

INSTRUMENT OF DELEGATION UNDER THE WATER INDUSTRY ACT 2012 AND WATER INDUSTRY REGULATIONS 2012

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

- Water Industry Act 2012
- Water Industry Regulations 2012

Titles

- Chief Executive Officer
- Director Infrastructure & Environmental Services
- Environmental Health Officer
- Manager Infrastructure Planning

Instrument of Delegation under the Water Industry Act 2012 and Water Industry Regulations 2012

Water Industry Act 2012			
Provision	Item Delegated	Delegate	Conditions and Limitations
s6(6)	<p>1. Water Planning</p> <p>1.1 The power pursuant to Section 6(6) of the Water Industry Act 2012 (the Act), in relation to a proposal:</p> <p>1.1.1 to create the State Water Demand and Supply Statement; or</p> <p>1.1.2 to undertake a comprehensive review of the State Water Demand and Supply Statement,</p> <p>to make written representations on the proposal to the Minister.</p>	Chief Executive Officer	
s19(1), (2), (3), (4)	<p>2. Application for Licence</p> <p>The power pursuant to Section 19(1) of the Act and in accordance with Sections 19(2), (3) and (4) of the Act, to apply to the Commission in a form approved by the Commission.</p>	Chief Executive Officer	
s24(2)	<p>3. Licence fees and returns</p> <p>3.1 The power pursuant to Section 24(2) of the Act, where the Council is the holder of a licence issued for a term of 2 years or more, to:</p> <p>3.1.1 in each year lodge with the Commission, before the date prescribed for that purpose, an annual return containing the information required by the Commission by condition of the licence or by written notice; and</p> <p>3.1.2 in each year (other than a year in which the licence is due to expire) pay to the Commission, before the date prescribed for that purpose, the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.</p>	Chief Executive Officer	
s28(2)	<p>4. Variation of Licence</p> <p>4.1 The power pursuant to Section 28(2) of the Act to:</p> <p>4.1.1 make application to the Commission to vary the terms or conditions of the Council's licence;</p> <p>4.1.2 agree to the variation of the terms or conditions of the Council's licence;</p>	Chief Executive Officer	

Water Industry Act 2012			
	4.1.3 make representations to the Commission about the proposed variation.		
s29(1), (4), (5), (6)	<p>5. Transfer of Licence</p> <p>5.1 The power pursuant to Section 29(1) of the Act, and in accordance with Sections 29(4), (5) and (6) of the Act, to transfer a licence with the Commission's agreement.</p> <p>5.2 The power pursuant to Section 29(4) of the Act to consent to the transfer of a licence to the Council.</p>	Chief Executive Officer	
s 32(1), (2), (3)	<p>6. Surrender of Licence</p> <p>6.1 The power pursuant to Section 32(1) of the Act and in accordance with Section 32(2) of the Act to, by written notice given to the Commission, surrender the Council's licence.</p> <p>6.2 The power pursuant to Section 32(3) of the Act to agree with the Commission that the required period of notice be shortened.</p>	Chief Executive Officer	
s33(3)(b)	<p>7. Suspension or cancellation of Licences</p> <p>The power pursuant to Section 33(3)(b) of the Act to make submissions to the Commission in relation to the Commission's proposed action under Section 33 of the Act.</p>	Chief Executive Officer	
s36(1), (2), (3), (4), (5)	<p>8. Standard terms and conditions for retail services</p> <p>8.1 The power pursuant to Section 36(1) of the Act and in accordance with Section 36(4) of the Act to, from time to time, fix standard terms and conditions governing the provision of services by the Council to customers of a designated class.</p> <p>8.2 The power pursuant to Section 36(2) of the Act to publish in the Gazette a notice setting out any standard terms and conditions fixed by the Council.</p> <p>8.3 The power pursuant to Section 36(3) of the Act, when the Council publishes a notice in the Gazette under Section 36(2) of the Act, to also publish a notice in a newspaper circulating generally in the State describing the general nature of the standard terms and conditions and advising where a person may read or obtain a copy of the standard terms and conditions.</p> <p>8.4 The power pursuant to Section 36(5) of the Act, subject to the conditions of a licence, to modify or exclude a standard term or condition fixed under Section 36 of the Act by express agreement with a customer of the Council.</p>	Chief Executive Officer	
s37(3)	<p>9. Customer hardship policies</p> <p>9.1 The power pursuant to Section 37(3) of the Act to:</p>	Chief Executive Officer	

Water Industry Act 2012			
	9.1.1 adopt a customer hardship policy published by the Minister under Section 37 of the Act; or 9.1.2 with the written approval of the Commission, adopt such a policy with modifications.		
s38(2)	10. Power to take over operations 10.1 The power pursuant to Section 38(2) of the Act, before a proclamation is made under Section 38 of the Act, to make written representations giving reasons why the proclamation should not be made.	Chief Executive Officer	
s39(3)	11. Appointment of operator The power pursuant to Section 39(3) of the Act to facilitate the take over of the relevant operations by the operator.	Chief Executive Officer	
s41(1), (2)	12. Appointment of water industry officer 12.1 The power pursuant to Section 41(1) of the Act, subject to conditions or limitations determined by the Minister, to appoint a person to be a water industry officer for the Council. 12.2 The power pursuant to Section 41(2) of the Act, to give directions to a water industry officer appointed by the Council.	Chief Executive Officer	
s42(1), (2)	13. Conditions of appointment 13.1 The power pursuant to Section 42(1) of the Act to appoint a water industry officer for a stated term or for an indefinite term that continues while the officer holds a stated office or position. 13.2 The power pursuant to Section 42(2) of the Act to remove a water industry officer from office.	Chief Executive Officer	
s43(1)	14. Identity cards The power pursuant to Section 43(1) of the Act and in accordance with Section 43(2) of the Act, to give each water industry officer for the Council an identity card.	Chief Executive Officer	
s44(1), (3)	15. Power to enter land to conduct investigations 15.1 The power pursuant to Section 44(1) of the Act and subject to Section 44(3) of the Act to, by agreement with the occupier of land or on the authorisation of the Minister, enter and remain on land to conduct investigations or carry out any other form of work to assess the suitability of the land for the construction or installation of water/sewerage infrastructure. 15.2 The power pursuant to Section 44(3) of the Act, if the Council enters land under the authorisation of the Minister, to: 15.2.1 give reasonable notice of the proposed entry on land under Section 44 of the Act to the occupier; and 15.2.2 minimise the impact of work carried out by the Council on activities of others on the land; and	Chief Executive Officer, Environmental Health Officer, Manager Infrastructure Planning	

