

TASMANIA

WATER AND SEWERAGE TASMANIA BILL 2017

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WATER AND SEWERAGE TASMANIA BILL 2017

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
12 September 2017

(Brought in by the Treasurer, the Honourable Peter Carl Gutwein)

A BILL FOR

An Act to establish Water and Sewerage Tasmania and to establish it as a government business enterprise, to make provision in relation to its functions and investment in, and the disposal of, its infrastructure, to transfer to it assets, rights, liabilities and employees of the council-owned company, to provide for payment of certain amounts to councils, to repeal the *Water and Sewerage Corporation Act 2012*, and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Water and Sewerage Tasmania Act 2017*.

THIS BILL IS COGNATE WITH THE WATER AND SEWERAGE TASMANIA (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2017

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2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

asset means property of any kind, whether tangible or intangible, real or personal, present or future, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective, to the extent that it relates, directly or indirectly, to the water and sewerage functions of the Corporation and includes, without limitation, any –

- (a) legal or equitable estate or interest in real or personal property; and
- (b) chose in action; and
- (c) money, documents or securities; and
- (d) infrastructure; and
- (e) plant or equipment; and
- (f) National Tax Equivalent Regime carry forward losses; and

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- (g) intellectual property; and
- (h) goodwill; and
- (i) records; and
- (j) any other right;

Board means the Board of Directors of the Corporation appointed under section 11(1) of the *Government Business Enterprises Act 1995*;

Corporation means Water and Sewerage Tasmania, as established by section 5;

council-owned company means the Tasmanian Water & Sewerage Corporation Pty Ltd ACN 162 220 653, trading as TasWater;

infrastructure means –

- (a) sewerage infrastructure; and
- (b) water infrastructure;

infrastructure investment plan means the infrastructure investment plan approved under section 15(6), as amended, if at all, by an amendment that has been approved under section 16(4);

liability means any liability, duty or obligation, whether actual, contingent or prospective, liquidated or unliquidated, and whether owed alone or jointly or

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jointly and severally with any other person;

Minister means, if the administration of this Act is assigned to the Treasurer, the Minister to whom is assigned the administration of the *Water Management Act 1999*;

Regulator has the same meaning as in the *Economic Regulator Act 2009*;

right means any right, power, privilege or immunity, whether actual, contingent or prospective;

sewage includes trade waste;

sewerage infrastructure has the same meaning as in the *Water and Sewerage Industry Act 2008*;

sewerage service has the same meaning as in the *Water and Sewerage Industry Act 2008*;

transfer day means the day specified in a notice under section 19(1) as the transfer day;

water includes recycled water and re-use water, but does not include sewage;

water and sewerage functions means –

- (a) in the case of water, any function associated with –

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- (i) the collection or storage of that water, including by way of bulk supply; and
 - (ii) the treatment of that water; and
 - (iii) the conveyance and reticulation of that water; and
 - (iv) the supply of that water; and
- (b) in the case of sewerage, any function associated with –
 - (i) the collection or storage of sewage; and
 - (ii) the conveyance and reticulation of sewage; and
 - (iii) the treatment of sewage; and
- (c) any other functions associated with the functions referred to in paragraph (a) or (b), which may include those associated with stormwater and the re-use of sewage; and
- (d) any other function that is prescribed;

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water infrastructure has the same meaning as in the *Water and Sewerage Industry Act 2008*;

water service has the same meaning as in the *Water and Sewerage Industry Act 2008*.

4. Relationship of Act with *Government Business Enterprises Act 1995*

Despite section 5 of the *Government Business Enterprises Act 1995*, if a provision of this Act is inconsistent with a provision of that Act, the provision of this Act prevails to the extent of the inconsistency.

**PART 2 – ESTABLISHMENT OF WATER AND
SEWERAGE TASMANIA**

5. Water and Sewerage Tasmania established

Water and Sewerage Tasmania (*the Corporation*) is established by this section.

