



New South Wales

Water Industry Competition Amendment Bill 2011

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Water Industry Competition Act 2006*:
 - (i) to provide that a licensed network operator is not required to hold a retail supplier's licence in addition to its network operator's licence in order to supply water or provide sewerage services to a public water utility, and
 - (ii) to enable retail suppliers' licences to be granted that authorise both the supply of water and the provision of sewerage services, and
 - (iii) to specify additional licensing principles to be taken into account when determining whether to grant licences or impose conditions on licences under the Act, and
 - (iv) to enable conditions to be imposed on retail suppliers' licences that authorise the supply of drinking water so as to promote the equitable sharing of the costs of water industry infrastructure that significantly contributes to water security, and

- (v) to clarify the circumstances in which a licence may not be granted under the Act to a corporation because it is connected to a disqualified corporation, and
 - (vi) to confer certain powers of entry to land on certain licensed network operators and to provide for disputes and complaints about the exercise of such powers to be subject to the ombudsman scheme approved under the Act, and
 - (vii) to provide that generally water industry infrastructure is owned by the person that constructs or installs it or any person that subsequently acquires it, and
 - (viii) to make provision for savings and transitional matters consequent on the enactment of the proposed Act and a matter in the nature of statute law revision,
- (b) to amend the *Water Industry Competition (General) Regulation 2008*:
- (i) to require the Independent Pricing and Regulatory Tribunal (**IPART**) to notify public water utilities about the making of certain kinds of applications for a licence under the *Water Industry Competition Act 2006* involving their water industry infrastructure, and
 - (ii) to extend transitional arrangements in relation to certain infrastructure that is currently exempt from licensing requirements under the *Water Industry Competition Act 2006*, and
 - (iii) to enable transfer codes of conduct to be made that relate to public water utilities as well as to licensed retail suppliers, and
 - (iv) to rationalise and simplify certain prescribed conditions for licences granted under the *Water Industry Competition Act 2006*, and
 - (v) to make other amendments that are consequential on the amendments made to the *Water Industry Competition Act 2006* by the proposed Act,
- (c) to amend the *Local Government (General) Regulation 2005* to exempt certain licensees under the *Water Industry Competition Act 2006* from the requirement to obtain additional local council approval for certain activities that are already authorised by their licences.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Water Industry Competition Act 2006 No 104

Schedule 1 [1] provides that a licensed network operator is not required to hold a retailer supplier's licence in addition to its network operator's licence in order to supply water or provide sewerage services to a public water utility.

Schedule 1 [2] enables a single retail supplier's licence to be granted that authorises both the supply of water and the provision of sewerage services by the same licensee.

Schedule 1 [3] confirms that a reference to consumers in the licensing principles of the Act is a reference to consumers generally and not limited to the consumers of services to be provided by a proposed licensee.

Schedule 1 [4] and [5] provide for the following additional licensing principles to be taken into account when determining whether to grant a licence or impose conditions on a licence under the Act:

- (a) the promotion of policies set out in any prescribed water policy document (being a plan or other policy document concerning the use of water resources issued by or on behalf of the Government that is prescribed by the regulations),
- (b) the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence,
- (c) 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.

Schedule 1 [6] provides that a licence may not be granted under the Act to a corporation that is a related entity (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a disqualified corporation only if 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. Currently, a corporation is prevented from being granted a licence simply because it is a related entity of a disqualified corporation. **Schedule 1 [28]** makes a consequential amendment.

Schedule 1 [7] enables the Minister to impose certain conditions on a retail supplier's licence that authorises the licensee to supply drinking water. In the case of such a licence, the Minister may impose conditions that the Minister is satisfied promote the equitable sharing among public water utilities and licensed retail suppliers of drinking water of the costs of water industry infrastructure that significantly contributes to water security, including (but not limited to) the following:

- (a) a condition requiring the licensee to obtain a specified proportion of the water that it supplies under the authority of its licence by means of specified water industry infrastructure,

- (b) a condition requiring the licensee to contribute to the costs of specified water industry infrastructure (whether or not it is used to provide the licensee with the water that it is authorised to supply under the licence) calculated in a specified manner and payable to a specified person or persons.

Schedule 1 [8] confers regulation-making powers on the Governor concerning the calculation of contributions for the purpose of imposing any such conditions.

Schedule 1 [9] makes it clear that nothing in Part 3 (Access to infrastructure services) limits the power of the Minister to impose conditions on a licence granted under the Act.