Water Industry Act 2012			
	15.2.3 comply with the conditions of the authorisation.		
s 45(1), 45(3), (11), (12), (13), (16), (17), (20)	<p>16. Power to carry out work on land</p> <p>16.1 The power pursuant to Section 45(1) of the Act and in accordance with Sections 45(3), (11), (12), (13), (16), (17) and (20) of the Act:</p> <p>16.1.1 to construct, install, improve or add to any water/sewerage infrastructure; or</p> <p>16.1.2 to inspect, operate, maintain, test, repair, alter, remove or replace any water/sewerage infrastructure or equipment; or</p> <p>16.1.3 to lay pipes and install, operate or inspect pumps and other equipment; or</p> <p>16.1.4 to carry out other work in connection with the establishment or operation of any water/sewerage infrastructure or otherwise connected with any water service or sewerage service; or</p> <p>16.1.5 to obtain or enlarge a supply of water; or</p> <p>16.1.6 to protect, improve or restore the quality of water; or</p> <p>16.1.7 to protect any infrastructure or equipment connected with any water service or sewerage service; or</p> <p>16.1.8 to perform any other function brought within the ambit of Section 45 of the Act by the regulations.</p> <p>16.2 The power pursuant to Section 45(3) of the Act, subject to Section 45 of the Act, if the Council seeks to enter public land under Section 45 of the Act, to:</p> <p>16.2.1 give the authority responsible for the management of public land not less than 12 hours notice of the Council's intention to carry out work on the land; and</p> <p>16.2.2 secure the authority's agreement to the carrying out of the work;</p> <p>16.3 The power pursuant to Section 45(3)(b) of the Act, if an authorised entity seeks to enter public land under Section 45 of the Act and the Council is responsible for the management of the public land, to agree to the carrying out of the work.</p>	Chief Executive Officer, Director Infrastructure & Environmental Services, Manager Infrastructure Planning	

Water Industry Act 2012			
	<p>16.4 The power pursuant to Section 45(5) of the Act to include in an agreement under Section 45(3) of the Act conditions the delegate considers appropriate in the public interest.</p> <p>16.5 The power pursuant to Section 45(7) of the Act and subject to Section 45(8) of the Act if a dispute arises between the Council and the authority responsible for managing public land or an authorised entity and the Council about whether work should be permitted under Section 45 of the Act on the land or about the conditions on which work should be permitted on public land, to refer the dispute to the Minister.</p> <p>16.6 The power pursuant to Section 45(9) of the Act, if a dispute is referred to the Minister under Section 45 of the Act, to make representations to the Minister on the questions at issue in the dispute.</p> <p>16.7 The power pursuant to Section 45(11) of the Act and subject to Section 45(3) of the Act, if the Council seeks to enter land other than public land for the first time, to give prior written notice to the occupier of the land stating the reason and the date and time of the proposed entry.</p> <p>16.8 The power pursuant to Section 45(12) of the Act and subject to Section 45(13) of the Act, to give notice to the occupier of land in other circumstances prescribed by the regulations.</p> <p>16.9 The power pursuant to Section 45(14) of the Act to use reasonable force to enter any land under Section 45 of the Act.</p> <p>16.10 The power pursuant to Section 45(16) of the Act, at the reasonable request of an owner or occupier of land used for any purpose under Section 45 of the Act, to separate the land being used for the other part or parts of the land by a fence of reasonable construction and design (with such gates as may be necessary for the convenient use of any land) and, in the case of a dispute as to the fence to be constructed under Section 45 of the Act, to refer the matter to the Magistrates Court for resolution.</p> <p>16.11 The power pursuant to Section 45(17) of the Act to make good any damage caused by the exercise of powers under Section 45 of the Act as soon as practicable (including so as to reinstate any road or other place) or pay reasonable compensation for the damage.</p>		
s45(19)	<p>16. Power to carry out work on land</p> <p>16.12 The power pursuant to Section 45(19) of the Act, in an emergency, to exercise a power under Section 45 of the Act at any time and without prior notice or agreement.</p>	Chief Executive Officer, Director Infrastructure & Environmental Services	

Water Industry Act 2012			
s46(1), (2)	17. Acquisition of land The power pursuant to Section 46(1) of the Act and in accordance with Section 46(2) of the Act, to acquire land in accordance with the Land Acquisition Act 1969.	Chief Executive Officer	
s45(2), 48(6), (9), (10), (12), (13)	18. Requirement to connect to infrastructure Section 48 applies to a water industry entity involved (or proposing to be involved) in the sale and supply of sewerage services for the removal of sewage (and the infrastructure to be used for the purposes of those services will be referred to as prescribed infrastructure under this section). 18.1 The power pursuant to Section 45(2) of the Act to apply to the Minister for the approval of a scheme under Section 48 of the Act. 18.2 The power pursuant to Section 48(6) of the Act, if the Minister approves a scheme, to by notice that complies with any requirements prescribed by the regulations and served on any owner of land adjacent to land where the designated part of the prescribed infrastructure is situated, require the owner to connect drains, equipment or works to the prescribed infrastructure in order to provide for the discharge of sewage into the infrastructure. 18.3 The power pursuant to Section 48(9) of the Act, if the requirements of a notice under Section 48 of the Act are not complied with, to take any action required by the notice. 18.4 The power pursuant to Section 48(10) of the Act, to authorise a person to take action on behalf of the Council under Section 45(9) of the Act. 18.5 The power pursuant to Section 48(12) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 45(9) or (10) as a debt from the person who failed to comply with the requirements of the notice. 18.6 The power pursuant to Section 48(13) of the Act to, from time to time, with the approval of the Minister, vary a scheme under Section 48 of the Act.	Chief Executive Officer, Environmental Health Officer, Manager Infrastructure Planning	
s49(1), (2), (2)(a), (2)(b), (3), (4), (5), (6), (7)	19. Encroachments 19.1 The power pursuant to Section 49(1) of the Act to consent to a person: 19.1.1 constructing or placing a building, wall, fence or other structure on or over any water/sewerage infrastructure, or creating some other form of encroachment over any water/sewerage infrastructure (or any land directly associated with such infrastructure); or	Chief Executive Officer, Manager Infrastructure Planning	

