



Water

Licence



## Water Industry Retail Licence

Yorke Peninsula Council

ABN 82 179 825 615

Issued by the Essential Services Commission of South Australia on 7 February 2013 and amended on 20 April 2016.

## Variation history

Amendment number	Variation date	Reason
ESCOSA1	20 April 2016	Change of entity name

# 1 Definitions and interpretation

- 1.1 Words appearing in bold like **this** are defined in Part 1 of the Schedule.
- 1.2 This licence must be interpreted in accordance with the rules set out in Part 2 of the Schedule.

# 2 Grant of licence

- 2.1 Subject to the conditions set out in this licence, the **licensee** is licensed under Part 4 of the Act to provide the **retail services** specified in Part A of the Annexure to the **customers** specified in Part B of the Annexure.

# 3 Term

- 3.1 This licence commences on the date it is issued and continues until it is:
- (a) surrendered by the **licensee** under section 32 of the Act; or
  - (b) suspended or cancelled by the **Commission** under section 33 of the Act.

# 4 Fees

- 4.1 The **licensee** must pay the applicable licence fees in accordance with section 24 of the Act.

# 5 Sale and supply of retail services to customers

- 5.1 At the request of a **customer** that owns or occupies land situated within the area that the **licensee** provides the **retail services** set out in Part A of the Annexure to this licence, the **licensee** must make an offer to provide those **retail services** on terms and conditions which are consistent with this licence, the Act, applicable **industry codes** and any other applicable laws.
- 5.2 When the **licensee** sells and supplies **retail services** to a **customer** under this clause 5 it must comply with the terms and conditions set out in any applicable **industry code** made by the Commission from time to time relating to contractual terms and conditions.

# 6 Compliance with laws and industry codes

- 6.1 The **licensee** must comply with all applicable laws and any technical or safety requirements or standards in regulations under the Act.
- 6.2 The **licensee** must notify the **Commission** if it commits a material breach of the Act within 3 days of becoming aware of that breach.
- 6.3 The **licensee** must:
- (a) comply with any applicable **industry code** or **industry rule** made by the **Commission** under the **ESC Act** as in force from time to time;
  - (b) comply with any applicable minimum service standards imposed under any applicable **industry code**, **industry rule** or other regulatory instrument made by the **Commission** and any specified technical or safety requirements or standards;

- (c) monitor and report to the **Commission** on its levels of compliance with any applicable **industry code** or **industry rule** provisions and minimum service standards; and
- (d) notify the **Commission** in accordance with any applicable guideline if it commits a material breach of any applicable **industry code** or **industry rule** made by the **Commission** within 3 days of becoming aware of that breach.

## 7 Provision of information to customers

7.1 When the licensee provides **retail services** to a **customer**, the licensee must:

- (a) comply with all applicable provisions of any **industry code** made by the **Commission** relating to the provision of pricing information; and
- (b) include the information prescribed by regulation under the **Act** in each account for **retail services** provided to a **customer**.

## 8 Restriction, discontinuance & disconnection

8.1 The licensee must not restrict, discontinue or disconnect, or take any action which may lead to the restriction, discontinuance or disconnection of supply of **retail services**, except in accordance with the restriction, discontinuance and disconnection procedures set out in the **Act**, any applicable **industry code** or, otherwise, in accordance with the customer's **customer sale contract**.

## 9 Ombudsman and disputes

9.1 The licensee must develop and implement procedures to resolve customer complaints and disputes in accordance with any applicable **industry code** and, for all other **customers**, in accordance with the basic procedures set out in AS ISO 10002-2006 (as amended from time to time).

9.2 In addition to clause 9.1 the licensee must, if notified in writing by the **Commission**, participate in an **Ombudsman Scheme**.

## 10 Accounts and separate businesses

10.1 The licensee must, as required by the **Commission**:

- (a) establish and maintain accounts exclusively in respect of the operations authorised by this licence;
- (b) establish and maintain separate consolidated accounts in respect of the operations authorised by this licence and any other activity which requires authorisation by licence under the **Act**; and
- (c) allocate any costs shared between the operations authorised by this licence and any other activity undertaken by the licensee according to a methodology that is well accepted, fair and reasonable, and transparent.

## 11 Information to the Commission

11.1 The licensee must, from time to time if required by the **Commission** and in a manner and form determined by the **Commission**, provide to the **Commission**:

- (a) details of the licensee's financial, technical and other capacity to continue its operations authorised by this licence; and
- (b) such other information as the Commission may require.

11.2 The licensee must notify the Commission in writing of any changes to its officers or major shareholders (if applicable) within 20 business days of that change occurring.

11.3 The licensee must promptly notify the Commission of any significant reduction in its financial capacity which has potential to impact upon the licensee's ability to carry on the operations authorised by this licence.

## 12 Operational and compliance audits

12.1 The licensee must undertake periodic audits of the operations authorised by this licence and of its compliance with its obligations under this licence and any applicable industry codes in accordance with the requirements of any applicable guideline issued by the Commission for this purpose.

12.2 The licensee must also conduct any further audits at a frequency and in a manner approved by the Commission.

12.3 The results of audits conducted under this clause 12 must be reported to the Commission in a manner approved by the Commission.

