

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



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INFORMATION FOR APPLICANTS BEFORE FILLING OUT THIS FORM

Purpose of this form

This form is to be completed by persons making an application to the Essential Services Commission of South Australia (the **Commission**) for the issue of a licence to provide a retail service (or undertake any other activity for which a licence is required by the regulations) in the water industry in South Australia.

The Commission may consider joint applications from two or more persons who wish to hold a licence jointly. Persons making joint applications must ensure that each of the applicants completes a separate application form together with a covering letter explaining that the application is for a licence to be jointly held.

Basis for this form

Section 19(1) of the *Water Industry Act 2012* (the **Act**) provides that an application for the issue of a licence must be made to the Commission in a form approved by the Commission. This is the form approved by the Commission.

Use of this form and applicant's responsibility

For the purpose of this application form, a reference to the term "Officer" include the applicant's directors and secretary, and/or other persons who make or participate in making decisions that affect a substantial part of the business of the applicant (e.g. Chief Executive Officer, Chief Financial Officer, General Manager etc.).

Applicants should list the information requested in the spaces provided in this form and enclose additional information when required. Applicants must take all reasonable steps to ensure the information provided in the application form is complete, true and correct and are required to make a declaration to that effect. Failure to disclose information or misrepresent any matter relevant to such information may result in a licence not being issued or in the suspension or cancellation of a licence at a later time.

Applicants are responsible for providing the Commission with current, accurate and relevant information. This will ensure that the application is processed promptly and without delay. All applications are assessed on a case-by-case basis. If insufficient information is provided with an application, the Commission will request additional information to be submitted before the application is considered further. This may cause delays in the assessment of the application.

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Prior reading

It is essential that licence applicants read the Commission's Water Bulletin – "*Licensing Arrangements for the Water Industry*" before they fill out this form. This Bulletin is available on the Commission's website www.escosa.sa.gov.au under water/licensing. Applicants should also familiarise themselves with the regulatory obligations set out in the Act and the Water Retail Code that will apply to entities that provide retail services.

Licence conditions

Section 25 of the Act requires the Commission to impose certain conditions in licences. The Commission strongly recommends that applicants review these mandatory conditions. Applicants must be familiar with the relevant conditions and be confident that they can comply with the conditions. The Commission will have regard to the scale and nature of the operations undertaken by an applicant in imposing these conditions and will be available to consult with an applicant in this regard.

Consultation and Confidentiality

The Commission will consult with relevant government, industry and consumer groups in the conduct of its licensing functions through a public consultation process. Consequently, applications and/or supporting information will be made available on the Commission's website and in hard copy from the Commission's office for this purpose.

If applicants believe that they are providing confidential information when completing this form they should write "this information is confidential" after any such information. It is the applicant's responsibility to ensure this is clearly highlighted on the form. Applicants should also provide a 'non-confidential' version of the form capable of publication on the Commission's website.

The Commission will use information supplied in applications and in support of applications in accordance with the requirements of Part 5 of the *Essential Services Commission Act 2002*. Applicants claiming confidentiality are encouraged to familiarise themselves with Part 5. Applicants should note that the Commission may be required to disclose confidential information in some circumstances.

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How to lodge an application

Applicants should send their completed application form in writing and electronically.

In writing to: Essential Services Commission of SA
GPO Box 2605
Adelaide SA 5001

Electronically to: licensing@escosa.sa.gov.au

Application fee

Applicants must also enclose an application fee (which is to be set by the Treasurer) with their application. This fee must be received by the Commission in cleared funds before it can commence assessing an application.

Annual licence fee

Holding a licence incurs an annual licence fee. The licence fees are set by the Treasurer, however, are collected by the Commission. At annual intervals, the Commission, on behalf of the Department of Treasury and Finance, will send to each licensee an invoice for the relevant annual licence fee. Licence fees are to be paid on receipt of an invoice via one of the payment options set out in the invoice.

A licence cannot be issued until the first annual licence fee has been paid.

1. THE APPLICANT

Applicants must answer all questions in this section.

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: ERA Water
.....

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.

ERA Water is a company established in accordance with the provisions of the
Local Government Act
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1.3. Address and Contact Details of applicant

Business Address:

66 Walkerville Tc Walkerville
.....

State: SA **Post Code:** 5081

Postal Address (if different to Business Address):

PO Box 55 Walkerville.....

State: SA **Post Code:** 5081

Telephone: 0883427100

Facsimile: 0882697820

E-mail: walkerville @ walkerville .sa.gov.au

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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: Colin John Pitman

Title: General Manager /Project Manager

Business Address:

66 Walkerville Tc Walkerville

State: SA **Post Code:** 5108.....

Postal Address (if different to above):

PO Box 55 Walkerville

State: SA **Post Code:** 5108.....

Telephone: 0418848279

Facsimile: 0882697820

E-mail: colin@ waterphilosophy.com.au and C Pitman@Walkerville
.sa.gov.au

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: Colin Pitman

Title:General Manager / Project Manager

Business Address:

66 walkerville tc Walkerville

State: SA **Post Code:** 5081.....