Schedule 1 [19] provides for the ombudsman scheme approved under the Act to extend to licensed retail suppliers who provide sewerage services (whether or not in combination with the supply of water) under their licences.

Schedule 1 [21] provides that generally water industry infrastructure is owned by the person that constructs or installs it or any person that subsequently acquires title to it, whether or not the land in, on, under or over which it is situated is owned by that person. It also provides that water industry infrastructure that a network operator's licence authorises the licensee to construct, maintain or operate is not to be taken in execution of any judgment against a person (other than the owner of the infrastructure or the licensee) under any process of a court.

Schedule 1 [23] confers standard powers of entry to land on authorised licensed network operators in connection with the inspection, maintenance and repair of water industry infrastructure that the licensees are authorised to construct, maintain or operate under their licences. **Schedule 1 [27]** defines an *authorised licensed network operator* to mean a licensed network operator that is a prescribed authority within the meaning of section 88A of the *Conveyancing Act 1919* and **Schedule 1 [29]** inserts a definition of *land* for the purposes of the exercise of entry powers under the Act. **Schedule 1 [10]–[18] and [20]** ensure that the ombudsman scheme approved under the Act will extend to disputes and complaints about the exercise of these powers by authorised licensed network operators. **Schedule 1 [22]** makes a consequential amendment.

Schedule 1 [24] enables the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [25] makes an amendment in the nature of statute law revision.

Schedule 1 [26] makes provision in relation to certain savings and transitional matters consequent on the enactment of the proposed Act.

Schedule 2 Amendment of other legislation

2.1 Local Government (General) Regulation 2005

Schedule 2.1 amends the *Local Government (General) Regulation 2005* to exempt licensees under the *Water Industry Competition Act 2006* from being required to

obtain additional local council approval under section 68 of the *Local Government Act 1993* for certain activities if those activities are already authorised to be carried out under the licensee's licence.

2.2 Water Industry Competition (General) Regulation 2008

Schedule 2.2 [4] requires IPART to notify a public water utility about the making of an application for a licence under the *Water Industry Competition Act 2006* if the applicant proposes to connect to or use the water industry infrastructure of the utility. **Schedule 2.2 [3]** makes a consequential amendment.

Schedule 2.2 [5]–[7]:

- (a) provide for a current exemption from the licensing requirements of the *Water Industry Competition Act 2006* in connection with certain infrastructure set out in clause 19A of the Regulation to continue for an additional year (that is, until the end of 17 June 2013), and
- (b) provide that the continued exemption applies in relation to infrastructure regardless of when it was constructed or installed, and
- (c) modify the time frame for compliance with a prescribed condition of a retail supplier's licence in its application to such infrastructure.

Schedule 2.2 [8] enables transfer codes of conduct to be made that relate to public water utilities as well as to licensed retail suppliers. A transfer code of conduct will be a code established by the Minister, by order published in the Gazette, for the transfer of water supplies or sewerage services to, from or between licensed retail suppliers or public water utilities (or both).

Schedule 2.2 [9] prescribes the *Metropolitan Water Plan* published by the New South Wales Government, as in force from time to time, for the purposes of one of the licensing principles to be inserted in the *Water Industry Competition Act 2006* by Schedule 1 [4] and [5].

Schedule 2.2 [10] removes a requirement under a current prescribed licence condition of a network operator's licence to publish the licensee's infrastructure operating plan and water quality plan on its website.

Schedule 2.2 [11] consolidates certain requirements under current prescribed licence conditions of retail suppliers' licences relating to the preparation and auditing of retail supply management plans and the publication of certain information by licensees on their websites. The consolidated requirements will enable a licensee to prepare a single retail supply management plan if the licensee both supplies water and provides sewerage services under its licence. **Schedule 2.2 [1], [2], [12] and [13]** make consequential amendments.



New South Wales

Water Industry Competition Amendment Bill 2011

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New South Wales

Water Industry Competition Amendment Bill 2011

No , 2011

A Bill for

An Act to make miscellaneous amendments to the *Water Industry Competition Act 2006*, *Water Industry Competition (General) Regulation 2008* and *Local Government (General) Regulation 2005*.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Water Industry Competition Amendment Act 2011*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation,
except as provided by subsection (2).
- (2) Schedule 1 [24]–[26] commence on the date of assent to this Act.