6. Objectives of Corporation

- (1) The principal objectives of the Corporation are –
 - (a) to efficiently and effectively provide water and sewerage functions in Tasmania; and
 - (b) to deliver water services and sewerage services in Tasmania as efficiently and effectively as possible; and
 - (c) to ensure sustainable, efficient and effective investment in water infrastructure and sewerage infrastructure.
- (2) Section 7(1) of the *Government Business Enterprises Act 1995* does not apply in relation to the Corporation.

7. Functions of Corporation

On and from the transfer day, the functions of the Corporation are –

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- (a) to provide water and sewerage functions in Tasmania; and
- (b) to deliver water services and sewerage services in Tasmania; and
- (c) to invest in water infrastructure and sewerage infrastructure; and
- (d) such other functions as are conferred on the Corporation by this or any other Act.

8. Power to give directions to Corporation

- (1) The Minister and the Treasurer may jointly, by notice in writing to the Corporation, give a direction to the Corporation –
 - (a) in relation to any matter related to the performance or exercise by the Corporation of its functions or powers under this or any other Act; or
 - (b) in relation to the achievement of the obligations of the Corporation; or
 - (c) relating to the council-owned company.
- (2) The Corporation must ensure that a copy of a direction given under subsection (1) is available for viewing by a member of the public at a website of the Corporation until the next annual report of the Corporation is tabled in Parliament in accordance with section 56 of the *Government Business Enterprises Act 1995*.

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- (3) The Corporation must comply with a direction given under subsection (1).
- (4) In the event of an inconsistency between –
- (a) a provision of a corporate plan of the Corporation or of the infrastructure investment plan; and
 - (b) a direction under subsection (1) –
- the direction applies.
- (5) The Minister and the Treasurer may jointly, by notice in writing to the Corporation, revoke a direction to the Corporation under subsection (1).
- (6) The Corporation must include in the annual report of the Corporation prepared in accordance with section 55(1) of the *Government Business Enterprises Act 1995* –
- (a) a copy of any direction, given under subsection (1), that is in force; and
 - (b) a copy of any revocation under subsection (5) of a direction; and
 - (c) details as to the extent to which the Corporation has complied with all directions, given under subsection (1), that are in force.
- (7) The Corporation, and any person acting on behalf of the Corporation, are indemnified by the Crown against any liability incurred by the person or the Corporation in relation to –

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- (a) an action taken by the person in relation to a direction under subsection (1); or
- (b) a failure by the person to take an action in relation to the direction –

if the person took the action in good faith, or failed in good faith to take the action, in the belief that taking the action, or failing to take the action, was necessary or convenient to implement the direction.

9. No privatisation

- (1) The Corporation must not be privatised.
- (2) The Corporation must not –
 - (a) sell, lease or otherwise dispose of water infrastructure or sewerage infrastructure; or
 - (b) sell, lease or otherwise dispose of land.
- (3) Subsection (2) does not apply in respect of the sale, lease or other disposal of water infrastructure or sewerage infrastructure, if the sale, lease or disposal relates to, or arises from, the maintenance, repair, replacement or upgrading of water infrastructure or sewerage infrastructure.
- (4) Nothing in the *Government Business Enterprises Act 1995* or any other Act is to be taken to prevent the application of this section in relation to the Corporation.

PART 3 – PAYMENTS TO COUNCILS

Division 1 – Transition period payments

10. Amounts to councils to be paid from Public Account during transition period

- (1) Subject to section 25(4), between 1 April and 30 April of each financial year that occurs within the period beginning on 1 July 2018 and ending on 30 June 2025, the Treasurer is to pay, to each council specified in Column 1 of Schedule 1, the amount specified opposite the council in Column 2 of that Schedule.
- (2) Amounts under subsection (1) are to be paid from the Consolidated Fund from an amount appropriated by Parliament for the purpose.

