conferred or imposed under any applicable law.

4.3 Operating Instruments

4.3.1 The **Licensee** must comply with any codes or guidelines made and issued by the **Regulators** and any policies or orders made by the Government as required.

[Note: These include but are not limited to the:

- a) *Customer Service Code;*
- b) *Performance Reporting Guidelines;*
- c) *Interim Price Order;*

- d) *Regulator's Conduct Guidelines;*
- e) *Regulatory Reporting Guidelines;*
- f) *Ring Fencing Guidelines;*
- g) *Price and Service Plan Guidelines; and*
- h) *Tasmanian Drinking Water Guidelines 1997; and*
- i) *Ministerial Direction for Fluoridation of Public Water Supplies.]*

4.4 [Deleted]

4.5 Extensions and Expansions

4.5.1 Within 24 months of commencing operation the **Licensee** must develop a policy that sets out the circumstances in which it will extend and expand its water infrastructure and sewerage infrastructure and include in that policy the terms and conditions that will apply to such an extension or expansion.

4.5.2 The **Licensee** must publish on its website the policies referred to in clause 4.5.1.

4.6 Connections

4.6.1 By 16 July 2010 the **Licensee** must develop a policy that sets out the circumstances in which it will permit a connection or relocation or adjustment of a connection to its water infrastructure or sewerage infrastructure and a description of the land that it will permit to be connected to its water infrastructure or sewerage infrastructure.

4.6.2 The **Licensee** must publish on its website the policies referred to in clause 4.6.1.

4A PAYMENT OF ANNUAL LICENCE FEE

4A.1 Payment of annual licence fee

4A.1.1 The **Licensee** must pay to the **Minister** an annual licence fee in accordance with section 39 of the **Act**.

5 MANAGEMENT PLANS

5.1 Asset Management Plan

5.1.1 The **Licensee** must develop, implement and maintain an **asset management plan** in accordance with good industry practice.

5.1.1A In complying with clause 5.1.1 the **Licensee** is required to comply with the timelines agreed with the **Regulator** and set out in its **Compliance Implementation Plan**.

5.2 Emergency Management Plan

5.2.1 The **Licensee** must develop, implement and maintain an **emergency management plan** in accordance with good industry practice.

5.2.1A In complying with clause 5.2.1 the **Licensee** is required to comply with the timelines agreed with the **Regulator** and set out in its **Compliance Implementation Plan**.

5.3 Wastewater Management Plan

5.3.1 The **Licensee** must develop, implement and maintain a wastewater management plan in accordance with Schedule B of this **Interim Licence**.

5.3.1A In complying with clause 5.3.1 the **Licensee** is required to comply with the timelines agreed with the Director, Environment Protection Authority, and set out in its **Compliance Implementation Plan**.

5.3.2 The wastewater management plan must be submitted to the Director, Environment Protection Authority.

5.4 Water Quality Management Plan

5.4.1 The **Licensee** must possess, develop (where necessary), review/maintain and progress implementation of a Drinking Water Quality Management Plan for each public drinking water supply provided by the **Licensee**, in accordance with Clause 11 of the *Public Health Act 1997* – Drinking Water Quality Guidelines.

5.4.1A In complying with clause 5.4.1 the **Licensee** is required to comply with the timelines agreed to by the Director of Public Health and set out in its **Compliance Implementation Plan**.

[Note: The **Licensee** must meet:

- the water quality standards, monitoring and reporting legislative obligations in accordance with the *Tasmanian Drinking Water Quality Guidelines 2005* requirements; and

- *the required fluoride concentration range, monitoring, notification and reporting legislative obligations in accordance with the Fluoridation (Interim) Regulations 2009 requirements.*

Developing plans encompasses reviewing and revising existing plans in relation to assets which pass to the Regional Corporations on 1 July 2009.]