Water Industry Act 2012			
	<p>19.1.2 creating any form of encroachment over any easement that exists for the purposes of any water service or sewerage service; or</p> <p>19.1.3 obstructing, filling in, closing up or diverting any water/sewerage infrastructure; or</p> <p>19.1.4 excavating or altering any land or structure supporting any water/sewerage infrastructure.</p> <p>19.2 The power pursuant to Section 49(2) of the Act, if the delegate believes on reasonable grounds that a person has acted in contravention of Section 49(1) of the Act, to:</p> <p>19.2.1 at any reasonable time, enter land and carry out an inspection of any place; and</p> <p>19.2.2 as the delegate thinks fit (whether or not an inspection has taken place), by notice that complies with any requirements prescribed by the regulations and served on the person, require the person to take such action as may be specified in the notice to remedy any contravention of Section 49(1) of the Act.</p> <p>19.3 The power pursuant to Section 49(3) of the Act if any entry under Section 49(2)(a) of the Act is refused or obstructed, to obtain a warrant under Part 10 of the Act to enter the land.</p> <p>19.4 The power pursuant to Section 49(4) of the Act if the requirements of a notice under Section 49(2)(b) of the Act are not complied with, to take any action required by the notice.</p> <p>19.5 The power pursuant to Section 49(6) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 49(4) or (5) as a debt from the person who failed to comply with the requirements of the notice.</p> <p>19.6 The power pursuant to Section 49(7) of the Act to authorise a person to take action on the Council's behalf under Section 49 of the Act.</p>		
s50 (1), (2)	<p>20. Protection of infrastructure and equipment</p> <p>20.1 The power pursuant to Section 50(2) of the Act, if the delegate believes on reasonable grounds that a person has acted in contravention of Section 50(1), to:</p> <p>20.1.1 at any reasonable time, enter any land and carry out an inspection of any place; and</p>	Chief Executive Officer, Manager Infrastructure Planning	

Water Industry Act 2012			
	<p>20.1.2 as the delegate thinks fit (whether or not an inspection has taken place), after complying with any requirements prescribed by the regulations, disconnect, close, turn off or remove anything that has, in the opinion of the delegate been attached or used in connection with the contravention.</p> <p>20.2 The power pursuant to Section 50(3) of the Act, if any entry under Section 50(2)(a) is refused or obstructed, to obtain a warrant under Part 10 of the Act to enter the land.</p> <p>20.3 The power pursuant to Section 50(4) of the Act to authorise a person to take action on the Council's behalf under Section 50 of the Act.</p> <p>20.4 The power pursuant to Section 50(7) of the Act, if the Council suffers loss as a result of a contravention of Section 50 of the Act, to recover compensation for the loss from a person guilty of the contravention:</p> <p>20.4.1 on application to a court convicting the person of an offence against Section 50 of the Act; or</p> <p>20.4.2 by action in a court of competent jurisdiction.</p>		
s51(4)	<p>21. Notice of work that may affect water/sewerage infrastructure</p> <p>21.1 The power pursuant to Section 51(4) of the Act, if the Council suffers loss as a result of a contravention of Section 51 of the Act, to recover compensation for the loss from a person guilty of the contravention:</p> <p>21.1.1 on application to a court convicting the person of an offence against Section 51 of the Act; or</p> <p>21.1.2 by action in a court of competent jurisdiction.</p>	Chief Executive Officer	
s52(1), (2), (3), (3)(b), (5) (6)	<p>22. Duty to give notice before paving a road etc</p> <p>22.1 The power pursuant to Section 52(1) of the Act, before the Council begins:</p> <p>22.1.1 to first lay the pavement or hard surface in any road; or</p> <p>22.1.2 to relay the pavement or hard surface in any road; or</p> <p>22.1.3 to widen or extend the pavement or hard surface in any road; or</p>	Chief Executive Officer	

Water Industry Act 2012			
	<p>22.1.4 to alter the level of any road; or</p> <p>22.1.5 to construct or alter any footpaths, gutters, kerbing or water tables in any road; or</p> <p>22.1.6 to construct or alter any drainage work in any road,</p> <p>in which there is any water/sewerage infrastructure, to give the relevant water industry entity at least 14 days notice of the proposed work (being a notice that includes details of the nature and thickness of the pavement or hard surface proposed to be made or laid in any such work, and of any other work that is proposed to be undertaken).</p> <p>22.2 The power pursuant to Section 52(2) of the Act, to within 14 days after receiving a notice, advise the person who gave the notice of any new water/sewerage infrastructure proposed in the relevant road and of any interference that is expected to be caused to the existing water/sewerage infrastructure.</p> <p>22.3 The power pursuant to Section 52(3) of the Act, if any work referred to Section 52(1) would involve any alteration to any water/sewerage infrastructure that is owned or operated by a water industry entity, to subject to Section 52(5) of the Act, pay to the entity:</p> <p>22.3.1 unless Section 52(3)(b) applies - half of the actual cost of the alteration or any damage caused by the work;</p> <p>22.3.2 in prescribed circumstances - an amount determined under the regulations.</p> <p>22.4 The power pursuant to Section 52(6) of the Act, to under an agreement between the Council and a person otherwise required to give notice under Section 52 of the Act, waive the requirement to give such notice in relation to specified classes of work.</p>		
s53(2), (3)	<p>23. Unlawful abstraction, removal or diversion of water or sewage</p> <p>23.1 The power pursuant to Section 53(2) of the Act, to grant approval to a person to install or maintain a pipe capable of conveying water beyond the boundaries of a site occupied by that person where the Council supplies water to the site.</p> <p>23.2 The power pursuant to Section 53(3) of the Act, if the Council suffers loss as a result of a contravention of Section 53, to recover compensation for the loss from a person guilty of the contravention:</p> <p>23.2.1 on application to a court convicting the person of an offence against this Section; or</p>	Chief Executive Officer	

