



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



Enquiries concerning the currency of this form should be addressed to:

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Adelaide SA 5001

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AMENDMENT RECORD (since MONTH 2012)

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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.

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.

The Applicant

Applicants must answer all questions in this section.

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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: THE DISTRICT COUNCIL OF FRANKLIN HARBOUR

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 SA LOCAL GOVT ACT 1999 (DISTRICT COUNCIL OF FRANKLIN HARBOUR ABN 87 245 431 404)

1.3. Address and Contact Details of applicant

Business Address: 6 MAIN STREET, COWELL

State: SA **Post Code:** 5602

Postal Address (if different to Business Address): PO BOX 71, COWELL

State: SA **Post Code:** 5602

Telephone: 8629 2019

Facsimile: 8629 2152

E-mail: council@franklinharbour.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: Mr Terry Barnes

Title: Chief Executive Officer

Business Address: As Above

State: AA **Post Code:** AA

Postal Address (if different to above):

State: AA **Post Code:** AA

Telephone: 8629 2019

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Facsimile: 8629 2152

E-mail: terry@franklinharbour.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: Bernadette Clelland

Title: Finance Manager

Business Address: As Above

State: AA **Post Code:** AA

Postal Address (if different to above): As Above

State: AA **Post Code:** AA

Telephone: 8629 2019

Facsimile: 8629 2152

E-mail: bernadette@franklinharbour.sa.gov.au

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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)

RESPONSE

Water: drinking – residential and non-residential (SA supplied Water is redirected to supply residents at two locations within the Council area of DC Franklin Harbour via a distribution network.).

Provision of potable water to a number of external residential and commercial customers throughout the District Council of Franklin Harbour via a network of distribution mains managed, owned and operated by DC Franklin Harbour.

Residential Customers have been supplied with potable SA Water for upwards of 30 years .

Commercial customers are primarily local businesses that require water for the day-to-day running of their business. There may be some businesses that require water for other commercial non-potable purposes however there is no alternate supply and therefore potable water is supplied in any case.

The Residential Customers benefitting from this ‘water supply’ are located in two distinct townships, namely, Lucky Bay and Port Gibbon.

There are no plans to expand the ‘water supply’ to these locations save for the possibility of a new development submitting an application for a potable water supply.

(Refer Appendix A for residential growth /connection forecasts and for overall forecasts of recycled water supply.)

RESPONSE

There are approximately [145] metered properties benefitting from the water supply scheme operated by the Council. There are approximately [140]

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residential supply connections for 2012-13 year and approximately [5] non-residential customers.

Refer **Appendix B** for the Water Register maintained by DC Franklin Harbour which sets out the details of the properties receiving a potable water supply via the DC Franklin Distribution network.

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.

RESPONSE

January 1st 2013

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.

RESPONSE

The Council has not been convicted of any criminal offence.

The Council has never been successfully prosecuted under any State or Commonwealth legislation.

The Council welcomes any further investigation by the Commission.

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.

Declarations of interest are completed by senior officers and elected members as per Local Government Act requirements.

- *Has not been found guilty of any criminal offence,*

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- *Has not 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 not been the subject of disciplinary action.*

RESPONSE

No Staff identified in the application has ever been subject to prosecution relevant to the operations of the water license including any requirements of ASIC, nor has any been subject to any form of disciplinary action.

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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: Terry Donald Barnes
Date of Birth: 26/10/1952
Office Held: Chief Executive Officer
Business Address: C/- 6 Main Street, Cowell
State: SA **Post Code:** 5602

Full name: Bernadette Clelland
Date of Birth: 09/06/1968
Office Held: Finance Manager
Business Address: C/- 6 Main Street, Cowell
State: SA **Post Code:** 5602

Full Name: Stewart Wiseman
Date of Birth: 03/07/1950
Office Held: Payroll / Accounts Manager
Business Address: C/- 6 Main Street, Cowell
State: SA **Post Code:** 5602

Full Name: Julie Benke
Date of Birth: 01/12/1954
Office Held: Administration Officer
Business Address: C/- 6 Main Street, Cowell
State: SA **Post Code:** 5602

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**3.3. *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.