6 CUSTOMERS' RIGHTS

6.1 Developing the Customer Relationship

6.1.1 The **Licensee** is to comply with the required Customer Service Procedures and Interim Standards of Customer Service that must be developed in accordance with the **Interim Price Order**.

6.1.2 The **Licensee** is required to comply with the **Customer Service Code**, once this Code has been issued by the **Regulator**.

[Note: For the Licensee to meet its customer service obligations it is likely that it will find it necessary to develop a high level statement that sets out what customers can expect of the Licensee, and in turn, what the Licensee expects of its customers.]

7 SYSTEM PERFORMANCE STANDARDS

7.1 System performance standards

7.1.1 The **Licensee** must ensure that it complies with the **Customer Service Code** in regard to system performance standards or, where not available, the **Interim Price Order**.

8 COMPLIANCE

8.1 Compliance Plan

8.1.1 The **Licensee** must develop a plan (a **Compliance Implementation Plan**) in consultation with the relevant **Regulators**, within 3 months of commencing operation, to address compliance with its legislative, regulatory and licence obligations.

8.1.1A The **Compliance Implementation Plan** is required to set out the procedures, practices and strategies for managing the **Licensee's** compliance with the conditions of the **Interim Licence** (which includes as outlined in Condition 4 compliance with all applicable laws), including the general steps and timelines for identifying and rectifying non-compliance and managing and maintaining compliance.

8.1.1B The timelines for compliance with the **Interim Licence** provisions in relation to the development and implementation of **Management Plans** required pursuant to clause 5 of this licence are to be approved by whichever of the **Regulators** determined the timeline with the **Licensee**.

[Note: The intention is for the Licensee to develop Management Plans which broadly address the requirements for managing and maintaining compliance and the processes and practices for rectifying areas of non-compliance for specific areas of operation in the Interim Licence period. A Compliance

Implementation Plan is to be developed through consultation with the **Regulators** and should set out the agreed steps that the **Licensee** will take to identify and rectify non-compliance and develop **Management Plans**. The **Licensee** will be held accountable under the **Interim Licence** for meeting the steps and timing agreed as part of the development of the **Compliance Implementation Plan**.]

9 PROVISION OF INFORMATION

9.1 Provision of information

9.1.1 The **Licensee** must provide to the **Minister**, in the manner and form advised by the **Minister**, such information as the **Minister** may from time to time require and which is, in the opinion of the **Minister**, relevant to the **Minister's** functions under the **Act**.

9.1.2 If the **Licensee** becomes aware of any material breach of the **Act** or any relevant code, guideline, order, policy or **Interim Licence** condition, the **Licensee** must notify the **Minister** of the breach as soon as practicable and provide such information as the **Minister** requires in relation to the breach.

10 ADVICE TO THE MINISTER

10.1 Advice to the Minister

10.1.1 The **Licensee** must report to the **Minister** as soon as possible the occurrence of any of the following circumstances:

- (a) The **Licensee** is put under external administration as defined in the *Corporations Act 2001* (Cwth); and
- (b) The **Licensee's** circumstances change such that the **Licensee's** ability to meet its obligations under the **Act**, or any relevant code, guideline, order, policy or **Interim Licence** condition may be materially affected.

SIGNED

) signed by David Llewellyn
) on 19 June 2009

DAVID LLEWELLYN
MINISTER FOR PRIMARY INDUSTRIES AND WATER

SCHEDULES

SCHEDULE A- DEFINITIONS AND INTERPRETATION

Part 1- Definitions

“**Act**” means the *Water and Sewerage Industry Act 2008*.

“**Asset Management Plan**” means a written plan developed and maintained by the **Licensee** specifying the activities, resources, responsibilities and timescales for implementing the **Licensee’s** asset management strategy and delivering the **Licensee’s** asset management objectives.

“**Compliance Implementation Plan**” means a written plan approved by the **Regulators** individually or jointly under clause 8 of this licence.

“**Customer Service Code**” means a code issued under Section 57 of the **Act**.