Postal Address (if different to above):

.....

State: **Post Code:**

Telephone:

Facsimile:

E-mail:

2. THE LICENCE

Applicants must answer all questions in this section.

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

For example:

Water: drinking- residential and/or non-residential;

Water: non-drinking – residential and/or non-residential;

Sewerage: residential and/or non-residential; and

Sewerage – trade waste – non-residential.

Applicants should provide detailed information in respect of where the retail services will be provided and to whom (i.e. type and number of customers)

The Retail Services will be focused upon delivery of non drinking water to councils schools and non residential customers under separate contracts with each There will also be Whplesale sales to other retailers

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2.2. *Date from which Licence is sought*

If the applicant seeks to have the licence issued by a certain date, provide this date. Please note that the Commission does not undertake to issue the licence by this date. Applicants should usually allow the Commission a minimum of eight weeks to consider an application, as a public consultation period of several weeks forms part of the Commission's consideration of licence applications.

- 8 Weeks from Application

3. SUITABILITY OF APPLICANT TO HOLD A LICENCE

Applicants must answer all questions in this section.

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 Entity is a consortia of councils with integrity in the delivery of local government services There are policies relating to the following adopted by the Water subsidiary which require staff to act in accordance with those policies .Copies of the policies are attached Those are 1 Customer service charter

2. Consultation and communication

3.Fraud and corruption

4.Code of conduct of employees

5 . Code of conduct of Access to the ERA water employees

6.Code of conduct in relation to Board Members

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In complying with the standards of honesty and integrity the CEOs of the councils have been appointed to the board of the ERA Water entity and have as the CEO to comply with the abovementioned Policies .

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Colin Pitman has been appointed as the General Manager and the field staff of each of the councils have had compliance checks done of their suitability to act as an employee of the councils and have not been convicted of any criminal offence or prosecuted under any state or commonwealth legislation. The Staff of the councils and the Schools have all been assessed against strict child protection policies

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.

AS For 3.1 above

The General Manager was previously the Director responsible for the establishment of Salisbury Water and the founder of Retail marketing of Stormwater in SA

Each of the board Members of the ERA Water entity are the respective council CEOs and have to comply with the strict honesty and integrity criteria applying to those positions and their appointment to the ERA Water board

3.3. Names and addresses of the officers of applicant

State the names and addresses of the officers of the applicant. "Officers" of the applicant include the applicant's directors and secretary, or other persons who make or participate in making decisions that affect a substantial part of the business or operations of the applicant that will be licensed.

Full Name: colijn pitman

Date of Birth: 26/ 6/ 49

Office Held: General Manager

Business Address:

^^ Walkerville Tc Walkerville

State: SA **Post Code:** 5081

Full Name: Paul Deb

Date of Birth:

Office Held: Board Member

Business Address:

C/O City of Burnside

State: SA **Post Code:**

Full Name: Mario Barone

Date of Birth:

Office Held: Board Member

Business Address:

C/O City of NPSP

State: SA **Post Code:**

(attach additional pages if necessary)

**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.

Full Name: Walkerville Council C/O Kiki Magro CEO

Date of Birth (if applicable):NA

Office Held: Board Member

Business Address:

66 Walkerville Tc Walkerville

State: SA **Post Code:** 5081

Full Name: Burnside Council; C/O Paul Deb CEO

Date of Birth (if applicable):NA

Office Held: Board Member

Business Address:

Burnside

State: **Post Code:**

Full Name: Norwood Payneham and St Peters Council C/O Mario Barone
CEO

Date of Birth (if applicable):NA

Office Held: Board Member

Business Address:

Norwood

State: SA **Post Code:**

(attach additional pages if necessary)

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).

N/A

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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

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- 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.*

NO.....

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- 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

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- 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

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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 the applicant is a company, please enclose a copy of the audited (and Board approved) profit and loss statement and balance sheet for the previous two financial years, including the director's report and the audit opinion. If the applicant is a subsidiary company, please also provide a copy of the audited profit and loss statement and balance sheet of the applicant's parent company for the previous two financial years.

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.

The Applicant is a Subsidiary formed by three local councils . It formed officially on the approval of the charter by the minister of local government in august 2015.The business plan has been developed through the process of a feasibility analysis commenced in 2009 and a Detailed design and costing completed in December of 2014 and a prudential review of the business in 2015 A copy of a sample prudential review is attached for Burnside Council for information . The Prudential Review is similar for the other councils .

The Business is in its first year of operation and construction is required and will be completed in December of 2016. following which the capture of water and its storage and delivery will occur in 2017 The licence is a prerequisite for the signing of sales contracts in advance of the supply of water and as a prerequisite of the release of funds by the commonwealth to the value of \$7.6 Mill . The profit and loss statements , balance sheets of the council owners is can be found on the Web sites of the shareholder councils for Norwood Payneham and St Peters ,Walkerville and Burnside councils

The budget for the project as adopted by the Board is attached and the minute of the board is likewise attached along with the delegations to the General Manager (Colin Pitman)

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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.