Schedule 1 Amendment of Water Industry Competition Act 2006 No 104

[1] Section 5 Prohibition of unlicensed network operation and water supply

Insert “or public water utility” after “licensed retail supplier” in section 5 (2).

[2] Section 6 Licences

Insert “(or, if so specified, both)” after “sewerage services” in section 6 (1) (b).

[3] Section 7 Licensing principles

Insert “generally” after “consumers” in section 7 (1) (a).

[4] Section 7 (1) (e)–(g)

Insert after section 7 (1) (d):

- (e) the promotion of policies set out in any prescribed water policy document,
- (f) the potential for adverse financial implications for small retail customers generally arising from the activities proposed to be covered by the licence,
- (g) 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.

[5] Section 7 (3)

Insert after section 7 (2):

- (3) In this section:

prescribed water policy document means a plan or other policy document concerning the use of water resources issued by or on behalf of the Government that is prescribed by the regulations (whether as in force at a particular time or from time to time).

[6] Section 10 Determination of applications

Omit section 10 (3). Insert instead:

- (3) A licence may not be granted to:
- (a) a disqualified corporation, or
 - (b) a corporation that is a related entity (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a disqualified corporation, but only if 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.	1 2
[7] Section 13 Conditions of licences		3
Insert at the end of section 13 (2) (b):		4
	, and	5
(c)	in the case of a retail supplier's licence that authorises the licensee to supply drinking water—the Minister may impose conditions on the licence that the Minister is satisfied promote the equitable sharing among public water utilities and licensed retail suppliers of drinking water of the costs of water industry infrastructure that significantly contributes to water security, including (but not limited to) the following:	6 7 8 9 10 11 12 13
(i)	a condition requiring the licensee to obtain a specified proportion of the water that it supplies under the authority of its licence by means of specified water industry infrastructure,	14 15 16 17
(ii)	a condition requiring the licensee to contribute to the costs of specified water industry infrastructure (whether or not it is used to provide the licensee with the water that it is authorised to supply under the licence) calculated in a specified manner and payable to a specified person or persons.	18 19 20 21 22 23
[8] Section 13 (3) (d)		24
Insert at the end of section 13 (3) (c):		25
	, and	26
(d)	may make provision for the calculation of contributions for the purpose of the imposition of conditions under subsection (2) (c).	27 28 29
[9] Section 13 (3A)		30
Insert after section 13 (3):		31
(3A)	Nothing in Part 3 (Access to infrastructure services) limits the power of the Minister to impose conditions under this section.	32 33
[10] Part 5 Operation of water retail market		34
	Omit “between small retail customers and licensed retail suppliers” from the heading to Division 1.	35 36

[11] Section 46A	1
Insert before section 47:	2
46A Definition	3
In this Division:	4
<i>entitled person</i> means any of the following:	5
(a) an owner or occupier of land affected by the exercise (or	6
proposed exercise) of a function under Division 2 of Part 6,	7
(b) any other person of a class prescribed by the regulations.	8
[12] Section 48 Review of decisions under approved ombudsman scheme	9
Omit “, and any other person of a class prescribed by the regulations,” from	10
section 48 (1).	11
Insert instead “and any entitled person”.	12
[13] Section 48 (3)	13
Omit “other persons of such classes as are prescribed by the regulations”.	14
Insert instead “entitled persons”.	15
[14] Section 49 Approved ombudsman scheme	16
Insert after section 49 (1) (a):	17
(a1) disputes and complaints concerning the exercise, or	18
proposed exercise, of functions under Division 2 of Part 6,	19
and	20
[15] Section 49 (2) (a) and (c)	21
Insert “and authorised licensed network operators” after “licensed retail	22
suppliers” wherever occurring.	23
[16] Section 49 (2) (d)	24
Omit “other persons prescribed by the regulations”.	25
Insert instead “entitled persons”.	26
[17] Section 49 (2) (g)	27
Omit “other persons of such classes as are prescribed by the regulations”.	28
Insert instead “entitled persons”.	29