Division 2 – Payments after transition period

11. Council payment amounts to be included in annual report

- (1) Each annual report under the *Government Business Enterprises Act 1995* that is prepared, in relation to the Corporation, for the 2024-2025 financial year or a subsequent financial year –
 - (a) is to include an amount designated as the standard total payment to councils; and
 - (b) may include an amount, that is less than the standard total payment to councils, designated as the adjusted total payment to councils.

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Part 3 – Payments to Councils

- (2) The amount designated in an annual report for a financial year as the standard total payment to councils is to be –
- (a) equal to one half of the amount stated in that annual report to be the profit of the Corporation for that financial year; or
 - (b) zero, if the annual report states that the Corporation has not made a profit for that financial year.
- (3) The Board may only designate an amount, in an annual report for a financial year, as the adjusted total payment to councils if the Board is of the opinion –
- (a) that to pay to the councils the standard total payment to councils would –
 - (i) prevent the Corporation from achieving its objectives under this Act; or
 - (ii) prevent the Corporation from satisfying the requirements of its corporate plan or its infrastructure investment plan; or
 - (iii) prevent the Corporation from complying with any directions issued to the Corporation under this Act; or
 - (iv) prevent the Corporation from complying with any obligations imposed on the Corporation

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under the *Water and Sewerage Industry Act 2008*; or

- (v) result in the liabilities of the Corporation exceeding the assets of the Corporation; or
 - (vi) materially prejudice the ability of the Corporation to pay its creditors; and
- (b) that the amount of the adjusted total payment to councils is consistent with the Corporation –
- (i) achieving its objectives under this Act; and
 - (ii) meeting the requirements of its corporate plan and its infrastructure investment plan.
- (4) An annual report, for a financial year, that includes an amount designated as the adjusted total payment to councils is to include a statement of the Board’s reasons for including the amount.

12. Treasurer to make adjusted payments order and lay it before both Houses of Parliament

- (1) If an amount is, under section 11, designated, in an annual report for a financial year, as the adjusted total payment to councils, the Treasurer, within 3 sitting-days after the annual report is laid before each House of Parliament under the

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Government Business Enterprises Act 1995, is to make an order (an ***adjusted payments order***) in relation to the financial year.

- (2) An adjusted payments order made under subsection (1) in relation to a financial year is to –
 - (a) specify the amount designated in the annual report in relation to the financial year as the adjusted total payment to councils; and
 - (b) include a copy of the statement included in the annual report in accordance with section 11(4).
- (3) The Treasurer is to lay before each House of Parliament an adjusted payments order made under subsection (1) in relation to a financial year.
- (4) An adjusted payments order in relation to a financial year is to be laid before each House of Parliament under subsection (3) within 3 sitting-days after the annual report in relation to that financial year is laid before each House of Parliament under the *Government Business Enterprises Act 1995*.

13. House of Parliament may disallow adjusted payments order

- (1) A House of Parliament may disallow an adjusted payments order that is laid before the House under section 12.

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- (2) A House of Parliament may only disallow an adjusted payments order under subsection (1) –
- (a) between 1 January and 30 March of the year after the year in which the order is laid before the House, unless paragraph (b) applies; or
 - (b) if there are not at least 3 sitting-days within the period referred to in paragraph (a) – within the first 5 sitting-days after 1 January of the year after the year on which the order is laid before the House.
- (3) An adjusted payments order is not to be taken to have ceased to be laid before a House of Parliament by reason of the Parliament having been prorogued.

14. Payment of amounts to councils

- (1) The Corporation must, between 1 April and 30 April in a financial year that begins after 30 June 2025, pay, to each council specified in Column 1 of Schedule 1, the proportion, specified, opposite the council, in Column 3 of that Schedule, of the total amount payable to all councils in relation to the previous financial year, as determined under subsection (3).
- (2) Despite subsection (1), if –
- (a) an adjusted payments order in relation to a financial year is laid before a House of Parliament; and

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- (b) section 13(2)(b) applies in relation to the order –

the Corporation must pay the amounts payable under subsection (1) within 10 business days after the first 5 sitting-days after 1 January of the year after the year in which the order is laid before the House.

