

Department of Planning and Environment

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Model rules for private water corporations

Water Management Act 2000

August 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Rules of [insert corporation name]

A private water corporation under the *Water Management Act 2000* (NSW)

1 Preliminary

1.1 Definitions

Act means the *Water Management Act 2000* (NSW).

AGM means annual general meeting.

agreement means an irrigation, water supply, water distribution, or drainage agreement under which the corporation agrees to supply water for the purpose of irrigating land or other purposes, or to drain water from land by means of a water supply, water distribution, or drainage system provided and managed by the corporation.¹

auditor means the auditor appointed by the corporation in the manner prescribed by the rules.²

authorised officer means an authorised officer appointed by the corporation in accordance with section 171 of the Act and rule 7.1.

board means the board of the corporation.³

business day means a day other than a Saturday, a Sunday or a public holiday throughout New South Wales.⁴

casting vote means a deciding vote of the person chairing the meeting when votes are equally divided.

class 1 member means a landholder of land to which the works plan applies.

class 2 member means a member who is not a landholder of land to which the works plan applies.

corporation means [insert corporation name], a private water corporation under the *Water Management Act 2000*.

corporation work means a water management work, or a proposed water management work, specified in the corporation's works plan.⁵

corporation stakeholder means —

- a. a member of the corporation, or
- b. a landholder to whom the corporation provides services, or
- c. a person with whom the corporation enters into an agreement under the Act, section 151.⁶

head office means the place where the corporation keeps its official records.

¹ When the new laws start, *Water Management Act 2000* (NSW) see ss 151(1) and 171(2).

² When the new laws start, *Water Management Act 2000* (NSW) s 166(4).

³ When the new laws start, *Water Management Act 2000* (NSW) s 139.

⁴ When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 3(1).

⁵ When the new laws start, *Water Management Act 2000* (NSW) s 139.

⁶ When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 3(1).

landholder, in relation to land, means —

- a. the owner of the land or (if the owner is not in occupation of the land) the lawful occupier of the land, or
- b. the local council, in the case of land that comprises —
 - i. a public road vested in, or under the control or management of, the local council, or
 - ii. the site of a work that is, or is proposed to be, constructed for the local council.⁷

meeting means a meeting of the members of the corporation and includes an annual general meeting.

member means a class 1 member or class 2 member.

member's water entitlement means the part of the share component of the corporation's access licence that is available to a member.⁸

Minister means the Minister administering the *Water Management Act 2000* (NSW).⁹

notice means written notice given personally or sent by post or electronic means such as email. A notice is taken to be given to a person if sent:

- by post, 5 business days after it was posted
- by electronic means such as email, on the business day after it was sent.

notify means to give notice.

proxy means an authorisation empowering a person to vote or act for another.

quorum means:

- for the board, the majority of board members
- for the corporation, the number of members required to be present to transact business under rule 2.6.6.

registered office means the corporation's official address used for the service of documents.

rules means the rules of the corporation, as in force from time to time.¹⁰

service means the [water services AND/OR drainage services] provided by the corporation.

system means the [water supply system AND/OR water distribution system AND/OR drainage system] provided by the corporation.¹¹

works plan means the works plan for the corporation, as in force from time to time.¹²

⁷ *Water Management Act 2000* (NSW) Dictionary.

⁸ When the new laws start, *Water Management Act 2000* (NSW) s 139.

⁹ *Interpretation Act 1987* (NSW) s 15.

¹⁰ When the new laws start, *Water Management Act 2000* (NSW) s 139.

¹¹ When the new laws start, *Water Management Act 2000* (NSW) see s 143(1)(a).

¹² When the new laws start, *Water Management Act 2000* (NSW) s 139.

1.2 Legislative requirements

For easy reference, the rules include some of the requirements of the Act and regulations. Relevant sections have been footnoted.

These are legislative requirements and will apply irrespective of whether they appear in the rules.

These are not the only requirements of the Act and regulations with which the corporation must comply.

2 Constitution and management

2.1 Functions

The corporation was constituted under [Schedule 9 OR section 142] of the Act.

