

Policy No. PP008

Developer Charges Policy

1 INFORMATION ABOUT THIS POLICY

POLICY INFORMATION

Date Adopted by Board 29 June 2018	Resolution No. 18/049
Policy Responsibility General Manager	
Review Timeframe 2 yearly	
Last Review August 2016	Next Scheduled Review August 2020

DOCUMENT HISTORY

DOCUMENT NO.	DATE AMENDED	SUMMARY OF CHANGES
	13/08/2016	Addition of Water Service Connections Supplying Multiple premise. Definitions Current Water Account Holder, Documentary Evidence, Unauthorised Connection, NRCC, SWTWS, Sole Use by Consumer, Public Works, Premises, Contiguous. Clause 143,144,151,152,153,156 & 160 1Local Government (General) Regulation 2005 to Relevant Legislation section
	29/08/2018	Amendment to 5 Definitions-Permanent Disconnection Period. 6.10 Permanent Disconnection Connection

FURTHER DOCUMENT INFORMATION AND RELATIONSHIPS

Related Legislation	Local Government Act 1993 NSW Local Government (General) Regulation 2005 Water Management Act Environmental Planning and Assessment Act 1979
Related Policies	Service Connections Policy
Related Procedures, Protocols, Statements and Documents	2016 Developer Charges Guidelines for Water Supply, Sewerage and Stormwater-NSW Department of Primary Industries-Water. GWCC Operational Plan –Part 2 Financials. NSW Department of Primary Industries-Water References Rates

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3 PURPOSE

To identify the requirement for the levying of Developer Charges as a result of new development, new connections and or an increase in demands on GWCC water infrastructure as provided for under section 64 of the Local Government Act by its cross reference to sections 305 to 307 of the Water Management Act 2000.

4 SCOPE

This policy applies to all new water service connections and all existing water service connections where development creates new or increased demands upon GWCC water supply services identified in its Developer Service Plan Areas.

5 DEFINITIONS

GWCC - Goldenfields Water County Council

Developer Infrastructure Charge – The Charge calculated to recover the investment in assets existing or proposed to serve the development. The Charge is per equivalent tenement.

Developer Augmentation Charge - The Charge calculated to meet the cost of GWCC supplying additional infrastructure, and or upgrading existing infrastructure to supply the development.

Tapping Service and Metering Charge – The Charge levied for the tapping of the water main, laying of the service connection, installation of the riser and meter and metering device.

Meter Charge – The Charge levied for the meter and metering device where the developer has already provided the service connection to the property boundary.

Access Charge – The Charge levied after the water service has been connected.

Usage Charge – The Charge levied per kilolitre for all water recorded through the water meter.

Vacant Land Charge – The Charge levied on vacant unconnected properties, applicable to new sub-divisions registered after 01/07/2011.

Interest - The Charge levied on overdue amounts.

Developer Service Plan (DSP) - Plan prepared by GWCC in accordance with the Office of Water guidelines.

Office of Water - NSW Department of Primary Industries-Water

2016 Developer Charges Guidelines for Water Supply, Sewerage and Stormwater- Guidelines issued by the Office of Water.

Office of Water Reference Rate – Is the Standard price per metre for that diameter and material type of Water Main.

Nominal Augmentation Cost (NAC) – Is the calculated cost of infrastructure already paid for by the original Owner/Developer. It is calculated by the original water main distance (in metres) times the NSW Office of Water Reference Rate at that time.

Date of Commissioning – Is the date when the water infrastructure has been completed and the water supply is available.

Service Connection – The point of connection between the owner's internal plumbing and the GWCC water supply network separated by GWCC's water meter.

Equivalent Tenement (ET) - The demand or loading a development will have on infrastructure in terms of the water consumption for an average residential dwelling or house.

Local ET - Local Equivalent tenement is 250 Kilolitres per Annum.

Residential Service Connection – A connection made to GWCC's urban infrastructure, which is serviced by a reservoir via a distribution network, and the main use is for residential accommodation (but not a hotel, motel, guest house, boarding house, lodging house, or nursing home).

Non-Residential Rural Service Connection – A connection made to GWCC's rural infrastructure, which is located outside the urbanised areas and is serviced directly from the water main and the water is used for stock and domestic requirements.