Water Industry Act 2012			
	23.2.2 by action in a court of competent jurisdiction.		
s54 (1), (3), (9), (10), (11), (12), (13)	<p>24. Water meters</p> <p>24.1 The power pursuant to Section 54(1) of the Act to, require a person who is supplied with water by the Council, to</p> <p>24.1.1 allow a person authorised by the Council to enter land and fix a meter supplied by the Council;</p> <p>24.1.2 ensure that a meter of a kind specified by the Council is fixed and used for purposes of measuring water supplied to the person.</p> <p>24.2 The power pursuant to Section 54(1) of the Act, to authorise a person to enter land and fix a meter supplied by the Council.</p> <p>24.3 The power pursuant to Section 54(3) of the Act, with the approval of the Commission or in prescribed circumstances, to include in a requirement under Section 54(1) of the Act a requirement that a person fix or use a meter supplied by the Council.</p> <p>24.4 The power pursuant to Section 54(10) of the Act, if a person fails to comply with Section 54(9) of the Act, to serve written notice on the person requiring him or her to take such action as is specified in the notice to provide access to the meter or fitting.</p> <p>24.5 The power pursuant to Section 54(11) of the Act, if a person on whom notice has been served under Section 54(10) of the Act fails to comply with the notice within 1 month to enter the land and take such action (including altering the position of the meter or fitting) as the delegate thinks fit to provide access to the meter or fitting.</p> <p>24.6 The power pursuant to Section 54(11) of the Act, if a person on whom a notice has been served under Section 54(10) of the Act fails to comply with the notice within one month, to authorise a person to enter land and take such action (including altering the position of the meter or fitting) as the person thinks fit to provide access to the meter or fitting.</p> <p>24.7 The power pursuant to Section 54(12) of the Act, if the Council suffers loss as a result of a contravention of Section 54 of the Act, to recover compensation for the loss from a person found guilty of the contravention:</p> <p>24.7.1 on application to a court convicting the person of an offence against this section; or</p> <p>24.7.2 by action in a court of competent jurisdiction.</p> <p>24.8 The power pursuant to Section 54(13) of the Act, if the Council incurs costs as a result of taking action under Section 54(11),</p>	Chief Executive Officer	

Water Industry Act 2012			
	to recover those costs as a debt by action in a court of competent jurisdiction.		
s55 (3)	<p>25. Discharge of unauthorised material into water infrastructure</p> <p>25.1 The power pursuant to Section 55(3) of the Act, if the Council suffers loss as a result of a contravention of Section 55, to recover compensation for the loss from a person found guilty of the contravention:</p> <p>25.1.1 on application to a court convicting the person of an offence against this Section; or</p> <p>25.1.2 by action in a court of competent jurisdiction.</p>	Chief Executive Officer	
s56 (3), (4), (5), (7), (9)	<p>26. Discharge of unauthorised material into sewerage infrastructure</p> <p>26.1 The power pursuant to Section 56(3) of the Act, to, in relation to any sewerage infrastructure operated by the Council:</p> <p>26.1.1 on application by any person, authorise the person to discharge waste material referred to in the authorisation into the infrastructure; or</p> <p>26.1.2 as part of a contract in relation to the provision of a sewerage service, authorised a person to discharge waste material referred to in the contract into the infrastructure.</p> <p>26.2 The power pursuant to Section 56(4) of the Act, to grant an authorisation to a person to discharge any solid, liquid or gaseous material, or any other item or thing, prescribed by the regulations.</p> <p>26.3 The power pursuant to Section 56(5) of the Act, to grant an authorisation to a person to cause, permit or allow any rainwater, stormwater or surface water to flow into, or to otherwise enter, any sewerage infrastructure.</p> <p>26.4 The power pursuant to Section 56(7) of the Act, to attach such conditions to an authorisation under Section 56 of the Act as the delegate thinks fit and vary or revoke the authorisation at any time.</p> <p>26.5 The power pursuant to Section 56(9) of the Act, to recover the reasonable costs and expenses incurred by the Council in addressing any damage or loss caused as a result of, or in remedying circumstances caused by, a contravention of Section 56 as a debt from the person in contravention of Section 56 of the Act.</p>	Chief Executive Officer, Environmental Health Officer, Manager Infrastructure Planning	
s57 (1), (2), (3), (5), (6), (7), (8)	<p>27. Work to be carried out by owner at requirement of water industry entity with respect to sewerage infrastructure</p> <p>27.1 The power pursuant to Section 57(1) of the Act, and in accordance with Section 57(2) of the Act, to, in order:</p>	Chief Executive Officer, Environmental	

Water Industry Act 2012		
<p>27.1.1 to provide for the proper treatment (including the deodorising) of waste material before it is discharged from land into a drain connected to any sewerage infrastructure; or</p> <p>27.1.2 to prevent the discharge of rainwater, stormwater or surface water into any sewerage infrastructure or to prevent the discharge into any sewerage infrastructure of waste material that has been prescribed as water material that may not be discharged into any sewerage infrastructure or that is, in the opinion of the delegate, likely to damage or be detrimental to any sewerage infrastructure,</p> <p>by notice in writing served on the owner or occupier of the land, require the owner or occupier, within the time stated in the notice, to carry out work specified in the notice.</p> <p>27.2 The power pursuant to Section 57(1) of the Act, to, by notice referred to in Section 57(1) of the Act require the person on whom it is served to:</p> <p>27.2.1 install or construct in such locations as are specified in the notice;</p> <p>27.2.2 connect to the infrastructure;</p> <p>27.2.3 alter or replace;</p> <p>27.2.4 maintain, repair or cleanse;</p> <p>27.2.5 remove, block or disconnect,</p> <p>such drains, equipment or works as are specified in the notice in the manner specified in the notice or take other action specified in the notice.</p> <p>27.3 The power pursuant to Section 57(3) of the Act, to vary or revoke a notice referred to in Section 57(1) of the Act by a subsequent notice in writing served on the owner or occupier of the land.</p> <p>27.4 The power pursuant to Section 57(5) of the Act, if the requirements of a notice under Section 57 of the Act are not complied with, to take any action required by the notice.</p>	<p>Health Officer, Manager Infrastructure Planning</p>	

