

# APPLICATION FORM FOR THE ISSUE OF A LICENCE BY THE ESSENTIAL SERVICES COMMISSION OF SA UNDER THE WATER INDUSTRY ACT

## *Application Form*

THIS REGULATORY DOCUMENT SHOULD BE READ IN CONJUNCTION  
WITH THE FINAL ADVICE



## 1. THE APPLICANT

### 1.1. Identity of applicant

*State the full name of the applicant. The applicant should be the person/entity that will be providing a retail service (e.g. retail or distribution operations etc). The Commission can also consider joint applications from two or more persons who wish to jointly hold the licence. Joint applicants should each complete an application form, and submit their application forms at the same time, with a covering letter explaining that a joint application is being made.*

**Name:** KANGAROO ISLAND COUNCIL

### 1.2. Legal identity of applicant

*Provide information about the applicant, (i.e. whether the applicant is a natural person, proprietary limited or public company, partnership or local government body etc). If the applicant is a body corporate, please also state the jurisdiction in which the applicant is registered, and the applicant's ABN/ACN.*

A body corporate under the Local Government Act, 1999 established by proclamation on 2 December, 1996 and ABN: 93741277391.

### 1.3. Address and Contact Details of applicant

**Business Address:**

43 Dauncey Street, Kingscote

**State:** South Australia

**Post Code:** 5223

**Postal Address (if different to Business Address):**

PO Box 121, Kingscote

**State:** South Australia

**Post Code:** 5223

**Telephone:** (08) 8553 4500

**Facsimile:** (08) 8553 2885

**E-mail:** kicouncil@kicouncil.sa.gov.au

### 1.4. Contact Person on behalf of applicant

*The full name, title and contact details of a person to whom the Commission can direct enquiries and correspondence about the application.*

**Full Name:** Andrew Boardman

**Title:** Chief Executive Officer

**Business Address:**

43 Dauncey Street, Kingscote

**State:** South Australia

**Post Code:** 5223

**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

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### **1.5. Contact person for licence fees**

*The full name or title of the person to whom the Commission can direct enquiries and correspondence about licence fees.*

**Full Name:** Andrew Cole

**Title:** General Manager, Finance & Systems

**Business Address:**

43 Dauncey Street, Kingscote

**State:** South Australia

**Post Code:** 5223

**Postal Address (if different to above):**

PO Box 121, Kingscote

**State:** South Australia

**Post Code:** 5223

**Telephone:** (08) 8553 4500

**Facsimile:** (08) 8553 2885

**E-mail:** [kicouncil@kicouncil.sa.gov.au](mailto:kicouncil@kicouncil.sa.gov.au)

## **2. THE LICENCE**

### **2.1. A detailed description of the retail services for which a licence is sought**

*Sewerage: residential and/or non-residential*

The application by the Kangaroo Island Council is for a licence that will authorise the use Stand Pipes – Water: Drinking Residential and/or Non-Residential provided by the Kangaroo Island Council (e.g. stand pipe key holders held by 17 land holders).

The scheme is owned, operated and managed by SA Water and the Kangaroo Island Council owns and maintains all Infrastructure, from the meter onwards on all seven (7) connections within Kangaroo Island.

The scheme is comprised of a network of piped SA Water mains connected with the seven (7) stand pipe outlets in individual area's of Kangaroo Island.

On the 1 July of each year all current stand pipe holders are issued an invoice for the renewal of a provided stand pipe access key. The annual key fee charge is \$165, charges of \$65 for the first 5 kilolitres and \$3 per kilolitre onwards.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**



## **2.2. Date from which Licence is sought**

*If the applicant seeks to have the licence issued by a certain date, provide this date.*

Commencing 1 January, 2013

## **3. SUITABILITY OF APPLICANT TO HOLD A LICENCE**

### **3.1. Standard of honesty and integrity shown by applicant**

*In deciding whether the applicant is a suitable person to hold a licence, the Commission may:*