Non-Residential Other Service Connection – A connection made to GWCC's urban or rural infrastructure for the purpose of supplying water to commercial, industrial, business, community holdings, and institutions includes other direct or remote connections to mains outside of urbanised areas where there is no commercial rural activity.

Non-Residential High Volume Monthly Service Connection - A connection made to GWCC's urban or rural infrastructure for the purpose of supplying water to commercial, industrial business, community holdings, and institutions with usage of 50,000kl pa and above.

Fire Service Connection – A connection made to GWCC's urban or rural infrastructure that is connected solely to firefighting apparatus i.e. fire hydrants, fire hose reels, water storage tanks dedicated to fighting fires, and fire sprinkler systems.

Letter of Offer – A Notice to the Owner outlining conditions of supply and Charges to be levied. The Letter of Offer will also include any Connection Charges applicable.

Lot - A parcel of land comprised in a Deposited Plan (DP).

Permanent Disconnection – Where the property service pipe is physically disconnected from GWCC's water mains.

Permanent Disconnection Period – A period of time calculated from the date of permanent disconnection to the date the application has been received by GWCC and appropriate application fee has also been received, and no reconnection has occurred in the intervening period.

Current Water Account Holder – The registered property owner at the present time of the land supplied with water.

Documentary Evidence – Written evidence showing that the Current Account holder or their predecessors had prior written approval to provide water to the nominated person(s), firm or corporation. This may be in the form of a letter from NSW Public Works Department, The South West Tablelands

Water Supply, the Northern Riverina County Council, or some other NSW Government vested in the supply of water.

Unauthorised connection – A water supply to another premise that has not been authorised in writing.

NRCC - Northern Riverina Water County Council

SWTWS - South West Tablelands Water Supply

Sole Use by Consumer Agreements – Consumer agreements for the supply of water by the SWTWS anecdotally commenced 01/01/1985 which included paragraph 5. “The consumer shall not without the Administrator’s prior consent in writing provide a supply of water to any other person, firm or corporation.”

Public Works - NSW Department of Public Works

Premises - For this purpose, it is “land, whether built on or not”

Contiguous – Being in actual contact, or touching along a boundary or at a point.

Annual Volume – The volume of water in kilolitres required for one year.

Agreed Annual Volume – The Annual Volume used to calculate the Developer Infrastructure Charge to be levied.

Annual Usage - The Metered Water Consumption in kilolitres commencing as close as practicable to 1 July and ending as close as practicable to 30 June.

Operational Plan – The Plan publishing the Fees and Charges made by GWCC for the current year.

Draft Operational Plan - The draft Plan of proposed Fees and Charges to be made by GWCC.

LG Act - NSW Local Government Act 1993

LG Regulations - Regulations made under the Local Government Act 1993

Water Directorate Guidelines - Guidelines prepared by the Water Directorate to assist in determining a Development’s ET load.

Certificate of Compliance – A Certificate issued by GWCC to satisfy the requirement of Section 109J(1)e of the Environmental Planning and Assessment Act 1979.

6 POLICY

GWCC levies Developer Charges in accordance with Section 64 of the NSW Local Government Act 1993 by way of cross referencing Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 Developer contributions to the construction of works, sections 305, 306 and 307.

GWCC may also levy charges by way of Section 608 Council fees for services (NSW Local Government Act 1993).

Developer Charges comprise

- Developer Infrastructure Charge
- Developer Augmentation Charge

6.1 Developer Infrastructure Charges

These charges will be applied to any development which creates new or increased demands upon water supply services, including new dwellings, subdivisions, commercial, industrial, community, institutional rural developments, including change of use.

- An Equivalent Tenement (ET) is 250 kilolitres year.
- The Standard Residential Developer Infrastructure Charge is 1 ET.
- The minimum Developer Infrastructure Charge is 1 ET.

For multi residential Lots (Medium Density and Dual Occupancy) the requirements are:

- 1 Bedroom 0.50 ETs per Unit
- 2 Bedroom 0.75 ETs per Unit
- 3 Bedroom 1.00 ETs per Unit

6.2 For Multi Storey, Multi Residential Lots (High Density) the requirements are:

- 1 Bedroom 0.40 ETs per Unit
- 2 Bedroom 0.60 ETs per Unit
- 3 Bedroom 0.75 ETs per Unit

Individual lots or dwellings within Neighbourhood, Community Strata Titles or like developments, are to be serviced by a separate metered water service connections. Any common lot or common ground within these developments requiring water supply including but not limited to lawns, gardens, and pools is required to have a separately metered water service connection. A separate Tapping, Service and Meter Charge will apply, however Developer Infrastructure Charges will not be levied on the common ground, but if applicable the additional demand will be divided equally amongst the habitable lots.