RESPONSE-

Not applicable

Full Name:

Date of Birth (if applicable):

Office Held:

Business Address:

State: Post Code:

**3.4. *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).*

RESPONSE

Not Applicable

3.5. *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.*

RESPONSE

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.*

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RESPONSE

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.*

RESPONSE

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*

RESPONSE

Yes

3.6. *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.

RESPONSE

REFER ATTACHED COPIES OF AUDITED FINANCIAL STATEMENTS. 2011/12 & 2010/11

RESPONSE

REFER ATTACHED ANNUAL BUSINESS PLANS & BUDGET 2011/12 & 2012/13

The above documents attest to the ongoing viability and financial sustainability of the District Council of Franklin Harbour. In particular the Key Performance Indicators reflect this in both the Financial Statements and the 5 Year Long Strategic Plan.

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Council is covered via the Local Government Mutual Liability Scheme for its operational activities, this scheme is underwritten in the first case by commercial re-insurers and then secondly to an unlimited level by the State Government of SA.

3.7. *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.

RESPONSE

Located on the eastern side of the Eyre Peninsula and bordering Spencer Gulf, the District Council of Franklin Harbour is home to an estimated population of 1,350 people and covers an area of 3,283 square kilometres. Cowell is the major centre in the district, which also comprises the holiday areas of Lucky Bay and Port Gibbon (the areas which benefit from the Council's Water supply arrangements) and the localities of Elbow Hill, Mitchellville and Mangalo.

The District Council of Franklin Harbour is made up of elected members and paid staff who are committed to promoting the well being of the community and maintaining the quality of the district's infrastructure. There are 16 staff members and 6 elected members.

Owing to the necessity to achieve value for money, the Council has a number of panel contractors in place who are hired on an 'as needed' basis which reduces over all running costs for the Council. Additionally, there are a number of 'shared services' arrangements that are in place between neighbouring councils to maximise efficiency and services while minimising the costs to the ratepayer.

3.8. *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.

RESPONSE

The District Council of Franklin Harbour has a well developed customer interface with its community. The Council is freely contactable and members of the

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community are free to frequent the Council's office in Cowell or make contact with the senior staff via telecom or email or via the Council's web site. These, together with direct mail and print media are used to communicate with customers.

The District Council of Franklin Harbour Water Service Charter outlines the relevant specifications of administrative processes that are implemented in respect of the 'water supply' to customers. (*Refer Appendix B*)

The District Council of Franklin Harbour will utilise the expertise of its Finance Manager and external consultants (when and if necessary) to manage the billing process which is regularly monitored, managed and maintained by reference to the Water Supply Register referred to earlier.

In regard to the technical water management expertise that is required from time to time in respect of the potable water supply, the District Council of Franklin Harbour has engaged the services of a SA Water approved plumber to render assistance as and when needed. The maintenance of the Water Supply System is further supported by some eleven other staff members qualified in the areas of engineering who undertake routine upgrades etc to the Water Supply System.

Council has an obligation to maintain the Water Supply Register (Assessment Record) under section 172 of the Local Government Act 1999, which includes details of every piece of land in the Council's area to which a water / sewerage rate and / or service charge attaches and the person who is liable to pay the service rate or charge, thereby constituting a record of Council's water / sewerage service "customers". Currently, the charges associated with the supply of SA Potable water to the 'customers' is managed outside of the Council's Rates Notice.

Complaints Handling

Complaints Handling including for internal review of Council decisions under section 270 of the Local Government Act 1999; also refer Council's complaint Handling Policy per attached.