- *consider the applicant's previous commercial and other dealings, and*
- *the standard of honesty and integrity shown in those dealings.*

*Please provide information that will assist the Commission in its consideration of this matter. If the applicant:*

- *has been found guilty of any criminal offence,*
- *has been successfully prosecuted under any Territory, State or Commonwealth legislation (such as the Australian Securities and Investments Commission Act 2001 or the Competition and Consumer Act 2010); or*
- *has been the subject of disciplinary action,*
- *details of such matters must be disclosed. Failure to disclose such information or misrepresent any matter relevant to such information may result in the cancellation of a licence.*

*The Commission may use the service of an external expert to assist with the assessment of the applicant's standard of honesty and integrity.*

The Council has not been convicted of any criminal offence. The Council has never been prosecuted under any State or Commonwealth legislation. The Council welcomes any further investigation by the Commission.

**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

**3.2. *Standard of honesty and integrity shown by officers  
and major shareholders (if relevant) of the  
applicant***

*Applicants should address responses to this question in the same manner as 3.1 above.*

The Senior Management Officers and Council Elected Members have not been convicted of any criminal offence. The Senior Management Officers and Council Elected Members have never been prosecuted under any State or Commonwealth legislation. The Senior Management Officers and Council Elected Members welcome any further investigation by the Commission.

**3.3. *Names and addresses of the officers of applicant***

*State the names and addresses of the officers of the applicant.*

**Full Name:** Andrew Boardman

**Office Held:** Chief Executive Officer

**Business Address:**

43 Dauncey Street, Kingscote

**State:** South Australia

**Post Code:** 5223

**Full Name:** Andrew Cole

**Office Held:** General Manager, Finance & Systems

**Business Address:**

43 Dauncey Street, Kingscote

**State:** South Australia

**Post Code:** 5223

**Full Name:** Peter Davis

**Office Held:** Operations Manager

**Business Address:**

43 Dauncey Street, Kingscote

**State:** South Australia

**Post Code:** 5223

Please find attached a list of Elected Council Member names and addresses.

**3.4. *Names and addresses of major shareholders of  
applicant (not relevant for local council  
applicants)***

*State the full names and addresses of the major shareholders of the applicant.*

Not Applicable for Local Government.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

### **3.5. Details of the group members (not relevant for local council applicants)**

*This is information about entities controlled by the applicant, or by the ultimate parent entity of the applicant (if applicable).*

Not Applicable for Local Government.

### **3.6. Additional information**

*Please answer the following questions.*

- *Is the applicant a resident of, or does it have permanent establishment in, Australia? If the answer to this question is "no", please provide further details.*

Yes.

- *Is the applicant under external administration (as defined in the Corporations Act 2001) or under a similar form of administration under any laws applicable to it in any jurisdiction? If the answer to this question is "yes", please provide further details.*

Not Applicable.

- *Is the applicant immune from suit in respect of the obligations under the Water Industry Act 2012? If the answer to this question is "yes", please provide further details.*

No.

- *Is the applicant capable of being sued in its own name in a court of Australia? If the answer to this question is "no", please provide further details*

Yes.

### **3.7. Financial resources available to the applicant**

*Provide information about the financial resources available to the applicant which provides sufficient evidence of the current and ongoing financial capacity of the applicant to effectively provide the relevant retail services (e.g. bank guarantees, credit history and business continuity arrangements).*

*If an applicant is a local council, please enclose a copy of the audited profit and loss statement and balance sheet for the previous two financial years.*

*Applicants should also submit copies of business plans which detail the strategic direction of the applicant, including its objectives, identified opportunities in the market place and forecast results.*

Please find attached to this application a CD which contains the following documents:-

- Audit KI Council Annual (Financial pg 54-98) Report 2010-2011.
- Audit KI Council General Purpose Financial Report 2011-2012.
- Adopted Annual Business Plan and Budget, and
- Strategic Management Plans (noting, Long Term Financial Plan).