[18] Section 49 (5)	1
Insert “or authorised licensed network operator” after “licensed retail supplier”.	2 3
[19] Section 50 Licence conditions relating to approved ombudsman scheme	4
Insert “or provides sewerage services (or both)” after “supplies water”.	5
[20] Section 50 (2)	6
Insert at the end of section 50:	7
(2) It is a condition of the network operator’s licence of an authorised licensed network operator that:	8 9
(a) the operator must be a member of an approved ombudsman scheme, and	10 11
(b) the operator is bound by, and must comply with, any decision of the ombudsman under the scheme relating to a dispute or complaint involving the operator and an entitled person.	12 13 14 15
[21] Section 64 Ownership of water industry infrastructure	16
Omit section 64 (1) and (2). Insert instead:	17
(1) Except where another Act expressly provides otherwise, water industry infrastructure is owned by the person that constructs or installs it or any person that subsequently acquires title to it, whether or not the land in, on, under or over which it is situated is owned by that person.	18 19 20 21 22
Note. Examples of provisions of other Acts that expressly provide for the ownership of water industry infrastructure by certain public water utilities include the following:	23 24 25
(a) section 19 of the <i>Hunter Water Act 1991</i> ,	26
(b) section 21 of the <i>State Water Corporation Act 2004</i> ,	27
(c) section 37 of the <i>Sydney Water Act 1994</i> ,	28
(d) section 54 of the <i>Sydney Water Catchment Management Act 1998</i> .	29 30
(2) Water industry infrastructure that a network operator’s licence authorises the licensee to construct, maintain or operate is not to be taken in execution of any judgment against a person (other than the owner of the infrastructure or the licensee) under any process of a court.	31 32 33 34 35

[22] Part 6, Division 1, heading	1
Insert before section 58:	2
Division 1 Powers and duties relating to water industry infrastructure generally	3
	4
[23] Part 6, Division 2	5
Insert after section 65:	6
Division 2 Powers of entry of authorised licensed network operators	7
	8
65A Interpretation	9
(1) In this Division:	10
<i>authorised agent</i> of an authorised licensed network operator	11
means a person appointed by the operator under section 65F.	12
(2) A reference in this Division to the water industry infrastructure of	13
an authorised licensed network operator (however expressed) is	14
a reference to the water industry infrastructure that the operator	15
is authorised to construct, maintain or operate under its network	16
operator's licence regardless of whether the infrastructure is	17
owned by the operator or any other person.	18
65B Entry of land	19
(1) An authorised licensed network operator may, by any of its	20
authorised agents, enter any land in accordance with this Division	21
for any one or more of the following purposes:	22
(a) to carry out an inspection or maintenance work on any of	23
its water industry infrastructure,	24
(b) to carry out necessary repair work on any of its water	25
industry infrastructure,	26
(c) to carry out emergency work on any of its water industry	27
infrastructure.	28
(2) Except in emergencies, a power of entry may be exercised only	29
during daylight hours.	30
65C Notice of entry	31
(1) Before an authorised agent of an authorised licensed network	32
operator exercises a power of entry under this Division, the	33
authorised licensed network operator concerned must give the	34

occupier (or, if there is no occupier, the owner) of the land written notice of the intention to enter the land.	1 2
(2) The notice must specify the day on which the authorised agent intends to enter the land and must be given at least 2 days before that day.	3 4 5
(3) This section does not require notice to be given:	6
(a) if entry to the land is made with the consent of the occupier (or, if there is no occupier, the owner) of the land, or	7 8
(b) if entry is required urgently and the case is one in which the authorised licensed network operator has authorised in writing (either generally or in the particular case) entry without notice, or	9 10 11 12
(c) if the giving of notice would defeat the purpose for which the power is to be exercised.	13 14
65D Use of force	15
(1) Reasonable force may be used for the purpose of gaining entry to any land (other than such part of a building as is being used for residential purposes) under a power conferred by this Division, but only if authorised by the authorised licensed network operator concerned in accordance with this section.	16 17 18 19 20
(2) The authority:	21
(a) must be in writing, and	22
(b) must be given in respect of the particular entry concerned, and	23 24
(c) must specify the circumstances that must exist before force may be used.	25 26
65E Compensation	27
(1) An authorised licensed network operator, in exercising its functions under this Division, is to do as little damage as practicable and is, subject to this Division, to compensate all persons who suffer damage by the exercise of the functions.	28 29 30 31
(2) Compensation may be made by reinstatement, repair, construction of works or payment.	32 33
65F Certificates of authority to enter land	34
(1) An authorised licensed network operator may appoint a person to be an authorised agent of the authorised licensed network	35 36