The corporation's functions are:

1. to provide, maintain, or operate a [water supply system AND/OR water distribution system AND/OR drainage system].¹³ This may include:
 - constructing, installing, maintaining, operating, and managing corporation works¹⁴
 - repairing, replacing, maintaining, removing, extending, connecting, disconnecting, improving, or doing any other things in relation to corporation works that are necessary to carry out the corporation's functions¹⁵
2. any other function conferred or imposed on the corporation by or under the Act or any other Act.¹⁶

The corporation must exercise its functions in accordance with the Act, the regulations, and the rules.¹⁷

2.2 The rules

2.2.1 Effect of the rules

The rules are binding on the members of the corporation, board members, and landholders to whom the corporation provides services.¹⁸ The rules must:

- not be inconsistent with the Act or the regulations¹⁹
- comply with the requirements prescribed by the regulations.²⁰

A rule has no effect to the extent to which it is inconsistent with the Act or the regulations.²¹

¹³ When the new laws start, *Water Management Act 2000* (NSW) s 143(1)(a).

¹⁴ When the new laws start, *Water Management Act 2000* (NSW) s 148(1)(a).

¹⁵ When the new laws start, *Water Management Act 2000* (NSW) s 148(1)(b).

¹⁶ When the new laws start, *Water Management Act 2000* (NSW) s 143(1)(b).

¹⁷ When the new laws start, *Water Management Act 2000* (NSW) s 143(3).

¹⁸ When the new laws start, *Water Management Act 2000* (NSW) s 145(5).

¹⁹ When the new laws start, *Water Management Act 2000* (NSW) s 145(3)(a).

²⁰ When the new laws start, *Water Management Act 2000* (NSW) s 145(3)(b).

²¹ When the new laws start, *Water Management Act 2000* (NSW) s 145(6).

2.2.2 Accessing the rules

Corporation stakeholders may request a [hard copy or electronic copy](#) of the rules from [\[the secretary\]](#).

Where a request is made, [\[the secretary\]](#) must provide the [type of copy requested](#) within [\[5 business days\]](#).²²

[Electronic copies must be provided free of charge.](#)

2.2.3 Changing the rules

The corporation may amend or replace its rules if:

- the proposed change has been approved by at least two-thirds of members entitled to vote on the question or the change; or
- the change is authorised under the rules.²³

The corporation must notify each corporation stakeholder of changes to the rules, or replaced rules:

- in writing, and
- within 2 business days after the change or replacement.²⁴

²² When the new laws start, *Water Management Act 2000* (NSW) s 146(2).

²³ When the new laws start, *Water Management Act 2000* (NSW) s 145 (1, (2)(m) and (7). No change to the proportion has been made under section 145(8).

²⁴ When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 58.

2.3 Members of the corporation

2.3.1 Register of members

The corporation must keep a register of members at its [head office or registered office].

The register must contain:

- a member's name, residential address, and contact details such as postal address, telephone number, or email address
- the date on which the person became a member
- if the person is a class 1 or class 2 member
- if the person is a class 1 member, the particulars of the land title, for example, the lot and deposited plan numbers
- the date on which the person ceased being a member
- [the member's water entitlement].

The secretary must make the register of members available at the AGM.

Unless the board approves, a person must not:

- use information from the register to contact or send material to a member advertising for political, religious, charitable, or commercial purposes
- disclose information from the register to someone who is not a member or otherwise employed by or associated with the corporation.

2.3.2 Members' rights

A member may:

- attend and speak at meetings
- put forward resolutions
- ask board members to call meetings
- look at the records of the corporation if the board members have authorised them to do so, or if the members have passed a resolution letting them do so.

2.3.3 Members' responsibilities

Members must:

- inform the corporation in writing if they change their name, residential address, or contact details such as postal address, telephone number, or email address
- treat other members with respect.

Members who sell land to which the corporation provides or is able to provide services must notify the corporation of the sale of land as follows:

- before the sale — by giving the corporation written notice of their intention to sell the land²⁵
- within 21 days after the sale — by giving the corporation written notice of the following:
 - the date of the sale
 - the identity of the purchaser
 - whether the member informed the purchaser the land was land to which the corporation provides or is able to provide services.²⁶

Members who subdivide land to which the works plan applies must:

- before the subdivision — give the corporation written notice of their intention to subdivide
- within 21 days after the subdivision — give the corporation written notice that their land has been subdivided. This notice must include:
 - when the subdivision took effect
 - a copy of the registered plan.

2.4 New members

2.4.1 Adding members by land dealings

Subject to section 162 of the Act, the purchaser of land to which the corporation provides or is able to provide services automatically becomes a member when the sale of land takes effect.²⁷

Upon becoming a member, the purchaser automatically has all the entitlements and liabilities of the vendor as a member, in respect of the land, that the vendor had immediately before the sale took effect.²⁸

After receiving a notification under rule 2.3.3, the [secretary] must update the register of members.