The resources of the business consist of the General Manager and Project manager of the ERA Water Subsidiary and the staff resources of the constituent councils An estimated staff resource in the councils is 12 twelve FTEs in the irrigation management and decision support system will be managed by APC

During construction the following consultants Wallbridge and Giilbert Civil Design and Hydraulic Design . Guidera O Connor Electrical and Mechanical and SADB Directional Boring will be involved The designs are attached for the assessment by the Technical Regulator

It should be noted that the Pipe tender is a Design Construct Tender and likewise the electrical mechanical contract is a design construct tender with the design attached

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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.

The Technical Resources of the subsidiary are those provided by the Rapid response teams and the plumbing electrical and electronic of the constituent councils under contract to ERA Water The staff of the Councils have a succession plan for the training of at least 3 officers in the management of the system within their portfolio .

The marketing and communication will be undertaken in accordance with the Customer Service Charter and The consultation and communication policy is attached

Gould Thorpe are contracted to assist with consultation in accordance with a detailed consultation plan .A copy of which is attached

The system is traditional ASR scheme with wetlands and bio and microfilters which cleans water taken from 3rd and 4th creek near the river Torrens . Licences have been sought and obtained to take the water from the streams . The water once cleaned to meet the Aust Water quality Guidelines is to be injected into the aquifer at locations already determined by test drilling at the injection points.....

The water will by pumping be delivered of up to 900ml of water via over 60 km of pipe network

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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 is intends to on sell to its customers.

All contracts will be separately negotiated with child protection ,pressure and flow criteria in relation to the date of water supply , the timing of agreed consumption ;,pressure and flow regimes .

ERA Water will ensure that with all system supplies that the alternative of main water is provided as a fall back to each customer in the event of failure to supply by ERA Water . This will occur on the customer side of the supply and will be a condition of contract of sale of water

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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.

If an applicant does not own the infrastructure to be used in delivering the relevant retail services, the applicant must provide information regarding the appropriateness of that infrastructure and of the binding arrangements that are (or will be) in place with the owner of the infrastructure in regards to the use of the infrastructure.

The infrastructure is designed and contracts have been let for design construction . Design and construction drawings are attached for the the following ;

Wallbridge and Gilbert Pipe design

Guidera O, Connor Electrical Mechanical Design and Construction

Diverse Resources Drilling

Pipe construction SADB

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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.

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A Copy of the Prudential Review is attached for Burnside council and is similar for the other participating councils The Risk management plan is contained therein

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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.

NA

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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.

NA

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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.

NA

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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;*

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- *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*

The Compliance process to be adopted by the ERA Water subsidiary is :

1. *To Ensure all criteria independently negotiated with the customer are recorded as performance criteria and reported upon in two ways*
 1. *To record all complaints in detail and the action taken and the time taken to respond against the Customer service charter This information will be recorded electronically and reported to the board annually and set as base line data for improvement .*
 2. *That the licence reporting criteria to DENR , DEPT of Health EPA are recorded against the Risk Management plan attached to the licence*
- 2 *That the applicant will contract independently with the client using the standard customer service obligations as a minimum criteria in the contract*

The Applicant will be seeking ISO 14001 accreditation however it should be noted customer service policies will be strictly adhered to in relation to relation to the following

1. Response time
2. Hardship criteria in relation to billing
3. Reporting of response time date severity and customer follow up and non compliance
4. Each contract will be separately negotiated
5. Reporting against licence conditions applying to DENR , NRM ,and EPA

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4.1. Additional information

The application is being lodged in advance of construction because the commonwealth requires evidence of signed contracts be made available before they will release their funds (\$7.7mill). Supply contracts require a licence issued by ESCOSA before signature by the ERA water and the customer

[illegible]

5. 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.*

If the applicant believes that information about their application would assist the Commission in its consideration of these factors, the applicant should provide such information below.

The ERA Water project promotes the following ;

- 1 . The issue of a licence to ERA Water will create an opportunity for another competitor namely ERA Water to enter the market
2. The SA Water monopoly of water supply in the Eastern Suburbs will be taken away by the ERA water entry into the market .
- 3 . There will be lower retail prices set for ERA water than SA Water thereby promoting efficiencies of supply based upon fee for service and meeting water quality criteria on a fit for purpose basis

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6. 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.

7. 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)*¹, 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.²

Statutory Declaration

I COLINE DOAN PITMAN

of ERA WATER 66 WILDERVILLE TC GILBERTON

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 10/8/15

Signature [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: GILBERTON this 10 day of AUGUST 2015

Before me: [Signature] J.P. (30024)

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



- 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.



THE ESSENTIAL SERVICES COMMISSION OF SOUTH AUSTRALIA

Level 8, 50 Pirie Street Adelaide SA 5000

GPO Box 2605 Adelaide SA 5001

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