12.4 The Commission may require the licensee to use an independent expert approved by the Commission to conduct audits under this clause 12.

12.5 The Commission may require the costs of using an independent expert approved by the Commission to conduct audits under this clause 12 to be met by the licensee.

## 13 Insurance

13.1 The licensee must undertake and maintain, during the term of this licence, appropriate and adequate insurance of kinds and levels reflective of the nature of the operations carried on under this licence and the risks associated with those operations.

13.2 The licensee must annually provide to the Commission evidence that it holds appropriate insurance to an acceptable level in a form approved by the Commission.

## 14 Customer concessions and community service obligations

14.1 If applicable, the licensee must comply with the requirements of any scheme approved and funded by the Minister:

- (a) for the provision by the State of customer concessions or the performance of community service obligations by the licensee; and
- (b) for the purposes of providing specified exemptions from the requirement to pay for the specified services.

## 15 Confidentiality

- 15.1 The licensee must, unless otherwise required or permitted by law, this licence or an industry code:
- (a) comply with any rules determined by the Commission from time to time relating to the use of information acquired by the licensee in the course of operating the business authorised by this licence; and
  - (b) ensure that information concerning customers is not disclosed without the explicit informed consent of those customers.

## 16 Variation

- 16.1 This licence may only be varied in accordance with section 28 of the Act.

## 17 Transfer

- 17.1 This licence may only be transferred in accordance with section 29 of the Act.

## 18 Hardship policy

- 18.1 The licensee must comply with the customer hardship policy applying in relation to the licensee under subsection 37(3) of the Act.

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Commissioner

*20 April 2016*

Date



# Schedule: Definitions and Interpretation

## Part 1 – Definitions

In this licence:

**Act** means the *Water Industry Act 2012 (SA)*;

**best endeavours** means to act in good faith and use all reasonable efforts, skill and resources;

**business day** means a day other than a Saturday, Sunday or public holiday in the State of South Australia;

**Commission** means the Essential Services Commission as established under the **ESC Act**;

**consumer** means a person supplied with **retail services** as a consumer or user of those services;

**customer** has the meaning given to that term in the **Act**, namely a person who owns land in relation to which a **retail service** is provided and includes:

- (a) where the context requires, a person seeking the provision of a **retail service**; and
- (b) in prescribed circumstances, a person supplied with **retail services** as a **consumer** or user of those services (without limiting the application of this definition to owners of land); and
- (c) a person of a class declared by the regulations to be customers;

**customer sale contract** means a contract between the licensee and a **customer** for the sale and supply of **retail services** to that **customer**;

**ESC Act** means the *Essential Services Commission Act 2002 (SA)*;

**industry code** includes any **industry code** made by the **Commission** under section 28 of the **ESC Act**;

**industry rule** includes any **industry rule** made by the **Commission** under section 28 of the **ESC Act**;

**licensee** means Yorke Peninsula Council ABN 82 179 825 615;

**Minister** means the Minister responsible for the administration of the **Act**;

**non-residential customer** means a **customer** other than a **residential customer**;

**Ombudsman Scheme** means an ombudsman scheme, the terms and conditions of which are approved by the **Commission**;

**residential customer** means a **customer** which acquires **retail services** primarily for domestic purposes;

**retail services** has the meaning given to that term in the **Act**, namely a service constituted by:

- (a) the sale and supply of **water** to a person for use (and not for resale other than in prescribed circumstances (if any)) where the water is to be conveyed by a reticulated system; or
- (b) the sale and supply of **sewerage services** for the removal of **sewage**,

(even if the service is not actually used) but does not include any service, or any service of a class, excluded from the ambit of this definition by the regulations;

**sewage** includes any form of waste that may be appropriately removed or dealt with through the use of a **sewerage service**;



**sewerage service** means:

- (a) a service constituted by the collection, storage, treatment or conveyance of **sewage** through the use of a reticulated system; or
- (b) any other service, or any service of a class, brought within the ambit of this definition by the regulations; and

**water** includes rainwater, stormwater, desalinated water, recycled water and water that may include any material or impurities, but does not include **sewage**.

## Part 2 - Interpretation

In this licence, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this licence;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- (e) a reference to any statute, regulation, proclamation, order in council, ordinance or bylaw includes all statutes, regulations, proclamations, orders in council, ordinances or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, orders in council, ordinances, by-laws and determinations issued under that statute;
- (f) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- (g) a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- (h) an event which is required under this licence to occur on or by a stipulated day which is not a **business day** may occur on or by the next business day; and
- (i) a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns.

# ANNEXURE

## Part A – Retail services

Provision of **sewerage services**, specifically the operation of Community Wastewater Management Systems at:

- Ardrossan
- Tiddy Widdy Beach
- Maitland
- Black Point
- Yorketown
- Sultana Point
- Rogues Point
- Bluff Beach
- Hardwicke Bay
- Chinaman Wells
- Port Victoria
- Port Vincent Marina
- Port Vincent Rise Caravan Park
- Stansbury
- Foul Bay, and
- Port Turton.

Provision of **water services** within the Yorke Peninsula Council boundary. Specifically the sale and supply of potable water from a desalination plant situated at Marion Bay.

## Part B – Customers and/or Consumers

Residential and non-residential



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