A person automatically becomes a member if they otherwise become the owner of land to which the works plan applies. For example, as a beneficiary of a will. After confirming ownership, the [secretary] must update the register of members.

2.4.2 Adding members by changing the works plan

A landholder may apply to the corporation to become a class 1 member by adding their land to the works plan.

The application must be in writing and may be made using the application for new membership form.

The application must include:

- the particulars of the land title and area of land proposed to be added to the works plan (the additional land)

²⁵ When the new laws start, *Water Management Act 2000* (NSW) s 161(2) and *Water Management (General) Regulation 2018* (NSW) cl 61(a).

²⁶ When the new laws start, *Water Management Act 2000* (NSW) s 161(2) and *Water Management (General) Regulation 2018* (NSW) cl 61(b).

²⁷ When the new laws start, *Water Management Act 2000* (NSW) s 161(1)(b).

²⁸ When the new laws start, *Water Management Act 2000* (NSW) s 161(1)(c).

- the particulars of any proposed changes to corporation works (if any)
- plans showing the location of:
 - the additional land relative to the works plan
 - the location of any water management work or proposed water management work
 - location of any proposed changes to corporation works.

The [members] must consider the application [as soon as practicable OR within insert specified timeframe] after receiving it.

Before determining the application, the members must decide:

- whether to approve the change to the works plan²⁹
- if the change to the works plan is approved, whether the change takes effect from the date the approval is given, or another date specified in the approval.³⁰

Changes to the works plan must be approved by at least two-thirds of the members entitled to vote on the question.³¹

If the changes to the works plan are approved, the application must be accepted.

If the changes to the works plan are refused, the application must be refused.

The [secretary] must notify the applicant of corporation's decision in writing. The notice must include the matters the corporation considered when determining the application.

If the corporation accepts an application, the [secretary] must:

- update the register of members
- update the works plan to include the approved changes.

2.4.3 Applying for class 2 membership

A person at least 18 years of age may apply, in writing, to become a class 2 member. The person may apply using the application for new membership form.

The application must include the person's reasons for membership. For example:

- the person has a beneficial interest in land to which the works plan applies
- the person has day-to-day management of the land to which the works plan applies
- the corporation's operations impact the person's land, access to water, or safety
- the person is a government agency with responsibilities related to the corporation's functions.

The [members] must consider the application [as soon as practicable OR within insert specified timeframe] after receiving it.

The [members] must decide whether to accept or refuse an application.

²⁹ When the new laws start, *Water Management Act 2000* (NSW) s 158(1).

³⁰ When the new laws start, *Water Management Act 2000* (NSW) s 158(3).

³¹ When the new laws start, *Water Management Act 2000* (NSW) s 158(1).

The [secretary] must notify the applicant of [the members'] decision in writing.

If the corporation accepts an application, the [secretary] must update the register of members.

2.4.4 Membership and subdividing land

Where a member subdivides land to which the works plan applies:

- a new class 1 membership is created for each parcel of land created by registration of a deposited plan
- a new class 1 membership is created for each strata scheme created by registration of a strata plan
- a new class 1 membership is created for each community scheme created by registration of a community, precinct, or neighbourhood plan.

The subdivision of land by a member does not of itself:

- entitle any other person to be a member or be supplied with services³²
- affect any existing entitlement of any other person in relation to any service³³
- affect any functions of the corporation in relation to corporation works.³⁴

2.5 Ending membership

2.5.1 Ending membership by the sale of land

A member who sells land to which the corporation provides or is able to provide services automatically ceases to be a member in respect of that land when the sale takes effect.³⁵

After receiving a notification under rule 2.3.3, the [secretary] must update the register of members.

2.5.2 Ending membership by changing the works plan

A class 1 member may apply to the corporation to end their membership by removing their land from the works plan.

The application must be in writing and include:

- the particulars of the land title and area of land proposed to be removed from the works plan (the removed land)
- the particulars of any proposed changes to corporation works (if any)
- plans showing the location of:
 - the removed land relative to corporation works

³² When the new laws start, *Water Management Act 2000* (NSW) s 162(a).

³³ When the new laws start, *Water Management Act 2000* (NSW) s 162(b).

