

# EXEMPTION APPLICATION FORM – WATER RETAIL SERVICE

## 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. The Commission can also consider joint applications from two or more persons. 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: MINISTER FOR SUSTAINABILITY, ENVIRONMENT AND CONSERVATION (“Minister”)**

### 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.*

**MINISTER FOR SUSTAINABILITY, ENVIRONMENT AND CONSERVATION** a body corporate pursuant to the Administrative Arrangements Act 1994, as represented by and acting through the South Australian **Department of Environment, Water and Natural Resources** ABN 36 702 093 234 (“DEWNR”) of Level 9, 91-97 Grenfell Street, Adelaide 5000 in the State of South Australia.

### 1.3. Address and Contact Details of applicant

**Business Address:**

**Level 9, 91-97 Grenfell Street,**

**Adelaide**

**State: South Australia ..... Post Code: 5001 .....**

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

**GPO Box 1047, ADELAIDE.....**

**State: South Australia ..... Post Code: 5001 .....**

**Telephone: Refer 1.4 below**

**Facsimile: Not Applicable .....**

**E-mail: Refer 1.4 below .....**

#### **1.4. Contact Persons 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.*

##### **GENERAL CONTACT FOR APPLICATION**

**Full Name:** *Martina Egeler*  
**Title:** *Crown Lands and Commercial Licensing Officer, DEWNR*  
**Business Address:** *L3, 25 Grenfell St*  
**State:** SA ..... **Post Code:** 5000 .....  
**Postal Address (if different to above):**  
**GPO Box 1047** .....  
**State:** SA ..... **Post Code:** 5001 .....  
**Telephone:** *8124 4799* .....  
**Facsimile:** *Not Applicable* .....  
**E-mail:** *martina.egeler@sa.gov.au* .....

##### **TECHNICAL CONTACT FOR APPLICATION**

**Full Name:** *Russell Savage*  
**Title:** *Manager Assets & Works, Adelaide and Mt Lofty Ranges Region*  
**Business Address:** *Black Hill Conservation Park, 115 Maryvale Road, SA Athelstone*  
**State:** SA ..... **Post Code:** 5076 .....  
**Postal Address (if different to above):**  
**GPO Box 1047** .....  
**State:** SA ..... **Post Code:** 5001 .....  
**Telephone:** *0419 843 100* .....  
**Facsimile:** *Not Applicable* .....  
**E-mail:** *russell.savage@sa.gov.au* .....

## **2. THE EXEMPTION**

---

*Applicants must answer all questions in this section.*

### **2.1. A detailed description of the retail services for which an exemption 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 including type of retail service/s, number of connections, number of customers, capacity of the service/s.*

**DEWNR own and operate a private sewer line that runs from the Mt Lofty Summit Visitor Centre and is pumped to a holding tank located at the St Michaels site.**

**Mt Lofty Operations own and operate the sewer line that is pumped from their septic tank to the DEWNR holding tank at the St Michael’s site.**

**From the holding tank at St Michaels sewerage is pumped via a rising main along Summit Road into an SA Water connection at Fullgrabe Drive and Fairview Road, Crafers.**

**Mt Lofty Operations is the only entity using the sewer system besides DEWNR.**

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

*If the applicant seeks to have the exemption issued by a certain date, provide this date. Please note that the Commission does not undertake to issue the exemption by this date. Applicants should usually allow the Commission a minimum of twelve weeks to consider an application, as a public consultation period forms part of the Commission’s consideration of exemption applications. Further, all exemptions are approved by the Minister and as such the approval timeframe is unknown.*

**As soon as possible.**

## **3. SUITABILITY OF APPLICANT TO HOLD AN EXEMPTION**

---

*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 for an exemption, 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 exemption being revoked.*

*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 Minister holds a position of the Parliament of South Australia and is appointed by the State Government to serve the community on issues that relate to his portfolio.

**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.*

**Officers employed by the Minister must adhere and behave in accordance with the Code of Ethics for the South Australian Public Sector.**

**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:** Kym Good.....

**Date of Birth:** .....

**Office Held:** Regional Manager, Adelaide and Mt Lofty Ranges Region, DEWNR ..

**Business Address:**

**GPO Box 1047, ADELAIDE** .....

**State:** SA ..... **Post Code:** 5001 .....

**Full Name:** Wayne Hutchinson .....

**Date of Birth:** .....

**Office Held:** Program Manager, Crown Lands, DEWNR.....

**Business Address:**

**GPO Box 1047, ADELAIDE**.....

**State:** SA ..... **Post Code:** 5001 .....

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

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

**Not applicable**

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

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

**Not applicable**

### **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.*

**No**

- *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 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 Minister for Sustainability, Environment and Conservation assigns responsibility for the operation of the sewer line to the Department of Environment, Water and Natural Resources which has sufficient South Australian Government funds to maintain and operate this sewer infrastructure in accordance with their statutory requirements.**

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

*Provide information about the human resources available to the applicant. For example:*