- (3) The total amount payable to all councils in relation to a previous financial year is –

- (a) except if paragraph (b) applies, the amount designated in an annual report for the financial year as the standard total payment to councils; or

- (b) if an adjusted payments order –

- (i) has been made under section 12 in relation to that financial year; and

- (ii) has been laid before both Houses of Parliament; and

- (iii) has not been disallowed by either House of Parliament under section 13 –

the amount specified in the adjusted payments order as the adjusted total payment to councils.

- (4) The Corporation –

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- (a) is to make all payments under this section from the Corporation's retained earnings; and
- (b) is, in the financial accounts for a financial year, to classify all payments under this section in that year as a change of equity and not as an expense; and
- (c) is to disclose, in the statement of changes in the Corporation's equity made in the financial accounts for a financial year, all payments under this section.

PART 4 – INFRASTRUCTURE INVESTMENT

15. Infrastructure investment plans

- (1) At the same time as it prepares, in accordance with section 39(1) of the *Government Business Enterprises Act 1995*, a corporate plan for the Corporation, the Board must prepare an infrastructure investment plan for the Corporation.
- (2) An infrastructure investment plan is to –
 - (a) relate to the 10-year period beginning on the day on which the plan comes into effect; and
 - (b) be in a form and contain the information specified in the Treasurer’s Instructions; and
 - (c) be consistent with the ministerial charter for the Corporation; and
 - (d) except to the extent that to do so would be inconsistent with a direction under section 8, promote efficient long-term investment in water infrastructure and sewerage infrastructure, so as to achieve the lowest sustainable costs of the provision of water services and sewerage services.
- (3) In the course of preparing an infrastructure investment plan, the Board must consult with the Minister and the Treasurer.

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- (4) The Board must provide a draft of the infrastructure investment plan to the Minister and the Treasurer –
 - (a) not later than 60 days before the day on which the infrastructure investment plan will take effect; and
 - (b) at the same time as it provides to the Minister and the Treasurer, under section 39(3) of the *Government Business Enterprises Act 1995*, a draft of the corporate plan for the Corporation.
- (5) The Minister or the Treasurer may authorise the Board to provide the draft of an infrastructure investment plan under subsection (4) by a day that is later than the day specified in that subsection.
- (6) The Minister and the Treasurer, jointly, may approve an infrastructure investment plan, prepared in accordance with this section.
- (7) When a draft of an infrastructure investment plan is approved by both the Minister and the Treasurer it becomes the infrastructure investment plan of the Corporation.
- (8) An infrastructure investment plan takes effect on the first day of the financial year next commencing after its approval by the Minister and the Treasurer or, if a day for its commencement is specified in that approval, on that day.

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Part 4 – Infrastructure Investment

- (9) The Corporation must publish on a website of the Corporation a copy of its infrastructure investment plan, as in force from time to time.

16. Amendment of infrastructure investment plan

- (1) The Board may prepare an amendment of the infrastructure investment plan at any time.
- (2) In the course of preparing an amendment of the infrastructure investment plan, the Board must consult with the Minister and the Treasurer.
- (3) An amendment to an infrastructure investment plan may be in the form of a new infrastructure investment plan, in accordance with the requirements of section 15, that replaces the existing infrastructure investment plan.
- (4) The Minister and the Treasurer, jointly, may approve an amendment of an infrastructure investment plan, prepared in accordance with this section.
- (5) The approval of an amendment of an infrastructure investment plan must specify that the amendment is to take effect on –
- (a) the day on which the amendment is approved by both the Minister and the Treasurer; or
 - (b) a later day; or
 - (c) an earlier day.

- (6) An amendment of a draft infrastructure investment plan takes effect on the day specified, in accordance with subsection (5), in the approval.