Records Management

The District Council of Franklin Harbour has an established Electronic Records Management System (SynergySoft) that meets legal and regulatory requirements for maintenance of records. It meets Australian Standards (AS ISO IS489.1-2002) for the management of records. {If you don't have TRIM or DataWorks, what other system is in place? Please provide details. Thanks}

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OH&S and Emergency Management

Council has an established OHS&W system which includes Incident Reporting mechanisms accompanied by an overarching Policy & procedural framework.

Council is self insured for WorkCover purposes and is regularly audited both independently and by WorkCover.

The Customer Service Charter sets out the mechanisms that the Council has in place to deal with issues arising in relation to the Water Supply system.

'Out of Hours' servicing provision can be facilitated via our Rapid Response Unit who will 'triage' issues and undertake emergency make safe repairs and refer where necessary. This is also detailed in the Customer Service Charter.

3.9. 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.

RESPONSE

Contractual

The Chief Executive Officer has considerable experience in contract procurement and contract administration from knowledge accumulated over 35 years in the industry. The provision of this SA Potable Water Supply is not the primary source of water for the vast majority of inhabitants in the community and for those who rely on the Water Supply Service, the Council's rapid response for assistance means that there are effectively no complaints from users of the service. That in and of itself is a testament to the high standard employed by the Council in servicing its community's needs.

The District Council of Franklin Harbour will on foot of this new legislation endeavour to put in place signed and binding Water Supply Agreements between the Council and Customers to ensure that the process is formalised and operating in accordance with legislative requirements.

Service Provision

The Council, as a statutory authority, has available to apply its 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 for future required capital works and taking into

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account the depreciation of assets) services which includes as we now understand it the supply of potable water. The Council will be reviewing the mechanism currently used in the supply of Potable Water to Customers in light of the additional costs involved in running and maintaining the licence for this service. Currently, Council does not add to the costs of the supply and simply 'cost recovers' from customers the costs associated with the supply to the Council of the SA Potable Water into Council's holding tanks.

Supply

The District Council of Franklin Harbour uses its best endeavours to ensure a continued supply of SA Potable Water to its customers.

In the event however that there is a systemic failure of the distribution network or the metering system the District Council of Franklin Harbour acts swiftly to identify the problem and rectify it so as to avoid a lengthy break in supply. In those circumstances, the Council (as a temporary interim measure) via already established junctioned and metered delivery points could provide an alternate supply or distribution network quite easily to affected customers.

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3.10. 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.

RESPONSE

The storage tanks charging the Potable Water distribution mains and associated components (valves etc) were constructed over 35 years ago and are maintained, upgraded and repaired by contractors engaged by the District Council of Franklin Harbour.

The plumbers are qualified and to the best of Council's knowledge and belief are trained to comply with SA Water standards and appropriate Australian Standards.

In addition SA Water have never raised an issue with the District Council of Franklin Harbour relating to the potable water supply to Customers and to all intents and purposes the Water Supply System is operating within acceptable parameters.

The District Council of Franklin Harbour has never had issue with any regulatory authorities such as the Department for Health, Environment Protection Authority, NRM Board and Department for Water.

3.11. 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.

RESPONSE

Council has developed a Risk Management Framework to assist it in managing this aspect of its service delivery to the affected ratepayers. (**Refer Appendix C**)

The Risk Assessment process for the supply of Potable Water will continue to be reviewed periodically and at least annually.

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It is planned to undertake a review of the Risk Plan and Mitigation Strategies in the first quarter of 2013.

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3.12. 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.

RESPONSE

Not Applicable

3.13. 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.

RESPONSE

Not Applicable

3.14. 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.

RESPONSE

Not Applicable

3.15. 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*

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- *details of any internal audit programs in place that review (or will review) the effectiveness of the Compliance Program from time to time.*

RESPONSE

In light of this application being made the District Council of Franklin Harbour will prepare a compliance program in relation to the supply of SA Potable Water to its customers.

The compliance program will also take into consideration legislation, regulations and guidelines including Environment Protection Act 1993, Occupational Health, Safety and Welfare Act 1986 as well as the Department for Health (**SA Health**) guidelines.