³⁴ When the new laws start, *Water Management Act 2000* (NSW) s 162(c).

³⁵ When the new laws start, *Water Management Act 2000* (NSW) s 161(1)(a).

- location of any proposed changes to corporation works.

The [members] must consider the application [as soon as practicable OR within insert specified timeframe] after receiving it.

Before determining the application, the members must decide:

- whether to approve the changes to the works plan³⁶
- if the changes to the works plan are approved, whether the change takes effect from the date the approval is given, or another date specified in the approval.³⁷

Changes to the works plan must be approved by at least two-thirds of the members entitled to vote on the question.³⁸

If the changes to the works plan are approved, the application must be accepted.

If the changes to the works plan are refused, the application must be refused.

The [secretary] must notify the applicant of corporation's decision in writing. The notice must include the matters the corporation considered when determining the application.

If the corporation accepts an application, the [secretary] must:

- update the register of members
- update the works plan to reflect the approved changes.

2.5.3 Ending membership by transforming a water entitlement

A member who transforms the whole of their member's water entitlement into an access licence and does not have a right to the delivery of that water by the corporation automatically ceases to be a member of the corporation.³⁹

2.5.4 Other ways to end membership

A person stops being a member of the corporation if:

- they die
- they resign in writing and the [members] accept the resignation by [resolution passed at a meeting]
- a [resolution passed at a meeting] cancels their membership.

Before [passing a resolution under this rule], the [members] must consider if giving effect to the cancellation requires changes to the works plan.

³⁶ When the new laws start, *Water Management Act 2000* (NSW) s 158(1).

³⁷ When the new laws start, *Water Management Act 2000* (NSW) s 158(3).

³⁸ When the new laws start, *Water Management Act 2000* (NSW) s 158(1).

³⁹ When the new laws start, *Water Management Act 2000* (NSW) s 157(3).

If giving effect to a resignation or cancelling a membership requires changes to the works plan, the corporation must not make a change in membership unless the proposed change to the works plan has been approved by at least two-thirds of the members who are entitled to vote on the question.⁴⁰

[Resolutions passed at a meeting] may cancel a member's membership if doing so is in accordance with section 158 of the Act and the member:

- has resigned, and the resignation has been accepted
- cannot be contacted for 2 years
- does not comply with the rules of the corporation
- acts in a manner that may be prejudicial to the interests of the corporation
- is convicted of an indictable offence
- has been liable for the payment of unpaid rates and charges to the corporation for more than 2 years.

If a [resolution passed at a meeting] cancels a person's membership the [secretary] must:

- send [a copy of the resolution] to their last known address or email address, [as soon as practicable after passing the resolution]
- update the register of members.

2.6 Members' meetings and decisions

2.6.1 Annual general meeting

The corporation must hold an AGM every financial year.

The AGM is for:

- viewing the register of members
- presenting the audited financial statement for the previous financial year
- any other business members nominate.

2.6.2 Calling meetings

The [board] may call a meeting [at any time OR must call a general meeting every insert a specific amount of time].

[Class 1 members OR Members] may ask the board to call a meeting [at any time].

If [one OR 3 OR 5 OR 10% OR insert specific number] [class 1 members OR members] ask for a meeting, the board must call a meeting within [28 days].

The [secretary] must give members at least [21 days] notice of a meeting.

The notice for a meeting must set out:

⁴⁰ When the new laws start, *Water Management Act 2000* (NSW) s 158(1).

- the place, date, and time of the meeting
- the business of the meeting
- if a resolution is being proposed, a draft resolution and an explanation of the nature of the resolution.

2.6.3 Business of meetings

Meetings are for:

- confirming the minutes of the previous meeting
- completing the business specified in the notice of the meeting, which may include any other business members nominate.

2.6.4 Using technology at meetings

The corporation may hold meetings at more than one place using any technology that gives members a way of taking part.

Members taking part using technology are deemed to be present at the meeting, and if they vote are deemed to have voted in person.

2.6.5 Chairing meetings

The members may elect a person to chair meetings.

Chairing meetings includes:

- directing overall business and behaviour
- controlling the timing of meetings
- controlling the order of speakers
- keeping discussions on track
- deciding when discussions should finish
- summarising frequently
- informing members of any proxy nominations and who they are
- declaring the results of votes.

2.6.6 Quorum for meetings

[2 OR 5 OR 10] class 1 members make a quorum.