Water Industry Act 2012			
	<p>27.5 The power pursuant to Section 57(6) of the Act, to authorise a person to take action under Section 52(5) of the Act on the Council's behalf.</p> <p>27.6 The power pursuant to Section 57(8) of the Act, to recover the reasonable costs and expenses incurred by the Council in taking action under Section 57(6) or (7) as a debt from the person who failed to comply with the requirements of the notice.</p>		
s58 (1), (2)	<p>28. Power to disconnect drains to restrict services</p> <p>28.1 The power pursuant to Section 58(1) of the Act, if the Council has grounds to believe that material:</p> <p>28.1.1 is being discharged from land into sewerage infrastructure in contravention of Division 1 Part 6 of the Act; or</p> <p>28.1.2 has been discharged from land into sewerage infrastructure in contravention of Division 1 Part 6 of the Act and that it is likely that a similar contravention will occur in the future,</p> <p>to, after complying with any requirement prescribed by the regulations, close off or disconnect from the sewerage infrastructure 1 or more drains on the land that are connected to the infrastructure or restrict the provision of any sewerage service to the land.</p> <p>28.2 The power pursuant to Section 58(2) of the Act, before reopening or reconnecting a drain closed off or disconnected under Section 58 of the Act, to require the owner or occupier of the relevant land to pay the prescribed fee.</p>	Chief Executive Officer, Environmental Health Officer, Manager Infrastructure Planning	
s59 (1), (3), (4), (5)	<p>29. Power to restrict or discontinue water supply</p> <p>29.1 The power pursuant to Section 59(1) of the Act, if the delegate believes on reasonable grounds:</p> <p>29.1.1</p> <p>29.1.1.1 that the quantity of water available for supply by the Council is, or is likely to be, insufficient to meet the demands of the persons to whom it is required to supply water (either because of a reduction in the quantity of water available or an increase in demand); or</p> <p>29.1.1.2 that the quantity or quality of water available for supply by the Council is, or is likely to be, below a standard set or adopted by the Council for the purposes of Section 59 of the Act, or prescribed by the regulations; or</p> <p>29.1.1.3 that the capacity of any water infrastructure is, or is likely to be, insufficient to cope with existing or anticipated demand; and</p>	Chief Executive Officer	

Water Industry Act 2012		
	<p>29.1.2 that action under Section 59(1) of the Act is justified in the circumstances, to, after complying with any requirements prescribed by the regulations, exercise 1 or more of the powers specified under Section 59(3) of the Act.</p> <p>29.2 The power pursuant to Section 59(1) and (3) of the Act and subject to Section 59(5) of the Act to:</p> <p>29.2.1 lessen the supply of water through any infrastructure (to such extent and in such manner as the delegate thinks fit);</p> <p>29.2.2 prohibit the use of water in a specified purpose or purposes, or restrict or regulate the purposes for which water can be used;</p> <p>29.2.3 prohibit the use of water in a specified manner or by specified means, or restrict or regulate the manner in which, or the means by which, water may be used;</p> <p>29.2.4 prohibit specified uses of water during specified periods, or restrict or regulate the times at which water may be used;</p> <p>29.2.5 for such time or times as the delegate thinks proper, discontinue the supply of water.</p> <p>29.3 The power pursuant to Section 59(3) of the Act, to provide in a requirement under Section 59(3) of the Act that a specified activity involving the use of water cannot occur without the authority of a permit issued by the Council in accordance with the regulations.</p> <p>29.4 The power pursuant to Section 59(4) of the Act, to:</p> <p>29.4.1 impose a prohibition or notice under Section 59(3) of the Act by a notice published or served in accordance with any requirements prescribed by the regulations; and</p> <p>29.4.2 vary or revoke a prohibition or notice under Section 59(3) of the Act in accordance with any requirements prescribed by the regulations.</p>	
S60 (1), (2), (3), (5), (6)	30. Power to require the use of devices to reduce flow 30.1 The power pursuant to Section 60(1) of the Act and in accordance with Section 60(2) of the Act, if the delegate believes on	Chief Executive Officer

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	<p>reasonable grounds that action under Section 60 is justified in the circumstances to supply water during periods of high demand, to serve notice under Section 60(3) of the Act on the owner or occupier of land that is connected to water infrastructure operated by the Council.</p> <p>30.2 The power pursuant to Section 60(2) of the Act and subject to Section 60(3) of the Act, to, in the notice direct the owner or occupier:</p> <p>30.2.1 to install (at his or her expense) a flow reducing device of the kind specified in the notice at the point specified in the notice (including at a point on the customer's side of any connection point) to enable the flow in the pipes on the land that are connected to the infrastructure to be reduced; and</p> <p>30.2.2 to use the device to reduce flow in those pipes during the periods specified in the notice.</p> <p>30.3 The power pursuant to Section 60(5) of the Act, if the requirements of a notice under Section 60 of the Act are not complied with, to install a flow reducing device to reduce the flow in the pipes on the relevant land notwithstanding that this reduction in flow will operate continuously instead of during the periods specified in the notice.</p> <p>30.4 The power pursuant to Section 60(6) of the Act, to recover the reasonable costs and expenses incurred by the Council in taking action under Section 60(5) of the Act as a debt from the person who failed to comply with the requirements of the notice.</p>		
S64	<p>31. Disconnection in an emergency The power pursuant to Section 64 of the Act, to, without incurring any liability, cut off the supply of water to any region, area, land or place if it is, in the delegate's opinion, necessary to do so to avert danger to any person or property.</p>	Chief Executive Officer	
s68 (1)	<p>32. Responsibilities of water industry entity 32.1 The power pursuant to Section 68(1) of the Act, to, where the Technical Regulator so requires of the Council:</p> <p>32.1.1 prepare and periodically revise a safety, reliability, maintenance and technical management plan dealing with matters prescribed by regulation in accordance with any requirements specified by the Technical Regulator; and</p> <p>32.1.2 obtain the approval of the Technical Regulator to the plan and any revision; and</p> <p>32.1.3 comply with the plan as approved from time to time; and</p>	Chief Executive Officer	