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| operator for the purposes of exercising powers under this Division by issuing the person with a certificate of authority. | 1 |
| | 2 |
| (2) A power of entry under this Division may not be exercised by an authorised agent unless the authorised agent: | 3 |
| | 4 |
| (a) is in possession of a certificate of authority issued by the authorised licensed network operator concerned, and | 5 |
| | 6 |
| (b) produces the certificate when required to do so by the owner or occupier of the land. | 7 |
| | 8 |
| (3) The certificate of authority: | 9 |
| (a) must state that it is issued under this Act, and | 10 |
| (b) must give the name of the person to whom it is issued, and | 11 |
| (c) must describe the nature of the powers conferred and the source of those powers, and | 12 |
| | 13 |
| (d) must state the date (if any) on which it expires, and | 14 |
| (e) must describe the kind of land to which the power extends, and | 15 |
| | 16 |
| (f) must: | 17 |
| (i) be under the seal of the authorised licensed network operator concerned, or | 18 |
| | 19 |
| (ii) bear the signature of the principal officer of the authorised licensed network operator concerned or of any other officer of that operator (or an officer belonging to a class of officers of that operator) prescribed by the regulations. | 20 |
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| | 24 |
| (4) The Minister may, by written notice given to an authorised licensed network operator, do any or both of the following: | 25 |
| | 26 |
| (a) impose conditions or restrictions on certificates of authority issued under this section by the operator, either generally or in particular cases, including restrictions on the purposes for which and the circumstances in which a power of entry may be exercised, | 27 |
| | 28 |
| | 29 |
| | 30 |
| | 31 |
| (b) issue guidelines to be observed by the operator concerning the issue of certificates of authority under this section. | 32 |
| | 33 |
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65G	Entry to residential premises	1
	A power of entry conferred by this Division is not exercisable in relation to such part of a building as is used for residential purposes except:	2
	(a) with the consent of the occupier (or, if there is no occupier, the owner) of that part of the building, or	3
	(b) under the authority conferred by a warrant of entry.	4
65H	Warrants of entry	8
(1)	An authorised licensed network operator may apply to an authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> if it is of the opinion that it is necessary for an authorised agent of the authorised licensed network operator to enter any land (including any building used for residential purposes) for the purposes of this Division.	9
(2)	An authorised officer within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a warrant of entry authorising an authorised agent of the authorised licensed network operator named in the warrant to enter the land for the purposes of this Division.	10
(3)	Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a warrant of entry under this section in the same way as it applies to a search warrant under that Act.	11
65I	Other powers of entry unaffected	12
	This Division does not apply to any power of entry that a licensed network operator has apart from this Division (including under any contract, lease or easement).	13
[24]	Schedule 4 Savings, transitional and other provisions	14
	Insert at the end of clause 1 (1):	15
	<i>Water Industry Competition Amendment Act 2011</i>	16
[25]	Schedule 4, clause 1 (3)	17
	Omit “in the Gazette”. Insert instead “on the NSW legislation website”.	18

[26] Schedule 4, Part 3	1
Insert after Part 2:	2
 Part 3 Provisions consequent on enactment of Water Industry Competition Amendment Act 2011	 3 4 5
 4 Definition	 6
In this Part:	7
<i>amending Act</i> means the <i>Water Industry Competition Amendment Act 2011</i> .	8 9
 5 Approval of new approved ombudsman scheme before commencement of amendments to Division 1 of Part 5	 10 11
(1) For the purpose of facilitating the application of an approved ombudsman scheme to entitled persons in relation to the exercise of functions under Division 2 of Part 6 (as inserted by the amending Act) and to small retail customers of sewerage services, the Minister may before the relevant day approve an existing or new ombudsman scheme under section 49 as if all of the amendments made to Division 1 of Part 5 by the amending Act had commenced on the date of assent to that Act.	12 13 14 15 16 17 18 19
(2) An ombudsman scheme approved as provided by subclause (1) has effect on and from the relevant day.	20 21
(3) The provisions of this clause are in addition to, and do not derogate from, the provisions of section 26 of the <i>Interpretation Act 1987</i> .	22 23 24
(4) In this clause:	25
<i>relevant day</i> means the day on which the amendment to section 49 (1) made by the amending Act commences.	26 27
 6 Transitional period in relation to enforcement of new statutory licensing conditions	 28 29
(1) The Minister may not take enforcement action under section 16 during the applicable transitional period in relation to any of the following licence conditions imposed by section 50 (as amended by the amending Act):	30 31 32 33
(a) the condition imposed by section 50 (1), but only in its application to any retail supplier who provides sewerage services under its retail supplier's licence,	34 35 36
(b) the condition imposed by section 50 (2).	37