**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

### **3.8. Human resources available to the applicant**

*Provide information about the human resources available to the applicant, for example, the number of employees and the experience of these employees in providing the services for which the licence is sought. If the applicant will employ contractor/s to assist with the licensed operations, please provide the name of that contractor/s, and details about the experience of the contractor/s in such operations and details of the processes in place to ensure the contractor/s will comply with the regulatory obligations imposed by the licence.*

Staff that are involved in either CWMS or Water Services Council provide:-

- Shaun Prince, CWMS Officer with 8 years experience.
- Craig Gaze, Master Plumber & Gas Fitter/CWMS Officer with 1 year experience CWMS and 6 years experience Master Plumber & Gas Fitter.

Council contractors involved in either CWMS or Water Services Council provide:-

- Itt Flygt Ltd. 22 Starr Avenue, North Plympton SA 5037  
Pump manufacturers and distributors.
- TG, AV & MWJ Booker Plumbing  
Plumbing Contractor
- HR & RA Gurney  
Plumbing Contractor
- Kingscote Electrical  
Electrical Contractor

### **3.9. Technical resources available to the applicant**

*Applicants are asked to provide details about the availability of technical resources to be used in carrying out the services for which a licence is sought. The information should include details about the technically qualified staff available to the applicant and (if relevant) of experience gained in similar operations.*

*Applicants must also provide sufficient details of the systems and processes to be used to market and/or communicate with customers, to provide bills, to follow up payments and process customer move-ins and move-outs and deal with customer enquiries and complaints.*

Staff that are involved in either CWMS or Water Services Council provide:-

- Shaun Prince, CWMS Officer with 8 years experience.
- Craig Gaze, Master Plumber & Gas Fitter/CWMS Officer with 1 year experience CWMS and 6 years experience Master Plumber & Gas Fitter.

Council contractors involved in either CWMS or Water Services Council provide:-

- Wallbridge & Gilbert - Consulting Engineers.
- Itt Flygt Ltd - Pump manufacturers and distributors.
- TG, AV & MWJ Booker Plumbing - Plumbing Contractor.
- HR & RA Gurney - Plumbing Contractor.
- Kingscote Electrical - Electrical Contractor.
- KI Liquid Waste – Liquid Waste Removal.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

The following details are submitted of the systems and processes to be used to market and/or communicate with customers (as relevant):-

- Please find attached to this application a CD which contains a copy of Councils 2012/13 Stand Pipe Key Usage Form. The Stand Pipe Key Usage Form contains information that addresses the following matters:-
  - Billing process – 2012/13 Stand Pipe Key Usage Form, bottom of page Debtor Invoice.
  - Information on the rates notice to demonstrate how challenges to the charges are pursued – Item 9 Conditions of use..
  - Frequency – Debtor Invoice issued monthly.
  - Imposing fines and/or interest on late payments - Monthly Interest charges on total outstanding balance.
  - Issue of reminder notices – Reminder Notices mailed monthly.
  - Non payment or payment difficulties – Formal debt recovery process set by Council & option for payment arrangement facilities.
  - Complaints handling – Process for complaints:-
    - ❖ Contact Debtor Officer or Customer Service.
    - ❖ If still dissatisfied, contact CEO.
    - ❖ If still dissatisfied, apply for internal review of Council decision.
    - ❖ If still dissatisfied, contact Ombudsman.

Refer 2012 Rating & Rebate Policy, page 17 Disclaimer and Internal Review of Council Decisions Procedure.
- Maintain the Assessment Record – Kangaroo Island Council maintains property records in accordance with the Local Government Act 1999. Debtor applies to Council for Stand Pipe Key to gain access for usage.
- Records Management – Please find attached to this application a CD which contains a copy of Kangaroo Island Council Records Management Policy 2006.
- OHS & W Incident Reporting – Please find attached to this application a CD which contains copies of Kangaroo Island Council Incident Notification Investigation and Incident Hazard Near Miss Log.
- Council web site is: [www.kangarooisland.sa.gov.au](http://www.kangarooisland.sa.gov.au)
- Kangaroo Island Council maintains records for Community Wastewater Management Schemes, Standpipes and Recycled Water operations consistent with the South Australian State Records Act 1997. All records are maintained and stored according to the General Disposal Schedule (GDS20) 5<sup>th</sup> Edition for Local Government.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