17. Corporate plan to be consistent with infrastructure investment plan

The corporate plan, within the meaning of the *Government Business Enterprises Act 1995*, in relation to the Corporation is to be consistent with the infrastructure investment plan for the Corporation.

18. Certain objectives in *Government Business Enterprises Act 1995* to be modified

A reference in the *Government Business Enterprises Act 1995* to long-term objectives and financial performance objectives is to be taken, in relation to the Corporation, to be a reference to those objectives as modified to the extent necessary to take into account the infrastructure investment plan and any directions issued under section 8.

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Part 5 – Transition from Council-owned Company to Corporation

**PART 5 – TRANSITION FROM COUNCIL-OWNED
COMPANY TO CORPORATION**

19. Transfer to Corporation of assets, &c., of council-owned company

- (1) The Treasurer, by notice, may declare a day to be the transfer day.
- (2) On the transfer day –
 - (a) all the assets of the council-owned company vest in the Corporation by virtue of this section and without the need for any further conveyance, transfer, assignment or assurance; and
 - (b) all the rights or liabilities of the council-owned company become by virtue of this section the rights or liabilities of the Corporation; and
 - (c) a reference, by whatever name or title, in any Act, in any instrument made under any Act, in any contract, agreement, arrangement or undertaking, or in any document of any kind, to –
 - (i) the council-owned company; or
 - (ii) any predecessor of the council-owned company –

to the extent to which the reference relates to the assets, rights or liabilities of the council-owned company, is taken to

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be, or include, a reference to the Corporation; and

- (d) any legal, or other, proceedings that –
- (i) relate to the assets, rights or liabilities of the council-owned company; and
 - (ii) are commenced before the transfer day by or against the council-owned company or a predecessor of the council-owned company; and
 - (iii) are pending immediately before the transfer day –

are taken to be proceedings pending by or against the Corporation; and

- (e) any legal, or other, proceedings that –
- (i) relate to the assets, rights or liabilities of the council-owned company; and
 - (ii) could have been commenced, before the transfer day, by or against the council-owned company or a predecessor of the council-owned company –

may be commenced by or against the Corporation; and

- (f) a judgment or order of a court, or other tribunal, that –

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Part 5 – Transition from Council-owned Company to Corporation

- (i) relates to the assets, rights or liabilities of the council-owned company; and
 - (ii) is obtained, before the transfer day, by or against the council-owned company or a predecessor of the council-owned company –

may be enforced by or against the Corporation; and
- (g) any document, relating to legal, or other, proceedings, that –
 - (i) relates to the assets, rights or liabilities of the council-owned company; and
 - (ii) has been served on or by the council-owned company, or a predecessor of the council-owned company, before the transfer day –

is taken, where appropriate, to have been served on or by the Corporation; and
- (h) any act, matter or thing done or omitted to be done –
 - (i) in relation to the assets, rights or liabilities of the council-owned company before the transfer day; and

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- (ii) by, to or in respect of the council-owned company or a predecessor of the council-owned company –

is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Corporation.

- (3) State tax is not payable in respect of any transfer, or any document prepared to give effect to a transfer, of an asset, right or liability by virtue of this section.

- (4) A person is not entitled to –

- (a) terminate or modify the operation or effect of a contract; or

- (b) claim that there has been a breach of or default under a contract; or

- (c) claim any remedy –

by reason only of the transfer of that contract (or rights or liabilities under that contract) under this section.

- (5) This section has effect despite any other law of the State, contract or other instrument.

20. Transfer to Corporation of employees of council-owned company

- (1) In this section –

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Part 5 – Transition from Council-owned Company to Corporation

employee transfer day, in relation to an employee of the council-owned company, means the day specified in a notice to the employee under subsection (2) as the day on which the employee is to be transferred under this section;

transferred employee means a person who was, immediately before the employee transfer day, an employee of the council-owned company.