(2)	The <i>applicable transitional period</i> in relation to a licence condition referred to in subclause (1) is the period of 3 months commencing on the day on which the amendment made by the amending Act that imposes the condition concerned commences.	1 2 3 4
7	Ownership of water industry infrastructure	5
(1)	Subject to the regulations, section 64 (1) (as substituted by the amending Act) is taken on and from the relevant day to extend to:	6 7
(a)	any water industry infrastructure constructed or installed before the relevant day, and	8 9
(b)	any water industry infrastructure constructed or installed before the relevant day the title to which has subsequently been acquired by another person (whether before, on or after the relevant day).	10 11 12 13
(2)	The regulations may make provision for or with respect to the application of section 64 (1) (as substituted by the amending Act) to water industry infrastructure constructed or installed before the relevant day.	14 15 16 17
(3)	In this clause: <i>relevant day</i> means the day on which section 64 (1) is substituted by the amending Act.	18 19 20
[27]	Dictionary	21
	Insert in alphabetical order:	22
	<i>authorised licensed network operator</i> means a licensed network operator that is a prescribed authority within the meaning of section 88A of the <i>Conveyancing Act 1919</i> .	23 24 25
[28]	Dictionary, definition of “disqualified corporation”	26
	Omit the definition. Insert instead:	27
	<i>disqualified corporation</i> means:	28
(a)	a corporation that, pursuant to a declaration under section 16 (1) (e), has been declared to be a disqualified corporation for the purposes of this Act, or	29 30 31
(b)	a corporation that has, as one of its directors or as one of the persons concerned in its management, an individual who is a disqualified individual.	32 33 34

[29] Dictionary

Insert in alphabetical order:

land includes (in Division 2 of Part 6 and Division 2 of Part 7)
any building or part of a building, or any structure or part of a
structure, located on, under or above land.

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Schedule 2	Amendment of other legislation	1
2.1	Local Government (General) Regulation 2005	2
	Clause 48 Activities for which approval is not required	3
	Insert after clause 48 (f):	4
	(g) Activities authorised by licence under Water Industry Competition Act 2006	5
		6
	An activity referred to in Part B or C of the Table to section 68 of the Act if it is carried out under the authority of a licence in force under the <i>Water Industry Competition Act 2006</i> .	7
		8
		9
		10
2.2	Water Industry Competition (General) Regulation 2008	11
[1]	Clause 3 Definitions	12
	Omit “8 or 15” from the definition of <i>retail supply management plan</i> in clause 3 (1).	13
		14
	Insert instead “7A”.	15
[2]	Clause 13 Prescribed licence conditions: section 13 (1) (a)	16
	Omit “5, 13 and 18” from clause 13 (2). Insert instead “5 and 7B”.	17
[3]	Clause 17 Person to be notified as to licence applications	18
	Insert “For the purposes of section 9 (1) (b) (iii) of the Act,” before “IPART”.	19
[4]	Clause 17 (2)	20
	Insert at the end of clause 17:	21
	(2) If the applicant for a licence proposes to connect to or use any of the water industry infrastructure of a public water utility as part of the activities in relation to which the licence is sought, IPART must promptly notify that public water utility of the licence application.	22
		23
		24
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		26
[5]	Clause 19A Water industry infrastructure that was formerly exempt from requirement for a licence	27
		28
	Omit “for a period of 18 months after that commencement” from clause 19A (1).	29
		30
	Insert instead “until the end of 17 June 2013”.	31