6.3 Annual Volume

For all Non Residential developments, the applicant will be required to provide the Owner(s) Annual Volume.

GWCC will review the provided Annual Volume to determine if it is consistent with like developments and or the Water Directorate guidelines.

If the Annual Volume is not provided, GWCC will determine an Annual Volume.

The Developer Infrastructure Charge will be calculated by dividing the Annual Volume by 250 kilolitres to determine the number of ETs.

Calculations will be made to the closest 0.25 ET.

6.4 Exceeding Agreed Annual Volume

Once the Developer Charges have been levied and fully paid, it is not expected that property owner(s) should in practice exceed their Agreed Annual Volume.

GWCC may at its discretion allow the Owner/Developer to access additional water over and above the Approved Annual Volume, provided

- That sufficient additional supply is available,
- Other Customer's levels of service are not affected and,
- That full payment of all charges are being maintained.

Any additional water provided will not at any time constitute any entitlement over and above the Agreed Annual Volume.

Exceeding the Agreed Annual Volume will require the payment of additional Usage Charges. Any Annual Usage in excess of the Agreed Annual Volume (plus a 20% grace amount) will be subject to an Excess Usage Charge.

The Excess Usage Charge (per kilolitre) will be at GWCC's Standpipe Rate.

6.5 Changed use and/or Increased Demand

If an existing connection has no Agreed Annual Volume, but has an increased demand on GWCC supply, that connections historical Annual Usage will be used to determine a Base Annual Volume, which is the average for the previous six years prior to the increased demand. Additional Developer Charges will then be calculated.

6.6 Staged Developments

GWCC may, through agreement allow a development to proceed in stages. That is the full Developer Infrastructure Charge is determined, but a lesser Charge is agreed to and fully paid providing the applicant with an Initial Annual Volume.

Additional Annual Volume Indicators will be agreed to before final approval is given.

Any Annual Usage in excess of the Initial Annual Volume (plus a 20% grace amount) will be subject to an Additional Charge per Kilolitre at the GWCC's Standpipe Rate.

Part of the Additional Charge will credit any future Developer Infrastructure Charge. Any credit will be calculated at the Current Year's Developer Infrastructure Charge rate.

Once an Additional Annual Volume Indicator has been reached, then the Developer Infrastructure Charges for that new Annual Volume must be fully paid.

6.7 Deferred Developer Infrastructure Charges

In order to assist in the promotion of lifestyle amenity and/or economic development across all areas serviced, GWCC may, upon application from any sub-divider enter into an agreement with the developer allowing the deferment of Developer Infrastructure Charges contributions subject to:

- The individual subdivision to which Developer Infrastructure charges apply is more than three lots.

Developer Charges Policy

- The total outstanding Developer Infrastructure Charges (debt) created shall, be distributed equally (or in such other manner as GWCC may specifically approve) over all useable lots created by the subdivision.
- The debt, in the form of a special charge pursuant to Section 552 of the Local Government Act will be imposed on each lot in accordance with such distribution.
- Should there be an increase in GWCC's Developer Infrastructure Charge (for whatever reason), then, in addition to the above debts being levied on each lot, GWCC will (immediately the new charge applies) debit the increase in Developer Infrastructure Charge to each unsold lot.
- Should there be a decrease in the Developer Infrastructure charges (for whatever reason), then, no reduction will apply and the originally agreed debt shall be maintained on any unsold lot.
- It shall be the responsibility of the sub divider (as the then property owner at the time of sale) to ensure that full payment is made to GWCC for the outstanding debt for that lot.
- The life of the agreement is limited to the sale of all lots specified, or ten years, whichever is the lesser. Any debts outstanding beyond the life of the agreement shall attract normal interest charges and be subject to such other recovery action as GWCC may determine.
- The agreement is for a specific number of useable lots. Where it is proposed to vary the number of lots, then, consolidation under one title will be the only criteria used in determining a reduction in the number of lots. If the lots are unsold, an adjustment will be made removing the identified lot's debt. Where the lots have been sold, then upon application, a refund being the amount of Developer Infrastructure Charges paid for the original lots, less, the Developer Infrastructure charge (payable at that time) for a single Developer Infrastructure Charge entitlement. In either case the new lands (under one title) will have a single Developer Infrastructure Charge entitlement.
- Any subdivision of any lot, will require the payment of additional Developer Infrastructure charges for any additional useable lots created.
- Dual occupancy may be subject to additional Developer Infrastructure charges, and as such is not included under this agreement, other than the original debt for the original lot or lots as the case may be.
- All arrangements shall be committed to an appropriate agreement established between the sub-divider and GWCC. The agreement shall be accepted by all parties as being publicly available in response to any inquiry to GWCC (for whatever reason) regarding either the subdivision in general, or a specific allotment in such subdivision. The sub-divider shall provide to any prospective purchaser a copy of this agreement.
- No associated connection fees can be deferred.
- No capital costs associated with construction of water mains required within the subdivision can be deferred.