- (2) The Treasurer, by notice to an employee of the council-owned company, may transfer the employee to the Corporation on a day specified in the notice as the day on which the employee is to be transferred under this section.
- (3) The Treasurer must ensure that, before the transfer day, a notice is issued under subsection (2) to each person who is, immediately before the transfer day, an employee of the council-owned company.
- (4) On the employee transfer day in relation to a transferred employee –
 - (a) the transferred employee ceases to be an employee of the council-owned company and the council-owned company ceases to be the employer of the transferred employee; and
 - (b) the transferred employee becomes an employee of the Corporation and the

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Corporation becomes the employer of the transferred employee.

- (5) A transferred employee –
- (a) is taken to have been employed by the Corporation on the same terms and conditions as those on which he or she was employed by the council-owned company; and
 - (b) except if an award, agreement or law otherwise provides –
 - (i) retains all entitlements that he or she has accrued as if employment by the Corporation were a continuation of employment with the council-owned company; and
 - (ii) is entitled to claim those entitlements from the Corporation; and
 - (c) is not entitled to any compensation or other payment in respect of the change of his or her employment by virtue of the transfer of his or employment under this section.
- (6) An award or agreement that had effect in relation to a person immediately before he or she became a transferred employee continues to have effect in relation to the transferred employee, except if another award, agreement or law, that applies in relation to him or her after he or she becomes a transferred employee, provides otherwise.

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Part 5 – Transition from Council-owned Company to Corporation

- (7) A period of service, of the transferred employee, with the council-owned company is to be taken to be the equivalent period of service with the Corporation.
- (8) Nothing in this section prevents any of the terms or conditions of employment of a transferred employee being altered by an award, agreement or law.
- (9) A transferred employee is an employee for the purposes of the *Public Sector Superannuation Reform Act 2016*.
- (10) A transferred employee is not entitled –
 - (a) to receive any payment or other benefit merely because the transferred employee has ceased to be an employee of the council-owned company; or
 - (b) to claim, either under this Act or any other Act, dual benefits of the same kind for the same period of service.

21. Application of certain instruments under *Environmental Management and Pollution Control Act 1994*

- (1) An environment protection notice, within the meaning of the *Environmental Management and Pollution Control Act 1994*, that was in force in relation to the council-owned company in respect of an asset transferred to the Corporation under section 19, is taken, on and from the day on which that transfer takes effect in relation to

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the asset, until it is cancelled, if at all, under that Act, to be in force in relation to the Corporation in respect of that asset.

- (2) If a permit is taken to have been granted under clause 3 of Schedule 6 to the *Environmental Management and Pollution Control Act 1994* in respect of scheduled premises, within the meaning of that Act, that are transferred to the Corporation under section 19, the permit is taken, on and from the day on which that transfer takes effect in relation to the premises, until the permit is cancelled, if at all, under that Act, to be in force in relation to the Corporation.

22. Council-owned company to provide assistance, information, &c.

- (1) In this section –

relevant person means –

- (a) the council-owned company; and
 - (b) a member of the board of directors of the council-owned company; and
 - (c) the chief executive officer of the council-owned company; and
 - (d) any officer, employee, or agent, of the council-owned company.
- (2) The Treasurer may request a relevant person to –

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Part 5 – Transition from Council-owned Company to Corporation

- (a) provide to the Treasurer the information, in the possession of the council-owned company, that the Treasurer requests; or
 - (b) permit the Treasurer, or a person authorised by the Treasurer, to access information that is in the possession of the council-owned company; or
 - (c) provide advice to the Treasurer; or
 - (d) provide assistance to the Treasurer –
for the purposes of this Act.
- (3) A person to whom a request is made under this section must comply with the request.
- (4) The disclosure of any information pursuant to a request under this section, or the use of information provided or accessed under this section, is authorised despite any other law of the State, contract or other instrument to the contrary, if the disclosure or use is reasonably required for, or in connection with, the purposes of this Act.
- (5) A person to whom a request is made under this section, and the council-owned company, are indemnified by the Crown against any liability incurred by the person or the council-owned company in relation to –
- (a) an action taken by the person in relation to the request; or

- (b) a failure by the person to take an action in relation to the request –

if the person took the action in good faith, or failed in good faith to take the action, in the belief that taking the action, or failing to take the action, was necessary or convenient to implement the request.