“**Emergency Management Plan**” means a written plan developed and maintained by the **Licensee** to ensure a high level of emergency preparedness to manage situations which impact upon the normal supply of water and sewerage services and to ensure a cooperative and timely response from all industry stakeholders to minimise the impact of a water and sewerage service emergency.

“**Interim Licence**” means an interim licence granted under Section 89 of the **Act**.

“**Interim Price Order**” means an interim order made under Section 88 of the **Act**.

“**Licensee**” means a person who holds or is deemed to hold an **Interim Licence**.

“**Management Plan**” means a written plan developed by the **Licensee** outlining the procedures, practices and strategies for managing (including ensuring the quality of such management arrangements), and reporting on one or more of the aspects of the **Licensee’s** operations.

“**Minister**” means the Minister for Primary Industries and Water.

“**Regulated Service**” means the provision of a water service or a sewerage service by a regulated entity.

“**Regulator**” means the Water and Sewerage Economic Regulator referred to in Section 11 of the **Act**.

“**Regulators**” means the Water and Sewerage Economic Regulator, the Health Regulator and the Environmental Regulator.

Part 2 - Interpretation

In this Interim Licence, unless the context otherwise requires:

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

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

A.2.3 words importing a gender include any gender;

A.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;

A.2.5 a reference to a condition, clause, schedule or part is to a condition, clause, schedule or part of this **Interim Licence**;

A.2.6 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;

A.2.7 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;

A.2.8 a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;

A.2.9 when italicised, other parts of speech and grammatical forms of a word or phrase defined in this **Interim Licence** or in the **Act**, have a corresponding meaning;

A.2.10 a period of time:

2.10.1 which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or

2.10.2 which commences on a given day or the day of an act or event is to be calculated inclusive of that day;

A.2.11 in the event of any inconsistency between the conditions of this **Interim Licence** and the **Act**, the **Act** will prevail to the extent of such inconsistency; and

A.2.12. in the event of any inconsistency between the conditions of this **Interim Licence** and the schedules, the conditions of this **Interim Licence** prevail to the extent of such inconsistency.

SCHEDULE B - WASTEWATER MANAGEMENT PLAN

(a) wastewater management plan as provided for in clause 5.

The **Licensee** is required to prepare a wastewater management plan in relation to the operation of the **Licensee's** sewerage infrastructure.

This plan must be prepared in consultation with the Director, Environment Protection Authority and other relevant regulatory agencies / bodies such as local government, and must as a minimum include:

- (a) An overview of the location and nature of all sewerage infrastructure operated by the **Licensee**;
- (b) A summary of the Key Environmental Indicators as required by the Director, Environment Protection Authority in relation to the operation of sewerage activities;
- (c) A prioritised program of infrastructure upgrades and management measures to achieve full compliance with Key Environmental Indicators in (b);
- (d) A plan to achieve Environmental Management System AS/NZS ISO 14001 certification for the management and operation of the sewerage infrastructure.
- (e) Details of the **Licensee's** program to ensure compliance with, and further the objectives of, relevant environmental legislation, policies, guidelines and orders in the wastewater sector. Relevant publications include, but are not limited to, the:
 - *Environmental Management and Pollution Control Act 1994*;
 - *State Policy on Water Quality Management 1997*;
 - *Emission Limit Guidelines for Sewage Treatment Plants 2001*;
 - *Tasmanian Biosolids Reuse Guidelines 1999*;
 - *Environmental Guidelines for the Use of Recycled Water in Tasmania 2002*;
 - *Guidelines for Acceptance of Liquid Waste to Sewer 1994*; and
 - *Sewage Pumping Station Environmental Guidelines 1999*.

June 2009

Schedule of Licence Amendments

Amendment 1	<ul style="list-style-type: none">- Insert clause requiring payment of annual licence fee.- Delete clause requiring level of service at 30 June 2009 to be maintained.- Extend deadline for finalisation of Licensee's Connections Policy.
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