6.8 Sub-divisions

GWCC is the relevant water supply authority constituted under the NSW Local Government Act 1993, to satisfy the requirements of Section 109 J(1)(e) of the Environmental Planning and Assessment Act 1979.

GWCC will issue a Certificate of Compliance following:

- the return of a signed Letter of Offer for connection ,
- The full payment of Developer Infrastructure Charges, Developer Augmentation Charges, Tapping Service and Metering Charges and any other Charges, and or agreement for their payment at the sole discretion of GWCC.
- The Owner is required to provide GWCC with a copy of the Registered Final Plan of Sub-division.
- GWCC will not carry out any works for tapping, service and metering to the property/properties until a copy of the Registered Final Plan of Sub-division has been provided.
- Any proposed Lots where a future sub-division is possible may require Developer Infrastructure Charges.

6.9 Vacant Land Charges

On registration of the sub-division, each newly unconnected lot is subject to a Vacant Land Charge to be levied quarterly.

6.10 Permanent Disconnected Connection

Reconnection of a previously permanently disconnected water service connection is not guaranteed.

Developer Infrastructure Charges apply for any reconnection of a previously permanently disconnected water service connection.

The Charge shall be the lessor of

- The Full Developer Infrastructure Charges or
- 120 percent of the current year's 20mm Access Charge (for that property's GWCC Classification), multiplied by the number of years of Permanent Disconnection.

6.11 Water Service Connections Supplying Multiple Premise

Existing water service connections either contributed Developer Charges, or were deemed to have contributed when Developer Infrastructure Charges were introduced by SWTWS circa 1990.

Water service connections supply single premises through a GWCC water meter. An exception occurs for the owner of a group of contiguous premises, who can supply two or more premises in the group.

Historically SWTWS operated under *Sole Use by Consumer* Agreements prior to trunk line customers (often referred to as minor consumers) being administered by the NRCC. The NRCC rural Schemes also had sizable Developer Charges. NRCC also operated known Master/Subtract accounts which were transferred to GWCC who specifically resolved to approve those existing

arrangements. Any subsequent connections found without prior written approval would be simply avoiding Developer Charges either to existing premise or as a result of sub-division.

Where it comes to light that any water service connection is supplying other premise (not contiguously owned), then the Current Water Account Holder is to provide GWCC with Documentary Evidence showing prior written approval to supply. It is Council's preference that connections supplying more than one premise be converted to individual supplies.

- Where Documentary Evidence exists, those parties mentioned shall be exempt from the payment of Developer Infrastructure Charge.
- Where no Documentary Evidence is provided, then the unauthorised connections are to be permanently disconnected.

Master/Subtract water service connections will not be approved except by specific resolution of Council.

6.12 Special Conditions – Residential

GWCC may permit a residential development to proceed provided that the Owner/Developer agrees to permanent water supply conditions for the development, the Owner/Developer will make agreed undertakings in an 88B instrument for each Lot which will apply to any subsequent Owner(s).

6.13 Special Conditions – Non-Residential Rural

The applicant will be required to store a minimum of 3 day average water requirements or 20,000 litres whichever is greater.

6.14 Non-Residential Other/Non- Residential High Volume Monthly

- Infrastructure charges will be calculated based on anticipated number of equivalent tenements.
- A discount may be offered subject to the water supply being at a continuous flow.

6.15 Industrial

Non Residential Industrial Connections will require the applicant to provide their Annual Volume and any other water supply requirements to GWCC.

