

## **INSTRUMENT OF DELEGATION UNDER THE SAFE DRINKING WATER ACT 2011**

### **Preamble**

### **NOTES**

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

### **POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

#### **Delegation Sources**

- Safe Drinking Water Act 2011

#### **Titles**

- Chief Executive Officer
- Environmental Health Officer

## Instrument of Delegation under the Safe Drinking Water Act 2011

| Safe Drinking Water Act 2011 |  |                         |                            |
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| Provision                    | Item Delegated   | Delegate                | Conditions and Limitations |
| s5(2)(a)(b)                  | 5. Drinking water providers to be registered<br>(2) The power pursuant to Section 5(2)(a) and (b) of the Safe Drinking Water Act 2011 (the Act) and in accordance with Section 5(3) of the Act to make an application for registration under the Act to the Minister and in a manner and form determined by the Minister.  | Chief Executive Officer |                            |
| s8(3)                        | 8. Conditions of registration<br>(3) The power pursuant to Section 8(3) of the Act where the Council holds a registration, to make application to the Minister in a manner and form determined by the Minister, requesting the variation of a condition to which the registration is subject.  | Chief Executive Officer |                            |
| s9(5)                        | 9. Suspension of registration<br>(5) The power pursuant to Section 9(5) of the Act after the Council has received notice from the Minister, lodge with the Minister a written objection (setting out the grounds of objection).<br>(6) The power pursuant to Section 9(5) of the Act to make submissions to the Minister in relation to the matter.<br>(10) The power pursuant to Section 9(10) of the Act where the Council's registration has been suspended to make application to the Minister for the cancellation of the suspension.   | Chief Executive Officer |                            |
| s10(1)                       | 10. Appeals<br><br>(1) The power pursuant to Section 10(1) of the Act and in accordance with Section 10(2) of the Act, to seek a review by the Tribunal under Section 34 of the South Australian Civil and Administrative Tribunal Act 2013 of:<br><br>(a) a condition imposed by the Minister in relation to a registration under Part 2 of the Act;<br><br>(b) a variation of a condition of registration made by the Minister on the Minister's own initiative; or<br><br>(c) a decision of the Minister to refuse to grant an application to vary a condition of registration; or<br><br>(d) a decision of the Minister to suspend a registration under Part 2 of the Act. | Chief Executive Officer |                            |
| s12(1)                       | 12. Drinking water providers to prepare, implement and review risk management plans<br>(1) The power pursuant to Section 12(1) of the Act and in accordance with Section 13 of the Act, to:<br><br>(a) prepare a risk management plan in relation to the supply of drinking water to the public; and   | Chief Executive Officer |                            |

| Safe Drinking Water Act 2011 |  |                         |  |
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|                              | <p>(b) keep the plan under continuous review with a view to updating and improving it; and</p> <p>(c) revise any aspect of the plan that is found, on review, to need revision.</p> <p>(3) The power pursuant to Section 12(3) of the Act, if a standard risk management plan is in place under Section 12(2) of the Act and the Council falls within the specified class to which the standard risk management plan applies, to, subject to any requirement published by the Chief Executive in connection with the risk management plan and in a manner and form determined by the Chief Executive, adopt the standard risk management plan rather than preparing a separate plan under Section 12(1)(a) of the Act.</p> |                         |  |
| s14(2)                       | <p>14. Related matters</p> <p>(2) The power pursuant to Section 14(2) of the Act, to furnish to the Minister in a manner and form determined by the Minister a copy of the Council's monitoring program and incident identification and notification protocol.</p>   | Chief Executive Officer |  |
| s14(3)                       | <p>14. Related matters</p> <p>(3) (b) The power pursuant to Section 14(3)(b) of the Act to consult with the Minister in relation to alterations to the program or protocol (or both) submitted for the purposes of Section 14 of the Act.</p>  | Chief Executive Officer |  |
| s14(4)                       | <p>14. Related matters</p> <p>(4) The power pursuant to Section 14(4) of the Act and in accordance with Section 14(5) of the Act, where the Council is required to make an alteration under Section 14(3) of the Act, to seek a review of the requirement by the Tribunal under Section 34 of the South Australian Civil and Administrative Tribunal Act 2013.</p>   | Chief Executive Officer |  |
| s34(1)                       | <p>34. Appointment of authorised officers</p> <p>(1) The power pursuant to Section 34(1) of the Act, to appoint a person to be an authorised officer for the purposes of the Act, but only if the Delegate considers the person has appropriate qualifications or experience to exercise the functions of an authorised officer.</p> <p>(2) The power pursuant to Section 34(2) of the Act to prepare and maintain a list of authorised offices appointed by the Council.</p>  | Chief Executive Officer |  |
| S35(1)                       | <p>35. Certificates of authority</p> <p>(1) The power pursuant to Section 35(1) of the Act to provide each authorised officer appointed by the Council with a certificate of authority as an authorised officer.</p>   | Chief Executive Officer |  |