Water Industry Act 2012			
	32.1.4 audit from time to time the Council's compliance with the plans and report the results of those audits to the Technical Regulator		
s69 (1), (3)	33. Responsibilities of Customers The power pursuant to Section 69(3) of the Act, if a person fails to comply with Section 69(1) of the Act to, where the Council is providing the service, disconnect the supply of water to the place, or the collection of sewerage from the place, or restrict the supply of services to that place.	Chief Executive Officer	
s80 (2)(h)	34. Enforcement notices The power pursuant to Section 80(2)(h) of the Act to, within 14 days, apply for a review of the notice or institute an appeal against the notice under the provisions of the Act.	Chief Executive Officer	
s82 (1)(b)(ii), (2)(b)(ii), (3)	35. Warning notices and assurances 35.1 The power pursuant to Section 82(1)(b)(ii) of the Act and in accordance with Section 82(3) of the Act, to, in relation to a warning notice issued by the Commission to the Council give the Commission an assurance, in the terms specified in the notice, and within the period specified in the notice, that the Council will avoid a future contravention. 35.2 The power pursuant to Section 82(2)(b)(ii) of the Act, and in accordance with Section 82(3) of the Act, to, in relation to a warning notice issued by the Technical Regulator to the Council give the Technical Regulator an assurance, in the terms specified in the notice, and within the period specified in the notice, that the Council will avoid a future contravention.	Chief Executive Officer	
s83(1), (8)	36. Injunctions 36.1 The power pursuant to Section 83(1) of the Act, to apply to the District Court for an injunction on the grounds that a person has engaged or proposes to engage in conduct that constitutes or would constitute a contravention of the Act. 36.2 The power pursuant to Section 83(8) of the Act, to consent to a final injunction being granted without proof that proper grounds for the injunction exist.	Chief Executive Officer	
s84 (1)	37. Review of decisions by Commission or Technical Regulator 37.1 The power pursuant to Section 84(1) of the Act and subject to and in accordance with Section 84 of the Act to make an application to: 37.1.1 the Commission for the issue or variation of the terms or conditions of a licence under Part 4 of the Act, or for agreement to the transfer of such a licence, for review of a decision of the Commission to refuse the application; or 37.1.2 the Commissioner for review of a decision of the Commission under Part 4 of the Act to suspend or cancel the Council's	Chief Executive Officer	

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	<p>licence or to vary the terms or conditions of the Council's licence; or</p> <p>37.1.3 the Technical Regulator where the Council has been given a direction under the Act by the Technical Regulator or an authorised officer for review of the decision to give the direction; or</p> <p>37.1.4 the Technical Regulator where the Council is a person affected by the decision for review of a decision of an authorised officer or a water industry officer to disconnect or restrict a supply of water to a place, or the collection of sewage from a place, or to restrict the provision of a service.</p>		
s85 (1), (2)	<p>38. Appeals</p> <p>38.1 The power pursuant to Section 85(1) of the Act and in accordance with Section 85(2) of the Act to appeal to the District Court:</p> <p>38.1.1 in relation to a decision as confirmed, amended or substituted by the Commission or the Technical Regulator;</p> <p>38.1.2 in relation to an enforcement notice issued under Part 8 Division 4 of the Act.</p>	Chief Executive Officer	
86F(1)	<p>Third Party Access Regime</p> <p>Sections 86A – 86ZR apply in relation to operators of water infrastructure or sewerage infrastructure, and infrastructure services, to the extent that it is declared by proclamation to apply.</p> <p>38A. Information brochure</p> <p>38A.1 The power pursuant to Section 86F(1) of the Act to determine:</p> <p>38A.1.1 the terms and conditions on which the Council is prepared to make the Council's regulated infrastructure available for use by others; and</p>	Chief Executive Officer	
86(F)1	<p>38A. Information brochure</p> <p>38A.1 The power pursuant to Section 86F(1) of the Act to determine:</p> <p>38A.1.2 the procedures that the Council will apply in determining a proposal for access to any regulated infrastructure and infrastructure services; and</p>	Chief Executive Officer	
86F(1)	<p>38A. Information brochure</p> <p>38A.1 The power pursuant to Section 86F(1) of the Act to determine:</p> <p>38A.1.3 the prices and costs associated with gaining access to (and using) regulated infrastructure and infrastructure services; and</p>	Chief Executive Officer	

Water Industry Act 2012			
86F(1)	38A. Information brochure 38A.1 The power pursuant to Section 86F(1) of the Act to determine: 38A.1.4 the standard access arrangement used by the Council.	Chief Executive Officer	
86G(1)(c)	38B. Specific information to assist proponent to formulate proposal 38B.1 The power pursuant to Section 86G(1)(c) of the Act, on the application of a person with a proper interest in making an access proposal to the Council, agree or refuse to provide access to regulated infrastructure and infrastructure services of a specified description and determine the general terms and conditions (including the likely price) on which the Council would be prepared to provide access.	Chief Executive Officer	
86G(2)	38B. Specific information to assist proponent to formulate proposal 38B.2 The power pursuant to Section 86G(2) of the Act to make a reasonable charge (to be determined after taking into account any provision made by the regulations for the purposes of Section 86G(2) of the Act for providing information under Section 86G(2) of the Act.	Chief Executive Officer	
86I(3)	38C. Access proposal 38C.1 The power pursuant to Section 86I(3) of the Act to require a proponent to provide further information about the proponent's proposal that the delegate reasonably requires in order to assess and respond to the proposal.	Chief Executive Officer	
86I(4)	38C. Access proposal 38C.2 The power pursuant to Section 86I(4)(b) of the Act to, within 1 month after the relevant day determine, and give the proponent a preliminary indication about, 38C.2.1 whether the Council is prepared to provide access to the regulated infrastructure and infrastructure services and, if so, on what terms and conditions; and 38C.2.2 if some alteration of, or addition to, existing infrastructure would be necessary to provide for access, whether the Council would agree to the alteration or addition and, if so, on what terms.	Chief Executive Officer	
86I(6)	38C. Access proposal 38C.3 The power pursuant to Section 86I(6) of the Act to give notice of an access proposal to affected third parties by publishing a notice in a newspaper circulating generally in the State stating: 38C.3.1 the name of the proponent and an address at which the proponent may be contacted; and 38C.3.2 the name of the operator and an address at which the regulated operator may be contacted; and 38C.3.3 the general nature of the access proposal.	Chief Executive Officer	
86I(7)	38C. Access proposal 38C.4 The power pursuant to Section 86I(7) of the Act to recover the reasonable costs of giving notice under Section 86I of the Act, as a debt, from the proponent.	Chief Executive Officer	