### **3.10. Contracts**

*Applicants must provide reasonable evidence that they are able to meet reasonably foreseeable obligations under contracts for the sale and supply of water or the sale or supply of sewerage services (or both) as the case may be. Such contracts would include contracts whereby the applicant is reliant on a supply of water or specific sewerage service from a third party which it intends to on sell to its customers.*

The Kangaroo Island Council is a statutory authority, which has available to it powers under the Local Government Act 1999 to impose and recover rates and/or charges for providing prescribed services to meet the costs of establishing, operating, maintaining, improving and replacing (including by future capital works and taking into account the depreciation of assets) the Stand Pipe service.

The Kangaroo Island Council and SA Water officers undertake regular inspections of the stand pipe infrastructure. SA Water looking at their infrastructure and Council at infrastructure from the meter forward. SA Water officer also checks Council infrastructure for compliance to legislative responsibilities.

### **3.11. Suitable and appropriate infrastructure**

*The Commission may not issue a licence unless it is satisfied that the infrastructure to be used in connection with the relevant service is appropriate for the purposes for which it will be used. Applicants are therefore asked to provide a detailed description of the infrastructure that will be utilised by the applicant in providing the retail services for which the licence is sought and verify that the infrastructure has been (or will be) developed in accordance with relevant Australian Industry Codes and Australian Standards with reference to technical specifications or reports.*

The Stand Pipe Scheme is owned, operated and maintained by the Kangaroo Island Council and currently operates seven (7) connections within the Kangaroo Island area.

They are located as follows:-

- Airport: S35° 42.483 & E137° 30.753 – meter M50380004
- Cygnet River: S35° 41.867 & E137° 31.171 – meter M96020003
- Emu Bay: S35° 37.573 & E137° 32.433 – meter 91280005
- Penneshaw: S35° 43.329 & E137° 55.881 – meter M60550075
- Racecourse: S35° 40.700 & E137° 34.307 – meter W00480003
- Timber Creek: S35° 46.360 & E137° 20.359 – meter M41180006
- Weatheralls Road: S35° 46.528 & E137° 16.046 – meter 70280005

### **3.12. Risk management**

*Provide confirmation and reasonable evidence that the applicant's management has identified the risks associated with the retail services it intends to provide and has established, utilises and relies upon risk management systems and processes which are adequate, accurate and current to address those risks. A copy of the applicant's risk management strategy should be submitted.*

**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

The Kangaroo Island Council risk management plan is a document which shows results and recommendations from periodic identification, assessment and treatment of risks associated with providing services to the community from infrastructure, using the Australian Standard for Risk Management, AS/NZS 4360.

The objectives of the plan are:

- To identify risks to the “Stand Pipes” that may impact of the delivery of services from infrastructure.
- To select credible risks for detailed analysis.
- To analyse and evaluate risks in accordance with AS/NZS 4360.
- To prioritise risks.
- To identify risks requiring treatment by management action.
- To develop risk treatment plans identifying the tasks required to manage the risks, the person responsible for each task, the resources required and the due completion date.

The Kangaroo Island Council evaluates whether risk treatment is required and the need for risk treatment plans using the following evaluation methodology:-