| Safe Drinking Water Act 2011 |   |                              |  |
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|                              | (2) The power pursuant to Section 35(2) of the Act to limit the powers of an authorised officer by the authorised officer's certificate of authority.   |                              |  |
| 37(3)(a)(i) and (ii)         | <p>37. Seizure orders</p> <p>(3) (a) The power pursuant to Section 37(3)(a)(i) and (ii) of the Act to:</p> <p>(i) authorise the release of a thing seized to the person from whom it was seized or any person who had a right to possession of it at the time of its seizure subject to such conditions as the Delegate thinks fit, including conditions as to the giving of security for satisfaction of an order under Section 37(3)(b)(i)(B) of the Act; or</p> <p>(ii) order that the thing seized be forfeited to the Council;</p> <p>(d) The power pursuant to Section 37(3)(d) of the Act if a thing seized is forfeited under Section 37 of the Act to dispose of it by sale, destruction or otherwise as the Delegate directs.</p> | Environmental Health Officer |  |
| s38(1)(2)                    | <p>38. Notices</p> <p>(1) The power pursuant to Section 38(1) of the Act and in accordance with Section 38(2) of the Act to issue a notice under Section 38 for the purpose of:</p> <p>(a) securing compliance with a requirement imposed by or under the Act; or</p> <p>(b) averting, eliminating or minimising a risk, or a perceived risk, to the public in relation to drinking water.</p> <p>(6) The power pursuant to Section 38(6) of the Act to, by written notice served on a person to whom a notice under Section 38 has been issued by the Council, vary or revoke the notice.</p>  | Environmental Health Officer |  |
| s39                          | <p>39. Action or non-compliance with a notice</p> <p>(1) The power pursuant to Section 39(1) of the Act, if the requirements of a notice under Division 3 of the Act are not complied with, to take any action required by the notice.</p> <p>(2) The power pursuant to Section 39(2) of the Act to authorise another person to take action under Section 39(1) of the Act on the Council's behalf.</p> <p>(4) The power pursuant to Section 39(4) of the Act to recover the reasonable costs and expenses incurred by the Council in taking</p>  | Environmental Health Officer |  |

| <b>Safe Drinking Water Act 2011</b> |   |                              |  |
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|                                     | <p>action under Section 39 of the Act from the person who failed to comply with the requirements of the notice as a debt in a court of competent jurisdiction.</p> <p>(5) The power pursuant to Section 39(5) of the Act, if an amount is recoverable from a person by the Council under Section 39 of the Act, to by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.</p> |                              |  |
| s40(5)                              | <p>40. Action in emergency situations</p> <p>(5) The power pursuant to Section 40(5) of the Act to recover the reasonable costs and expenses incurred by an authorised officer in taking action under Section 40 of the Act as a debt in a court of competent jurisdiction.</p>   | Environmental Health Officer |  |
| s41(1)                              | <p>41. Specific power to require information</p> <p>(1) The power pursuant to Section 41(1) of the Act, to by notice in writing under Section 41 of the Act require a person to furnish such information relating to the quality or supply of drinking water, or any other matter associated with the administration or operation of the Act, as the Delegate thinks fit.</p>   | Environmental Health Officer |  |
| s42(3)                              | <p>42. Appeals</p> <p>(3) The power pursuant to Section 42(3) of the Act to apply for the Council to be a party to proceedings under Section 42 of the Act.</p>   | Environmental Health Officer |  |
| s52(1)                              | <p>52. Annual reports by enforcement agencies</p> <p>(1) The power pursuant to Section 52(1) of the Act to on or before 30 September in each year, furnish to the Minister a report on the activities of the Council under the Act during the financial year ending on the preceding 30 June.</p>   | Environmental Health Officer |  |

#### **Document history and version control**

| <b>Date</b> | <b>Council/Chief Executive Officer</b>                            | <b>Comment</b>                         |
|-------------|---|--|
| 27/6/2017   | Full annual review adopted at the Council meeting of 27 June 2017 |  |
| 27/2/2018   | Variation adopted at Council meeting 27 February 2018             | Update to Safe Drinking Water Act 2011 |