The compliance program will identify monitoring programs, statutory and management reporting requirements and procedures for monitoring and reporting. Compliance audits will also be included in the program to ensure agreed processes are followed.

Any non conformance will be reported to SA Health and /or EPA and remedial actions will be implemented.

In addition financial reporting compliance will be incorporated into the annual financial statements of the District Council of Franklin Harbour which like all other Council's is independently audited before tabling in council endorsed annual reports.

3.16. Additional information

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

RESPONSE

At present there are approximately [145] active connections as noted earlier.

Residents receiving this on -sold SA Potable Water will effectively utilise this as they have done so and will continue to operate under the same conditions of use that they have enjoyed for, in many cases, over 30 years. Inevitably, the implementation of 'policy' by the Council will be to formally acknowledge the existing unwritten arrangements in place.

The District Council of Franklin Harbour will delegate to its Chief Executive powers under **section 19 of the Water Industry Act 2012** at a meeting of Council on the 12th December 2012- I will provide the Report etc in draft form]. Confirmation of this motion will be provided to ESCOSA as soon as practicable post the [the date as set out above].

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.

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.

RESPONSE

The District Council of Franklin Harbour entered into 'lease' negotiations with interested parties who wished to lease allotments (with the view to developing shacks) at designated locations in both Lucky Bay and Port Gibbon. Both those areas, needless to say, are located adjacent to the coastline.

In the late 1970's, the Council also negotiated with the tenants to install a potable water distribution network to deliver SA Water potable water to their properties. The tenants at both locations discharged the costs of the 'potable water supply scheme' insofar as it applied to their own infrastructure. The construction of the scheme was undertaken by volunteers, the lessees and District Council of Franklin Harbour Council staff.

Subsequently, in or about 1989, the District Council of Franklin Harbour entered into an agreement relating to the tenanted land at Lucky Bay and Port Gibbon with the Minister of Lands. The arrangement entered into resulted in the Minister approving the issue to Council of 'Miscellaneous Lease tenure for a term of 30 years over sites not immediately threatened by coastal erosion' at said locations.

The result of that agreement was that a Management Plan was drawn up for both those locations. The aim of the Management Plan was to permit the Council to exercise its control over the Lucky Bay and Port Gibbon shack areas in consultation with shack owners. The terms of that arrangement still operate today.

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No doubt, other councils have experienced a similar process concerning their coastal lands. The lease in question is up for renewal in 2019. It too will be reviewed as part of this process.

In applying for this licence the District Council of Franklin Harbour makes the point that did not originally envisage being captured by this piece of legislation because it never saw itself as being involved in a 'water business' enterprise. It was inconceivable to compare the on-sale of SA Water supplied potable water to such a limited number of members in the community that it could be compared to the larger metro council's who are heavily involved in developing a water business unit as part of their council's revenue raising schemes. To the District Council of Franklin Harbour, this was a service. However, it is noted that the legislation is broadly drafted and that perhaps the Regulations will address some of the anomalies in the definitions such as 'tenant' and 'owner'.

Our hope is that this area will not become over regulated and that regulations will address in commensurate terms the extent of the obligations imposed on councils having regard to the scale of the water supply scheme operated at a given council.

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.

RESPONSE

Noted. Fees are included with this Application.

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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)*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 Bernadette Marie Clelland , Acting Chief Executive Officer

Of 6 MAIN STREET, COWELL , SA 5602

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 that I am duly authorised by Resolution of Council to make this Declaration.

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

Dated this 23rd day of November 2012

Signature:

Bernadette M Clelland

Declared at Cawell this 23rd November 2012

Before me

Justice of the Peace (or other person authorised under the Oaths Act 1936)
Bruce Alfred Francis JP

16 Second Street COWELL SA 5602
Justice of the Peace in South Australia
Tel 86292171
I.D. Number 12133

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

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