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86J(1)	38D. Duty to negotiate in good faith 38D.1 The power pursuant to Section 86J(1) of the Act to negotiate in good faith with the proponent with a view to reaching agreement on whether the proponent's requirements as set out in the access proposal (or some agreed modification of the requirements) could reasonably be met, and, if so, the terms and conditions for the provision of access for the proponent.	Chief Executive Officer	
86K(2)	38E. Existence of Dispute 38E.1 The power pursuant to Section 86K(2) of the Act to refer a dispute to the regulator.	Chief Executive Officer	
86N(3)	38F. Power to refer dispute to arbitration 38F.1 The power pursuant to Section 86N(3) of the Act to make submissions to the regulator about the selection of the arbitrator.	Chief Executive Officer	
86Z(2)	38G. Confidentiality of information 38G.1 The power pursuant to Section 86Z(2) of the Act to make representations to the arbitrator regarding access to, or disclosure of, information or documentary material.	Chief Executive Officer	
86ZD(1)	38H. Formal requirements related to awards 38H.1 The power pursuant to Section 86ZD(1) of the Act to make representations to the arbitrator on the proposed award.	Chief Executive Officer	
86ZE	38I. Consent awards 38I.1 The power pursuant to Section 86ZE of the Act to consent to a proposed award.	Chief Executive Officer	
86ZG(1)	38J. Termination of variation of award 38J.1 The power pursuant to Section 86ZG(1) of the Act to agree to terminate or vary an award.	Chief Executive Officer	
86ZG(3)	38J. Termination of variation of award 38J.2 The power pursuant to Section 86ZG(3) of the Act, if a material change in circumstances occurs, to propose termination or variation of the award.	Chief Executive Officer	
86ZJ	38K. Appeal on question of law 38K.1 The power pursuant to Section 86ZJ of the Act to appeal to the Supreme Court from an award, or a decision not to make an award, on a question of law.	Chief Executive Officer	
86ZK(5)	38L. Injunctive remedies 38L.1 The power pursuant to Section 86ZK(5) of the Act to apply for an injunction under Section 38ZK of the Act.	Chief Executive Officer	
86ZK(6)	38L. Injunctive remedies 38L.2 The power pursuant to Section 86ZK(6) of the Act to consent to an injunction.	Chief Executive Officer	
86ZK(8)	38L. Injunctive remedies 38L.3 The power pursuant to Section 86ZK(8) of the Act to apply to the Court to discharge or vary an injunction.	Chief Executive Officer	

Water Industry Act 2012			
86ZL(1)	38M. Compensation 38M.1 The power pursuant to Section 86ZL(1) of the Act, if a person contravenes an award, to apply to the Supreme Court for compensation for loss or damage suffered as a result of the contravention.	Chief Executive Officer	
86ZM(7)	38N. Confidential information 38N.1 The power pursuant to Section 86ZM(7) of the Act to, in connection with the operation of Section 86ZM of the Act, develop and maintain a policy to ensure that confidential information obtained by the Council is not disclosed or used except as authorised by Section 86ZM of the Act.	Chief Executive Officer	
86ZN	38O. Access by agreement 38O.1 The power pursuant to Section 86ZN of the Act to enter into an access contract with another person on terms and conditions agreed between the parties.	Chief Executive Officer	
86ZR(2)	38P. Review of Part 38P.1 The power pursuant to Section 86ZR(2) of the Act to make written submissions to the regulator on the matters under review.	Chief Executive Officer	
s92 (2), (5)	39. Water conservation measures The power pursuant to Section 92(5) of the Act, to consult with the Minister before a regulation is made under Section 92(2) of the Act.	Chief Executive Officer	
Water Industry Regulations 2012			
Provision	Item Delegated	Delegate	Conditions and Limitations
r 11(1), (2), (3)	40. Information as to amounts already paid for retail services etc 40.1 The power pursuant to Regulation 11(1) of the Water Industry Regulations 2012 (the Regulations) to, on application by a person who has paid an amount to the Council for the provision of retail services, provide the person with a statement of the amount paid. 40.2 The power pursuant to Regulation 11(2) of the Regulations to, on application by a consumer, provide the consumer with a statement of the quantity of water supplied by the Council to the consumer in a financial year. 40.3 The power pursuant to Regulation 11(3) of the Regulations to, on application by any other person, in connection with the provision of retail services, provide that person with information of the kind referred to in Regulation 11(1) or (2) of the Regulations.	Chief Executive Officer	

Water Industry Regulations 2012			
r12(1)	<p>41. Certificate as to encumbrance</p> <p>41.1 The power pursuant to Regulation 12(1) of the Regulations to, on application by an interested person and payment of the fee prescribed in Schedule 1, provide the person with a statement as to the existence or non-existence of encumbrances in relation to the land to which the application relates that are prescribed encumbrances for the purposes of the Land and Business (Sale and Conveyancing) Act 1994 and the regulations under that Act and that are in favour of the Council.</p>	Chief Executive Officer	
r13 (b), (9)	<p>42. Protection of infrastructure - planting of trees etc on public land</p> <p>42.1 The power pursuant to Regulation 13(9) of the Regulations to grant written approval for trees and shrubs (except those listed in Schedule 2 and Schedule 3) to be planted on public land owned by the Council or where the Council operates sewerage infrastructure that may be affected by the planting.</p> <p>42.2 The power pursuant to Regulation 13(b) of the Regulations to grant written approval for trees and shrubs to be planted on a road closer than 1 metre to any water infrastructure where the Council owns or operates the infrastructure.</p>	Chief Executive Officer	
r14(1), (2), (3)	<p>43. Protection of infrastructure - action in relation to trees and shrubs</p> <p>43.1 The power pursuant to Regulation 14(1) of the Regulations, if:</p> <p>43.1.1 a tree or shrub has been planted in contravention of Regulation 13; or</p> <p>43.1.2 the delegate is of the opinion (based on reasonable grounds) that a tree or shrub on public land is causing, or is likely to cause, damage to water/sewerage infrastructure or a reduction in the efficiency of the operation of that infrastructure,</p> <p>to, by written notice served on the Council or other person who owns or has the care, control or management of the land on which the tree or shrub is situated, direct that action specified in the notice (including the removal of the tree or shrub) be taken.</p> <p>43.2 The power pursuant to Regulation 14(2) of the Regulations to, if a person on whom a notice has been served fails to comply with the notice, enter the land and take the specified action.</p> <p>43.3 The power pursuant to Regulation 14(3) of the Regulations to, recover its costs of taking the specified action as a debt from the person on whom the notice was served.</p>	Chief Executive Officer	
r13, 14, 15	<p>44. Protection of infrastructure - damage caused by trees or shrubs</p> <p>44.1 The power pursuant to Regulation 15 of the Regulations to, if a tree or shrub has been planted in contravention of Regulation 13 of the Regulations, recover the Council's costs of taking action under Regulation 14 as a debt from:</p> <p>44.1.1 the owner for the time being of the land on which the tree or shrub is, or was, situated; or</p>	Chief Executive Officer	