[6] Clause 19A (1A)	1
Insert after clause 19A (1):	2
(1A) Subclause (1) extends to water industry infrastructure regardless	3
of whether it was constructed or installed before or after the	4
commencement of the <i>Water Industry Competition (General)</i>	5
<i>Amendment (Licensing Exemptions) Regulation 2010</i> .	6
[7] Clause 19A (2) (c)	7
Insert at the end of clause 19A (2) (b):	8
, and	9
(c) clause 7A (1) of Schedule 2 is to be construed as if the	10
words “Before commencing to carry out activities under a	11
retail supplier’s licence” were replaced with the words	12
“Within 6 months after being granted a retail supplier’s	13
licence”.	14
[8] Clause 27 Establishment of transfer code of conduct	15
Insert “or public water utilities (or both)” after “licensed retail suppliers” in	16
clause 27 (1).	17
[9] Clause 28A	18
Insert after clause 28:	19
28A Prescribed water policy document: section 7 (3)	20
The <i>Metropolitan Water Plan</i> published by the New South Wales	21
Government, as in force from time to time, is prescribed for the	22
purposes of the definition of <i>prescribed water policy document</i>	23
in section 7 (3) of the Act.	24
Note. A copy of the latest <i>Metropolitan Water Plan</i> is available at the	25
Water 4 Life website (www.waterforlife.nsw.gov.au).	26
[10] Schedule 1 Conditions for network operators’ licences	27
Omit clause 12 (b) and (c).	28
[11] Schedule 2 Conditions for retail suppliers’ licences	29
Insert after clause 7:	30
7A Retail supply management plans	31
(1) Before commencing to carry out activities under a retail	32
supplier’s licence, the licensee must prepare, and forward to	33
IPART, a retail supply management plan that indicates the	34

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| arrangements that the licensee has made, or proposes to make, in relation to: | 1 |
| | 2 |
| (a) the events and circumstances that could adversely affect the licensee's ability to supply water or provide sewerage services (or both), as authorised by the licence, and | 3 |
| | 4 |
| | 5 |
| (b) the probability of the occurrence of any such event or circumstance, and | 6 |
| | 7 |
| (c) the measures to be taken by the licensee: | 8 |
| (i) to prevent the occurrence, or minimise the effect, of any such event or circumstance, and | 9 |
| | 10 |
| (ii) to arrange for alternative supplies of water or the provision of sewerage services (or both), as authorised by the licence, in response to any such event or circumstance, and | 11 |
| | 12 |
| | 13 |
| | 14 |
| (d) the arrangements that the licensee has made, or proposes to make, to ensure that it complies with: | 15 |
| | 16 |
| (i) its code of practice for complaints by small retail customers and its code of practice for debt recovery from such customers, and | 17 |
| | 18 |
| | 19 |
| (ii) the marketing code of conduct and the transfer code of conduct. | 20 |
| | 21 |
| (2) The licensee: | 22 |
| (a) must ensure that its retail supply management plan is fully implemented and kept under regular review and, in particular, that all of its activities are carried out in accordance with that plan, and | 23 |
| | 24 |
| | 25 |
| | 26 |
| (b) must, if the Minister so directs, amend its retail supply management plan in accordance with the Minister's direction. | 27 |
| | 28 |
| | 29 |
| (3) If the Minister or IPART so demands, or if any significant change is made to its retail supply management plan, the licensee: | 30 |
| | 31 |
| (a) must provide the Minister or IPART with a report, prepared by an approved auditor in such manner and form as the Minister or IPART may direct, as to the adequacy of the plan, or | 32 |
| | 33 |
| | 34 |
| | 35 |
| (b) must pay the Minister's or IPART's costs of conducting an investigation into the adequacy of the plan. | 36 |
| | 37 |

7B	Matters to be contained on licensee's website	1
(1)	The licensee must have an internet website on which the following matters are available for inspection by members of the public:	2
		3
		4
(a)	if the licensee is authorised to supply water under the retail supplier's licence:	5
		6
(i)	the licensee's standard water supply contract for small retail customers, and	7
		8
(ii)	the existence of any water restriction order that is in force in its area of operations,	9
		10
(b)	if the licensee is authorised to provide sewerage services under the retail supplier's licence—the licensee's sewerage service contract for small retail customers,	11
		12
		13
(c)	the licensee's retail supply management plan,	14
(d)	the licensee's code of practice for complaints by small retail customers,	15
		16
(e)	the licensee's code of practice for debt recovery from small retail customers,	17
		18
(f)	details of any relevant government policy that applies to the licensee,	19
		20
(g)	the most recent auditor's report under clause 7A that applies to the licensee.	21
		22
(2)	In this clause, <i>relevant government policy</i> means government policy with respect to social programs for the supply of water or provision of sewerage services, as referred to in section 13 (3) (a) of the Act.	23
		24
		25
		26
[12]	Schedule 2, clauses 8, 13, 15 and 18	27
	Omit the clauses.	28
[13]	Schedule 2, clause 14 (4)	29
	Omit "13 (1) (a)". Insert instead "7B (1) (a) (i)".	30