Proposed industrial developments where the future use is unknown will use the NSW Water Directorate guideline ET's per gross hectare for Unknown Future Use – Medium to calculate any Developer Infrastructure Charge.

6.16 Fire Services

Apart from fire, and limited maintenance, Fire Services will have a nil demand on GWCC Systems.

For any connection exclusively for firefighting purposes then:

- No Developer Infrastructure Charge is payable
- A Developer Augmentation Charge may be required

6.17 Developer Augmentation Charges

In addition to any Developer Infrastructure Charges levied, the Owner/Developer will be required to meet the cost of GWCC supplying additional infrastructure, and or upgrading existing infrastructure to supply the development. Where new mains are laid, these works will include individual main cocks, property pipes, risers and isolation valves to each new lot.

Where new or upgraded infrastructure will benefit existing GWCC customers with improved levels of service, GWCC will meet part of the Augmentation costs.

At GWCC's discretion the Owner/Developer may be permitted to undertake augmentation works at their expense, subject to meeting GWCC's standards for installation. If so part developer Augmentation Charges will be levied for cut-ins, inspections, pressure testing and sanitisation. GWCC will require a 12 month warranty period from the Owner/Developer.

6.18 Compensation for already paid Development

When an Owner/Developer is levied a Developer Augmentation Charge in excess of \$10,000 (2016 rate indexed to CPI), they will be eligible to be compensated by any future Owner/Developers who use that infrastructure for their development.

This would cease after 10 years from the date of commissioning or after 50% of the original infrastructure has been recovered by the original Owner/Developer A, whichever occurs first.

6.19 Sub-division Augmentation

For developments requiring water main augmentations, where there is a potential for "dead end" mains within an existing LEP Zone Residential, (including large lot residential) up to \$10,000 will be considered by Council Officers. Augmentation above \$10,000 will be considered by Council on a case by case basis.

7 RELEVANT LEGISLATION

7.1 Local Government Act 1993 – SECT 64

Construction of works for developers

64 Construction of works for developers

Division 5 of Part 2 of Chapter 6 of the [Water Management Act 2000](#) applies to a council exercising functions under this Division in the same way as it applies to a water supply authority exercising functions under that Act.

7.2 Water Management Act 2000

Division 5 - Developer contributions to the construction of works

7.3 Water Management Act 2000 – SECT 305

Application for certificate of compliance

305 Application for certificate of compliance

(1) A person may apply to a water supply authority for a certificate of compliance for development carried out, or proposed to be carried out, within the water supply authority's area.

(2) An application must be accompanied by such information as the regulations may prescribe.

7.4 Water Management Act 2000 – SECT 306**Authority may impose certain requirements before granting certificate of compliance***306 Authority may impose certain requirements before granting certificate of compliance*

(1) This section applies to such kinds of development as are prescribed by the regulations for the purposes of this section.

(2) As a precondition to granting a certificate of compliance for development, a water supply authority may, by notice in writing served on the applicant, require the applicant to do either or both of the following:

(a) to pay a specified amount to the water supply authority by way of contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both,

(b) to construct water management works to serve the development.

(3) In calculating an amount for the purposes of subsection (2) (a):

(a) the value of existing water management works and the estimated cost of projected water management works may be taken into consideration, and

(b) the amount of any government subsidy or similar payment is not to be deducted from the relevant value or cost of the water management works, and

(c) consideration is to be given to any guidelines issued for the time being for the purposes of this section by the Minister.

(4) If a water supply authority imposes a requirement under this section on the Crown, the Crown may request the Minister for Urban Affairs and Planning to determine whether such a requirement should be imposed and, if so, in what terms.

(5) The determination made by the Minister for Urban Affairs and Planning in response to such a request is final and is taken to be the determination of the water supply authority.

(6) Any water management works constructed in compliance with a requirement under this section are the property of the water supply authority.

7.5 Water Management Act 2000 – SECT 307**Granting of certificates of compliance***307 Granting of certificates of compliance*

(1) A water supply authority must grant a certificate of compliance for development:

- (a) within 60 days after an application for the granting of such a certificate is made, or
 - (b) if, within that period, the water supply authority imposes a requirement on the applicant under this Division, as soon as it is satisfied that the requirement has been complied with.
- (2) A water supply authority may be satisfied that a requirement under this Division has been complied with if the applicant lodges with the water supply authority such security for compliance with the requirement as the water supply authority may approve.
- (3) If a water supply authority fails or refuses to give a compliance certificate within the period of 60 days after an application is duly made in that regard, the applicant may appeal to the Land and Environment Court, within 12 months after the expiration of that period, against the failure or refusal.