Water Industry Regulations 2012			
	44.1.2 in the case of land under the care, control or management of a Council - that Council.		
r16 (1), (2)	45. Access to sewerage infrastructure The power pursuant to Regulation 16(2) of the Regulations to recover the Council's costs of repairing any damage caused to infrastructure owned or operated by the Council by a person using an inspection point under Regulation 16(1) of the Regulations as a debt due by that person to the Council.	Chief Executive Officer	
r17 (1)	46. Power to restrict or discontinue water supply 46.1 The power pursuant to Regulation 17(1) of the Regulations to, if the Council proposes to exercise a power under Section 59(3)(a) to (e) (inclusive) of the Act in relation to water that may be used for human consumption, to: 46.1.1 obtain the approval of the prescribed authority before acting; and 46.1.2 notify the public of the intention to exercise the power by publishing a notice (specifying in the notice relevant details of the power to be exercised): 46.1.2.1 if the Council proposes to exercise a power under Section 59(3)(b), (c) or (d) - in the Gazette; and 46.1.2.2 in all cases: (a) on a website determined by the delegate and in accordance with Regulation 17(2) of the Regulations; and (b) in a newspaper circulating generally throughout the area of the State in which the persons affected by the exercise of the power are situated; and (c) in any other manner considered appropriate by the delegate for the purpose of notifying the persons affected by the exercise of the power.	Chief Executive Officer	
r18 (1)	47. Notices under Section 59 - Permits The power pursuant to Regulation 18(1) of the Regulations, for the purposes of Section 59(4) of the Act, if a specified use of water is prohibited except under the authority of a permit issued by a water industry entity, to issue such a permit to a person in accordance with Regulation 18 of the Regulations.	Chief Executive Officer	
r23 (2)(a) (b), (3)	48. Fittings etc to be flush with road surface 48.1 The power pursuant to Regulation 23(2)(a) of the Regulations to, if the surface height of a road, footpath or easement is	Chief Executive Officer	

Water Industry Regulations 2012			
	<p>altered and the Council has made the alteration, to give notice in writing to the water industry entity that owns, manages or uses the entry point, inspection point or other fitting of the alteration.</p> <p>48.2 The power pursuant to Regulation 23(2)(b) of the Regulations, if the surface height of a road, footpath or easement is altered, to at the cost of the Council, other authority or person who made the alteration, alter the height of the entry point, inspection point or other fitting.</p> <p>48.3 The power pursuant to Regulation 23(3) of the Regulations, to recover the Council's costs as a debt from the Council, other authority or person.</p>		
r34(1), (4), (7)	<p>49. Pipes must not lie across allotment boundaries</p> <p>49.1 The power pursuant to Regulation 34(1) of the Regulations, if, on the division of land, the boundary of adjoining allotments intersects the line on which a pipe connected to any water/sewerage infrastructure has been laid, to direct the owner or occupier of each allotment under Regulation 34 of the Regulations to disconnect the pipe from the water/sewerage infrastructure.</p> <p>49.2 The power pursuant to Regulation 34(4) of the Regulations, if a pipe connected to any water/sewerage infrastructure lies across the boundary between adjoining allotments (except allotments in the same site under the Strata Titles Act 1988 or in the same community parcel under the Community Titles Act 1996), to give written notice to the owner or occupier of each of the allotments directing that the pipe be disconnected from the water/sewerage infrastructure by a qualified person in the manner, at the point and within the time stated in the notice.</p> <p>49.3 The power pursuant to Regulation 34(7) of the Regulations, if a person to whom notice has been given fails to comply with the notice, to enter either allotment or any adjoining land and carry out the necessary work.</p>	Chief Executive Officer, Environmental Health Officer, Manager Infrastructure Planning	
r36	<p>50. Water meters - estimates</p> <p>50.1 The power pursuant to Regulation 36 of the Regulations if:</p> <p>50.1.1 the Council is unable for any reason to gain access to a meter or to read a meter for the purpose of measuring water supplied to the person by the Council; and</p> <p>50.1.2 a code or rules made under the Essential Services Commission Act 2002 relating to the provision of retail services to customers does not apply to that supply of water,</p> <p>to, in accordance with any requirements of the Commission, estimate the quantity of water supplied through the meter and take</p>	Chief Executive Officer	

Water Industry Regulations 2012			
	that quantity to be the quantity of water supplied for the purpose of any amount payable for the supply of the water.		
r38, s115 (2)(c)	51. Charge where land not connected or service to land reduced or discontinued 51.1 The power pursuant to Regulation 38 of the Regulations to, for the purposes of Section 115(2)(c) of the Act, impose a charge in respect of land of a kind specified by the Minister by notice in the Gazette despite the fact that: 51.1.1 the land is not connected to infrastructure by which a retail service is provided by the Council; or 51.1.2 the provision of a retail service to the land by the Council has been reduced or discontinued.	Chief Executive Officer	

Document history and version control

Date	Council/Chief Executive Officer	Comment
27/6/2017	Full annual review adopted at the Council meeting of 27 June 2017	