23. Council-owned company to cease to have functions of water and sewerage provision

Despite –

- (a) any other Act, including the *Water and Sewerage Corporation Act 2012* and the *Water and Sewerage Industry Act 2008*; and
- (b) any requirements of the constitution of the council-owned company or any other contract, agreement, arrangement or other instrument –

the council-owned company ceases, on the transfer day, to have the functions of providing, or an obligation to provide, water services, sewerage services and water and sewerage functions.

24. Expenses, costs, financial statements and annual reports of council-owned company

- (1) In this section –

relevant period means the period –

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- (a) beginning on the transfer day;
and
 - (b) ending on the day that is 3 months after the transfer day or is a later day specified under subsection (2).
- (2) The Treasurer, by notice in writing to the Corporation, may specify a day for the purposes of paragraph (b) of the definition of *relevant period* in subsection (1).
- (3) The Corporation is liable for all costs or expenses of the council-owned company incurred within the relevant period, including –
 - (a) payments to the board of directors of the council-owned company, or the company secretary of the council-owned company, of amounts to which the directors, or the company secretary, respectively, are entitled; and
 - (b) costs or expenses relating to the obligations of the board of directors of the council-owned company under section 24 or 25 of the *Water and Sewerage Corporation Act 2012* in relation to the financial year in which the transfer day occurs; and
 - (c) costs or expenses relating to the de-registration of the council-owned company under section 601AA of the Corporations Act; and

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- (d) costs or expenses incurred by the council-owned company in order to fulfil its obligations under the Corporations Act; and
 - (e) the costs of the Auditor-General that are payable by the council-owned company in relation to activities of the Auditor-General after the transfer day.
- (4) The Corporation is to specify, in the copy of the first financial statements prepared and forwarded to the Auditor-General under section 52 of the *Government Business Enterprises Act 1995* after the commencement of this section, the costs incurred by the Corporation under subsection (3).
- (5) Despite section 25(2) of the *Water and Sewerage Corporation Act 2012*, the council-owned company is to make its annual report in relation to the 2017-2018 financial year available to the public under that section no later than 3 months after the end of that financial year.

25. Councils to reimburse unreasonable costs, expenses and extraordinary liabilities

- (1) In this section –

relevant period means the period –

- (a) beginning on the day on which this Act is introduced into Parliament; and

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- (b) ending on the day that is 3 months after the transfer day or is a later day specified under subsection (2).
- (2) The Treasurer, by notice in writing to the Corporation, may specify a day for the purposes of paragraph (b) of the definition of *relevant period* in subsection (1).
- (3) If the Minister and the Treasurer are satisfied, on reasonable grounds, that the council-owned company has, in the relevant period, incurred a liability otherwise than in the ordinary course of the ordinary business of the council-owned company, or incurred a cost or expense, after the transfer day, that is not reasonable, the Minister and the Treasurer may, by notice to each of the councils specified in Schedule 1, declare –
 - (a) that the liability or cost is to be taken to be a council liability or cost; and
 - (b) the amount of the liability or cost that is to be deducted from the amounts payable to the councils under section 10 in the first financial year in which that section is in force.
- (4) If a council liability or cost is declared under subsection (3), the amount of the liability or cost is to be deducted from the total of all the amounts payable to a council under section 10, in the first financial year in which an amount is payable under that section, by deducting, from each amount so payable to a council under that

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section, the percentage, of that total amount, that is specified opposite the council in Column 2 of Schedule 1.

- (5) The Treasurer may transfer to the Corporation, from an amount that has been appropriated from the Consolidated Fund for the purposes of section 10, any amount deducted from the total of all the amounts payable to a council under section 10 in accordance with subsection (4).