7.6 Local Government Act 1993 – SECT 552

What land may be subject to a water supply special rate or charge?

552 What land may be subject to a water supply special rate or charge?

- (1) A special rate or charge relating to water supply may be levied on:
- (a) land that is supplied with water from a water pipe of the council, and
 - (b) land that is situated within 225 metres of a water pipe of the council whether the land has a frontage or not to the public road (if any) in which the water pipe is laid, and although the land is not actually supplied with water from any water pipe of the council.
- (2) A special rate or charge relating to water supply may not be levied on land unless water could be supplied to some part of the land from a standpipe at least 1 metre in height from the ground level, if such a pipe were laid and connected to the council's mains.
- (3) A special rate or charge relating to sewerage may be levied on all land except:
- (a) land which is more than 75 metres from a sewer of the council and is not connected to the sewer, and
 - (b) land from which sewage could not be discharged into any sewer of the council.
- (4) A special rate or charge relating to drainage may be levied on rateable land that is within the basin served by the drainage works.

7.7 Local Government Act 1993 – SECT 553

Time at which land becomes subject to special rate or charge

553 Time at which land becomes subject to special rate or charge

Land does not become subject to a special rate or charge to which this Division applies by virtue of the extension by a council of a water pipe, sewer or drain:

- (a) in the case of a special rate or charge relating to water supply-until 21 days after notice is given by the council in the Gazette of the extension of the water pipe or until the date on which the land is connected to the council's mains, whichever is the earlier, or

(b) in the case of a special rate or charge relating to sewerage-until 60 days after notice is given by the council in the Gazette of the extension of the sewer or until the date on which the land is connected to the sewer, whichever is the earlier, or

(c) in the case of a special rate or charge relating to drainage-until notice is given by the council in the Gazette of the extension of the drain.

7.8 Local Government Act 1993 – SECT 608

Council fees for services

608 Council fees for services

(1) A council may charge and recover an approved fee for any service it provides, other than a service provided, or proposed to be provided, on an annual basis for which it is authorised or required to make an annual charge under section 496 or 501.

(2) The services for which an approved fee may be charged include the following services provided under this Act or any other Act or the regulations by the council:

- supplying a service, product or commodity
- giving information
- providing a service in connection with the exercise of the council's regulatory functions-including receiving an application for approval, granting an approval, making an inspection and issuing a certificate
- allowing admission to any building or enclosure.

(3) In particular, a council may charge an approved fee for inspecting premises that are reasonably required to be inspected in the exercise of the council's functions, whether or not the inspection is requested or agreed to by the owner or occupier of the premises.

(4) However, a council may not charge an approved fee for the inspection of premises that are not used for a commercial activity, except where it is necessary to inspect the premises in connection with an application for an approval concerning the premises or in connection with any inspection that is reasonably necessary to determine if an approval has been complied with.

(6) If inspections of premises are reasonably necessary to determine if an approval has been complied with:

(a) an approved fee may be charged for such an inspection only if the charging of the fee has been included as a condition of the approval, and

(b) an approved fee may not be charged for such an inspection before the approval is granted, and

(c) an approved fee may not be charged for the inspection of anything for which the council relies on a certificate under section 93 that the thing has been done in compliance with the approval.

(7) An approved fee charged for inspecting premises must be repaid to the person who paid it if the inspection is not carried out.

(8) An approved fee charged in connection with a service provided at an airport established and maintained by the council may be recovered from the holder of the certificate of registration issued under the *Civil Aviation Regulations* of the Commonwealth for the aircraft in respect of which the service was provided. This subsection applies whether or not the holder is the person to whom the service is actually provided.