- *the number of employees including number of operators and maintenance staff*
- *the experience of these employees in providing the services*
- *employment of contractors/consultant including how many are involved in the retail business/function*

*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.*

**DEWNR assets are managed as part of a whole of government contract which is managed by the Department of Planning, Transport & Infrastructure. The current Facilities Management contract is under Spotless. Spotless manage all contractors & maintenance requirements for DEWNR as part of this contract.**

**The administration of the Facility management arrangements ensure that DEWNR are getting value for money, that essential work is done when required and without unnecessary delay, and that vital administrative functions such as records management comply with legislative requirements.**

**The arrangements in place provide DEWNR with the assurance that the tradespeople who work on government built assets are not only appropriately qualified but also understand the specific needs of the agency, as well as legislative and regulatory requirements. High standards of security, occupational health & safety, appropriately qualified workers, high quality services and detailed record keeping are mandatory requirements for the Service providers servicing DEWNR's assets.**

### **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 an exemption 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. For example:*

- *Number of engineering/design staff*
- *Number of project staff*
- *Employment of contractors/consultants including the level of reliance that you as an entity will place on contractors to complete your water/sewerage business and what contingency plans (if any) you have in place.*

*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.*

**DEWNR assets are managed as part of a whole of government contract which is managed by the Department of Planning, Transport & Infrastructure. The current Facilities Management contract is under Spotless. Spotless manage all contractors & maintenance requirements for DEWNR as part of this contract.**

**The administration of the Facility management arrangements ensure that DEWNR are getting value for money, that essential work is done when required and without unnecessary delay, and that vital administrative functions such as records management comply with legislative requirements.**

**The arrangements in place provide DEWNR with the assurance that the tradespeople who work on governments built assets are not only appropriately qualified but also understand the specific needs of the agency, as well as legislative and regulatory requirements. High standards of security, occupational health & safety, appropriately qualified workers, high quality services and detailed record keeping are mandatory requirements for the Service providers servicing DEWNR's assets.**

### **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.*

*Applicants should include a list of supply agreements/contracts and relevant information, such as:*

- *Quantity and quality*
- *Supply frequency*
- *Contingency measures etc*

**Although the infrastructure has been in place for a number of years there has been no formal agreement between DEWNR and the owners of Mt Lofty Operations to recover costs for the running and maintenance of the facilities. DEWNR is now intending to formalise this arrangement with an Access Agreement where Mt Lofty Operations will contribute on a pro-rata cost recovery basis for the maintenance and running of the system based on their percentage usage.**

**The percentage usage is determined from two meters on the intakes of the holding tank at St Michaels coming from Mt Lofty Summit and Mt Lofty Operations each year as part of the Access Agreement to keep abreast of any developments, savings measures or changes that may contribute to a change in the usage percentage. Please refer to Attachment 1 – Draft Mt Lofty Sewer Access Agreement (CONFIDENTIAL)**

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

*The Commission may not issue an exemption 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 asked to provide a detailed description of the infrastructure that will be utilised by the applicant in providing the retail services. This information should include a high level description of all assets including but not limited to (as applicable):*

- *Source/s of water*

- *Distribution network/s*
- *Collection system/s*
- *Treatment system/s (including technology type)*
- *Storage systems*

*Applicants should also 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.*

**Please refer to Attachment 2 - The Mt Lofty Summit Redevelopment Engineered Design Specification.**

### **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.*

*For example, high level description and/or statement of the risk management and approach employed to ensure that safe and reliable assessments are adopted for avoiding and minimizing risks which may occur from the design, manufacture, procurement, importation, construction, operation, maintenance and management of assets.*

**The Department's process for identifying, analysing, evaluating and treating Risks is consistent with the AS/NZS ISO 31000:2009 Risk Management – Principles and guidelines.**

**Please refer Attachment 3 - DEWNR Risk management procedure Ref: DEWNR 84/2039**

### **3.13. Other Licences held by the applicant**

*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.*

*Applicants must list any relevant information pertaining to any existing approvals and/or licences associated with the retail service/s. This includes relevant licences/permits/authorisations held with Department for Health, EPA, etc.*

**Refer Attachment 4 for copies of:**

- **Mt Lofty Operations – SA Water, Trade Waste Audit Report 2015 provided as proof of compliance with permit for 2015.**
- **Mt Lofty Summit - SA Water, Trade Waste Audit Report 2015 provided as proof of compliance with permit for 2015.**

### **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.*

**No**

### **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.*

**No**

### **3.16. Compliance program**

*Please explain how the Applicant's existing compliance plan will capture and comply with any additional requirements as a result of retailing water (you may wish to provide a copy of the applicant's updated compliance plan). For example, high level description of the applicant's compliance program to maintain safe and reliable service/s and meet any specific legislative requirements.*

**This infrastructure will be managed and maintained to all current relevant standards as per the requirements of the DPTI Whole of government contract.**

### **3.17. Additional information**

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

*Supporting technical information may also be provided to demonstrate that a technically safe and reliable service is being maintained.*

**Not Applicable**

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

---

*In considering an exemption 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.*