PART 6 – MISCELLANEOUS

26. Relationship of this Act to the Corporations Act

To the extent that any provision of this Act is incapable of concurrent operation with the Corporations Act, that provision is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act.

27. Limitation on borrowing by Corporation

Despite any other provision of the *Government Business Enterprises Act 1995*, the Corporation must not borrow other than from the Tasmanian Public Finance Corporation.

28. Parts 10 and 11 of *Government Business Enterprises Act 1995* not to apply to Corporation

Parts 10 and 11 of the *Government Business Enterprises Act 1995* do not apply in relation to the Corporation or a subsidiary of the Corporation.

29. Certain references to Minister in *Government Business Enterprises Act 1995*

If –

- (a) a provision of the *Government Business Enterprises Act 1995* contains a reference

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to both the Portfolio Minister and the Treasurer; and

- (b) the same person is both the Portfolio Minister for the purposes of this Act and the Treasurer –

the reference in that provision, in so far as the provision applies to this Act, the Corporation or the Portfolio Minister in relation to this Act, is to be taken to be a reference to the Minister to whom is assigned the administration of the *Water Management Act 1999*.

30. Protection for actions under this Act

Any thing done or omitted in good faith that is done or omitted under, or authorised by, this Act, a direction under this Act or a request under section 22 does not, except as otherwise expressly provided by or under this Act or as provided or agreed by the person doing or omitting the thing –

- (a) terminate or modify a contract, other instrument or obligation; or
- (b) give rise to a right to terminate or modify a contract, other instrument or obligation by fulfilling a condition or in any other manner; or
- (c) release a surety or other obligee wholly or in part from an obligation; or

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- (d) give rise to any right or remedy by a party to a contract or other instrument; or
- (e) constitute a breach of a contract or other instrument; or
- (f) constitute a civil or criminal wrong; or
- (g) constitute a breach of confidence.

31. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 30 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues; and
 - (c) declare a provision of this Act to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act.

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- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Board.
- (5) The regulations may –
 - (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
 - (b) provide for any of those savings or transitional matters to take effect when a provision of this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

32. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Treasurer; and
- (b) the department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.

33. Consequential Amendments

The legislation specified in Schedule 2 is amended as specified in that Schedule.

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34. Legislation repealed

The legislation specified in Schedule 3 is repealed.

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SCHEDULE 1 – PAYMENTS TO COUNCILS

Sections 10, 14 and 25

Column 1 - Council	Column 2 – Amount (\$)	Column 3 - Proportion (%)
Break O’Day	388,000	1.94
Dorset	194,000	0.97
Flinders	36,000	0.18
George Town	226,000	1.13
Launceston	2,724,000	13.62
Meander	556,000	2.78
Northern Midlands	468,000	2.34
West Tamar	656,000	3.28
Burnie	828,000	4.14
Central Coast	954,000	4.77
Circular Head	316,000	1.58
Devonport	1,092,000	5.46
Kentish	88,000	0.44
King Island	66,000	0.33
Latrobe	382,000	1.91
Waratah Wynyard	562,000	2.81
West Coast	362,000	1.81

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Column 1 - Council	Column 2 – Amount (\$)	Column 3 - Proportion (%)
Brighton	616,000	3.08
Central Highlands	102,000	0.51
Clarence	2,212,000	11.06
Derwent Valley	272,000	1.36
Glamorgan Spring Bay	414,000	2.07
Glenorchy	2,172,000	10.86
Hobart	2,172,000	10.86
Huon Valley	424,000	2.12
Kingborough	1,232,000	6.16
Sorell	324,000	1.62
Southern Midlands	152,000	0.76
Tasman	10,000	0.05

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SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 33

Government Business Enterprises Act 1995

1. Schedule 1 is amended by inserting after

Tasmanian Public Finance Corporation

in Part 1 the following item:

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sch. 3

SCHEDULE 3 – LEGISLATION REPEALED

Section 34

Water and Sewerage Corporation Act 2012 (No. 51 of 2012)