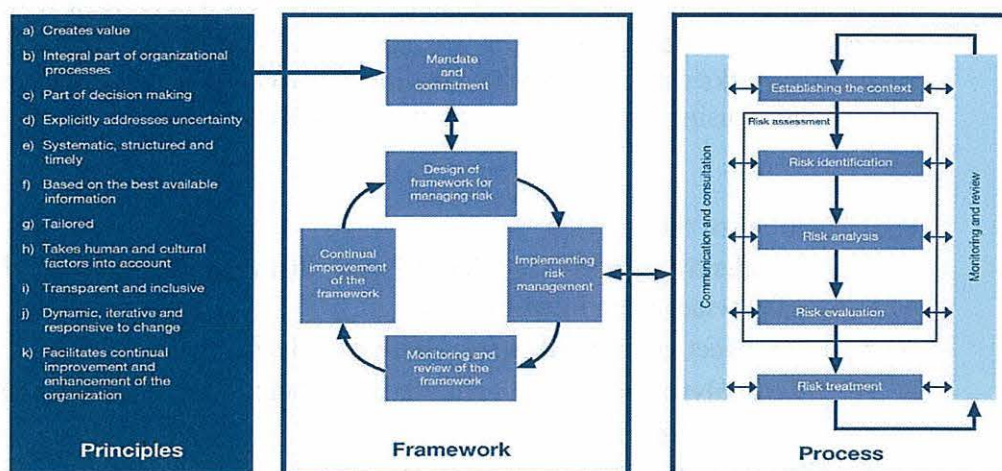
<b>Criterion</b>	<b>Risk Evaluation Notes</b>
Operational	Risks that have the potential to reduce services for more than 2 hours
Technical	Risks that cannot be managed by Council’s normal technical resources.
Financial	Risks that cannot be treated within Council’s normal maintenance budgets or by reallocation of an annual capital works program.
Legal	Risks that exist where council does not comply with its ‘duty of care’.
Social	Risks that have the potential to cause significant social disruption in the community
Environmental	Risks that have the potential to cause environmental harm.

The evaluation criteria are to provide guidance to evaluate whether the risks are acceptable to the Kangaroo Island Council and its stakeholders in providing services to the community. Risks that do not meet the evaluation criteria above are deemed to be unacceptable and risk management plans are required to be developed and documented in this Infrastructure Risk Management Plan.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

### Defining Risk Management



### 3.13. Licences held by the applicant in other Australian jurisdictions

*If the applicant holds, or has previously held, a retail services licence or equivalent in other Australian jurisdictions please provide details. If a licence previously held has been suspended or cancelled, please provide details.*

Not Applicable.

### 3.14. Previous unsuccessful licence applications in other Australian jurisdictions

*Please state whether the applicant has applied for a water retail licence or equivalent in another Australian jurisdiction and not been issued with a licence, and provide relevant details.*

Not Applicable.

### 3.15. Licences held by associates of the applicant

*If an associate of the applicant (within the meaning of the Corporations Act) holds a water retail licence in South Australia or in other Australian jurisdictions, please provide details.*

Not Applicable.

### 3.16. Compliance program

*Applicants are required to submit a copy of their Compliance Program which details what compliance systems the applicant has (or will have) in place and a description of how these systems will ensure compliance with the applicable regulatory obligations imposed by a licence and the Water Retail Code. The Commission expects that a Compliance Program will, as a minimum, document:*

- *the obligations that will apply to the applicant;*
- *the processes that are (or will be) in place to ensure the applicant's compliance with obligations;*
- *details on how compliance is monitored;*
- *details of how non-compliance will be reported and rectified; and*
- *details of any internal audit programs in place that review (or will review) the effectiveness of the Compliance Program from time to time.*

**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

The Kangaroo Island Council currently holds authority for the stand pipes from SA Water. The authority granted is subject to conditions of consent and reporting procedures for non-compliance.

The Kangaroo Island Council has prepared in accordance with the authority the following documents:-

- Kangaroo Island Stand Pipe Procedures.
- Kangaroo Island Stand Pipe Condition of Use.

### **3.17. Additional information**

*The Commission encourages applicants to provide any additional information they consider would be of assistance in supporting the application.*

It is generally accepted that the Stand Pipe System is operating in accordance with the SA Water Guidelines, South Australian Health Commission and the Water Works Act 1932.