7.9 Environmental Planning and Assessment Act 1979 – SECT 109

Restriction on issue of subdivision certificates

109J Restriction on issue of [subdivision certificates](#)

(1) A [subdivision certificate](#) must not be issued for a subdivision unless:

(a) the subdivision is not prohibited by or under this Act, and

(b) in the case of subdivision that may not be carried out except with [development consent](#), a [development consent](#) (or, in the case of [complying development](#), a [complying development certificate](#)) is in force with respect to the subdivision, and

(c) in the case of subdivision for which a [development consent](#) has been granted, the applicant has complied with all conditions of the consent that, by its terms, are required to be complied with before a [subdivision certificate](#) may be issued in relation to the [plan of subdivision](#), and

(c1) in the case of [subdivision of land](#) to which a planning agreement referred to in section 93F applies, all the requirements of the agreement that, by its terms, are required to be complied with before a [subdivision certificate](#) is issued in relation to the [plan of subdivision](#) have been complied with, and

(d) in the case of subdivision for which a “deferred commencement” consent under section 80 (3) has been granted, the applicant has satisfied the [consent authority](#) concerning all matters as to which the [consent authority](#) must be satisfied before the consent can operate, and

(e) in the case of subdivision that relates to [land](#) within a [water supply authority](#)’s [area](#) of operations, the applicant has obtained a [certificate of compliance](#) from the [water supply authority](#) with respect to the subdivision of the [land](#), and

(e1) in the case of [subdivision of land](#) to which water or sewerage services are to be provided under the [Water Industry Competition Act 2006](#) , the applicant has obtained a [certificate of compliance](#) under that Act for the subdivision of the [land](#), and

(f) in the case of subdivision the subject of an order made by the [Court](#) under section 40 of the [Land and Environment Court Act 1979](#) concerning the provision of drainage easements, all such drainage easements have been acquired by the [council](#) as referred to in that section, and

(g) in the case of subdivision the subject of a [development consent](#) for which the [consent authority](#) is required by the [regulations](#) to notify any [objector](#):

(i) at least 28 days have elapsed since the [objector](#) was notified, or

(ii) if an appeal has been made by the [objector](#) within that time, the appeal has been finally determined.

(2) Without limiting subsection (1), a [subdivision certificate](#) must not be issued for a subdivision that involves [subdivision work](#) unless:

(a) the work has been completed, or

(b) agreement has been reached between the applicant for the certificate and the [consent authority](#):

(i) as to the payment by the applicant to the [consent authority](#) of the cost of carrying out the work, and

(ii) as to when the work will be completed by the [consent authority](#), or

(c) agreement has been reached between the applicant for the certificate and the [consent authority](#):

(i) as to the security to be given by the applicant to the [consent authority](#) with respect to the work to be completed, and

(ii) as to when the work will be completed by the applicant.

(3) Subsection (2) does not prohibit the issue of a [subdivision certificate](#) for part only of [land](#) that may be subdivided in accordance with a [development consent](#) as long as the requirements of that subsection have been complied with in relation to that part.

(4) In this section:

"**certificate of compliance**" , in relation to a [water supply authority](#), means a [certificate of compliance](#) issued by the [water supply authority](#) under the Act under which the [water supply authority](#) is constituted.

"**water supply authority**" means:

(a) the Sydney Water [Corporation](#), the Hunter Water [Corporation](#) or a [water supply authority](#) within the meaning of the [Water Management Act 2000](#) , or

(b) a [council](#) or county [council](#) exercising water supply, sewerage or stormwater drainage [functions](#) under Division 2 of Part 3 of Chapter 6 of the [Local Government Act 1993](#) .

7.10 Local Government (General) Regulation 2005

143 Inspection of pipes and drains and measurement of water and sewage

(1) The council may, at any reasonable time:

(a) inspect any service pipe connected to a water main, and

(b) inspect any drain connected to a sewer main, and

(c) install meters or other devices for measuring the quantity of water supplied to, or the quality and quantity of sewage discharged from, premises, and

(d) measure the quantity of water supplied to, or the quality and quantity of sewage discharged from, premises, and

(e) inspect any pre-treatment devices connected to the council's sewerage system.

(2) The occupier of the relevant premises must provide to the council such information as it requires to enable it to estimate the quantity of water actually supplied to, or the quality and quantity of sewage actually discharged from, the premises.

(3) In this clause, **pre-treatment device** means any device used to reduce or eliminate contaminants in trade waste, or to alter the waste's nature, before it is discharged into a sewer.