## **4. FACTORS SPECIFIED IN THE ESSENTIAL SERVICES COMMISSION ACT 2002**

*In considering a licence application, the Commission must have as its primary objective the protection of the long term interests of consumers with respect to the price, quality and reliability of essential services, and must also have regard to the need to:*

- a) *promote competitive and fair market conduct;*
- b) *prevent misuse of monopoly or market power;*
- c) *facilitate entry into relevant markets;*
- d) *promote economic efficiency;*
- e) *ensure consumers benefit from competition and efficiency;*
- f) *facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment;*
- g) *promote consistency in regulation with other jurisdictions.*

Most of the townships in regional South Australia are provided with wastewater and water services by Local Government through various forms of CWMS and Stand pipe Services. Councils did not “choose” to become involved in the provision of these services as historically this was the role the South Australian Engineering and Water Supply Department (E&WS) and subsequently SA Water under the *Sewerage Act 1929*.

From the early 1960s the State Government sought to encourage Councils to construct a cheaper form of communal drainage in regional towns based on linking existing septic tanks.

The then *Local Government Act 1934* was amended to provide Councils with the necessary powers to construct and charge for these schemes. Councils were provided with financial subsidies and technical assistance originally by the Department of Health and subsequently by the Department of Local Government and the E&WS. The LGA agreed to take over the management of the State Government subsidy program in 2005. Over time 39 Councils manage more than 170 separate CWMS.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

In regional areas, the provision of CWMS and Stand Pipe Service were a public services provided by a Council when the State Government's water utility was unwilling to do so, presumably on the basis of scale and economic considerations. It should be noted that the State Government's water security plan, "Water for Good", sets ambitious targets for the harvesting and recycling of stormwater in the Greater Adelaide and regional areas. The vast majority of stormwater harvesting is undertaken by Councils and it would be a perverse policy outcome if Councils were confronted with a regulatory regime which created disincentives for harvesting, recycling and sale of stormwater resources.

Care should be taken to ensure that where Councils are involved in CWMS operation's or Stand Pipe or stormwater harvesting and recycling projects, which include the sale of water resources, that regulation by ESCOSA is commensurate with the scale of the scheme(s).

## **5. APPLICATION FEES**

*Applicants for a licence must pay the Commission an application fee which is fixed by the Treasurer. Please enclose this fee with the application. An application cannot be considered until this fee has been received.*

No application fee is payable by applicants that were providing water/sewerage retail services as at 30 June, 2012.

**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**

## 6. DECLARATION

All information in this application for the issue of a licence to authorise the provision of retail services in the water industry in South Australia must be verified by a Statutory Declaration of the applicant, in accordance with the provisions of the *Oaths Act 1936 (SA)*<sup>1</sup>, stating that the information contained in the application is true and correct to the best of the applicant's knowledge, information and belief.

In conjunction with this declaration, evidence of the relevant authority of the declarant to sign on behalf of the applicant must also be provided to the Commission.

**Statutory Declaration**

I, Andrew Boardman

of Kangaroo Island Council (43 Dauncey Street, Kingscote)

do solemnly and sincerely declare that the information contained in this Application for the issue of a licence to authorise the provision of retail services in the water industry in South Australia is true and correct to the best of my knowledge information and belief.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1936*.

Date ..... 29-10-12 .....

Signature .....  .....

(Where the applicant is a body corporate, the declaration must be made by a person authorised by body corporate to sign on its behalf).

Declared at: KINGSOTE ..... this 29 ..... day of Oct ..... 2012

Before me:  JP30194

(Signature of Justice of the Peace or other person authorised under the Oaths Act 1936).

PENELOPE ROBIN WHEATON A JUSTICE OF THE PEACE FOR SOUTH AUST

- 1 Or equivalent legislation in other Australian jurisdictions.
- 2 The Commission will accept a copy of a Board or Council minute (or circulating resolution) giving approval for the declarant to sign on behalf of the applicant as evidence of the relevant authority.



**Application form for the issue of a licence by the Essential Services  
Commission of SA under the Water Industry Act 2012.**



THE ESSENTIAL SERVICES COMMISSION OF SOUTH AUSTRALIA

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