144 Cutting off or restricting water supply

(1) The council may cut off or restrict the supply of water to premises:

(a) if any water meter used to measure that supply is out of repair or, in the opinion of the council, incorrectly registers the supply of water, or

(b) if any rates or charges in respect of the water supplied to the premises are unpaid, or

(c) if, in the opinion of the council, that action is necessary because of unusual drought or other unavoidable cause or any accident, or

(d) if the owner or occupier or person requiring a supply of water fails to comply with a lawful order or requirement of the council as to installing water meters or instruments for measuring the quantity of water supplied, or

(e) if the owner or occupier or person requiring a supply of water fails to comply with a lawful order or requirement of the council to repair or alter water connections, pipes, fittings or fixtures connected to the council's water supply system, or

(f) if the occupier of the premises contravenes a provision of Division 3 of this Part or fails to comply with any council order or public notice requiring consumers of water to economise its use in time of drought or scarcity of supply, or

(g) if the owner or occupier of the premises fails to comply with a requirement of a council order to remove, replace, alter, extend, repair or stop using a water pipe, fitting or fixture.

(2) The cutting off of the supply of water under this clause for non-payment of rates or charges does not affect the liability of the rateable person to pay those rates or charges.

(3) If the council cuts off the supply of water to premises because:

(a) there is no water meter installed on the premises, or

(b) the water meter on the premises registers incorrectly, or

(c) water rates or charges for the premises are unpaid,

the council may refuse to supply water to those premises until a water meter is installed on the premises, the water meter registers correctly or the water rates or charges are paid (as the case may require).

151 Water supply, sewerage and stormwater drainage work to comply with applicable standards and requirements

- (1) Water supply work and sewerage work that is plumbing and drainage work within the meaning of the [Plumbing and Drainage Act 2011](#) must comply with any requirements of that Act or the regulations made under that Act.
- (2) Any other water supply work or sewerage work, and any stormwater drainage work, must comply with any applicable standards or requirements set out or referred to in the Act or this Regulation.

152 Premises to be connected to water supply by an independent house service pipe

- (1) The owner of premises must, unless the council authorises otherwise, ensure that the premises are not connected to a property service pipe linked to the council's water supply system except by an independent house service pipe.
- (2) The owner of premises connected to the council's water supply by an independent house service pipe must ensure that the pipe has a stop-valve within the premises that is not more than 450 millimetres from the road alignment or at some other place within the premises approved by the council.
- (3) If several premises are supplied with water by a single house service pipe, the council may require, as a condition of the supply that a separate house service pipe be laid to each of the premises.
- (4) If the council authorises the connection of 2 or more premises by means of a single house service pipe, the owner of each of the premises must (unless all the premises are occupied by a single household or firm as a residence or place of business) ensure that there is installed on each of those premises:
 - (a) a separate stop-valve that complies with subclause (2), and
 - (b) a separate water meter to measure the water supply to those premises.
- (5) The owner of a group of contiguous premises may request the council to lay a large property service pipe or water sub-main to supply 2 or more of the premises in the group.

153 Laying of house service pipes

- (1) A person must not lay a house service pipe that is to be connected to the council's water supply system otherwise than in accordance with the Plumbing Code of Australia.
- (2) However, a person does not contravene subclause (1) only by laying a house service pipe at a depth less than that required by the Plumbing Code of Australia if the council has, in writing, authorised the person to do so.

156 Water meter not to be used to measure the water supplied to more than one premises except in certain cases

- (1) The owner of premises on which a water meter is installed must ensure that the meter is not used to measure the quantity of water supplied by the council to other premises.

(2) Subclause (1) does not apply:

(a) if the premises and the other premises are occupied by a single household or firm as a residence or place of business, or

(b) if the council authorises the meter to measure the water supplied to the premises and the other premises.

(3) In those circumstances:

(a) the council must credit the relevant water account with the amount of any water rate or charge paid in respect of all the premises, and

(b) the owner of the premises on which the water meter is installed must ensure that:

(i) the meter is directly connected to the water main by a single property service pipe, and

(ii) the water for each of the premises passes through and is measured by the meter.

(4) However, if there are special circumstances requiring the laying of 2 or more service pipes, the owner of the premises must ensure that each service pipe is connected to a water meter.

(5) In that case, the council must credit the water account of each meter with the amount of any water rate or charge paid in respect of the premises supplied through the relevant service pipe.

160 Misuse of water

An occupier of premises supplied with water from the council's water supply system must not:

(a) take any of the water away from the premises, or

(b) allow any other person to take any of the water away from the premises, or

(c) use water contrary to a council notice restricting the use of water,

other than in accordance with arrangements instituted by the council.