A quorum must be present during the whole meeting.

If there is no quorum after 30 minutes or the quorum is lost during the meeting, the meeting is adjourned until [a time decided by the board].

Notice of the reconvened meeting is to be given according to rule 2.6.2, except the number of days' notice required may be reduced.

If there is still no quorum at the reconvened meeting, the meeting may proceed without a quorum.

2.6.7 Proxies

Members may appoint a person as proxy to attend meetings and otherwise act as their agent for corporation matters.

A proxy appointment must be made in writing using the appointment of proxy form and submitted to the [secretary] before the meeting attended by the proxy.

A proxy has the same rights and responsibilities as the member they represent.

2.6.8 Voting rights

On transformation of the whole or part of a class 1 member's water entitlement to an access licence, the member is not entitled to vote on any matter relating to the transformation of other members' water entitlements or the supply of water to members who have not transformed their water entitlements.⁴¹

Otherwise, class 1 members are entitled to vote, and each class 1 member has one vote.

Class 2 members are not entitled to vote.

A member may only challenge a person's entitlement to vote at a meeting.

The person chairing the meeting will determine the challenge, and their decision is final.

A decision made by the person chairing the meeting must be consistent with the rules.

2.6.9 Members' decisions

Members may make decisions about:

- membership changes under rules 2.4.2, 2.4.3, 2.5.2 or 2.5.4
- electing board members under rule 2.7.4
- removing board members under rule 2.7.9
- deciding to supply water or drainage services to a person who is not a member under rule 3.2
- fixing rates and charges payable for each year under rule 5.1
- resolving disputes under rule 10
- any other business members nominate.

Decisions of the members must occur by resolutions passed by a majority of votes.

If the votes are tied, the person chairing the meeting has a casting vote.

If the person chairing the meeting is a member, the casting vote is an additional vote.

A simple majority on a show of hands can decide resolutions put to a vote at a meeting unless a member demands a count.

⁴¹ When the new laws start, *Water Management Act 2000* (NSW) s 157(2)(a).

Any member entitled to vote on the resolution or the person chairing the meeting can demand a count. A count can occur before or after a show of hands.

2.7 The board

2.7.1 Functions of the board

There must be a board of the corporation.⁴²

The board's functions are:

- to direct, control, and manage the affairs of the corporation, in accordance with the Act, the regulations, and the rules
- any other functions conferred on the board by or under the Act.⁴³

The corporation or board may delegate any of their functions (other than the power to delegate under section 147 of the Act) to:

- a member or board member
- an employee of the corporation.⁴⁴

Delegations must be made in writing.⁴⁵

2.7.2 Board membership

The board must consist of **[insert number between 3 and 10]** members of the corporation.⁴⁶

Board members are appointed for a term of **[3 years]**.⁴⁷

Subject to section 175 of the Act, board members may be re-elected.

Board members must be at least 18 years old.

2.7.3 Register of board members

The corporation must keep a register of board members at its head office or registered office.

The register must contain:

- a board member's name, residential address, and contact details such as postal address, telephone number, or email address
- copies of written consents to act as board members
- the date on which a person became a board member

⁴² When the new laws start, *Water Management Act 2000* (NSW) s 144(1).

⁴³ When the new laws start, *Water Management Act 2000* (NSW) s 144(3)(a). No additional functions have been conferred under section 144(3)(b).

⁴⁴ When the new laws start, *Water Management Act 2000* (NSW) s 147.

⁴⁵ When the new laws start, *Water Management Act 2000* (NSW) s 147.

⁴⁶ When the new laws start, *Water Management Act 2000* (NSW) s 144(2).

⁴⁷ When the new laws start, *Water Management Act 2000* (NSW) s 144(4).

- the date on which a person ceased being a board member.

The [secretary] must make the register of board members available at the AGM.

2.7.4 Electing the board

[Members OR class 1 members] of the corporation must elect the board by resolution passed at a meeting.

Before electing the board, the [secretary] must:

- seek nominations
- hold a ballot or series of votes to elect the board if the number of nominations exceeds the number of board members.

Board members must consent to becoming a board member in writing.

2.7.5 Filling casual vacancies on the board

Board members can appoint a [member OR class 1 member] to fill a casual vacancy on the board.

Before appointing a [member OR class 1 member], the board must:

- notify members of the vacancy
- seek nominations from [members OR class 1 members].

A resolution passed at the next meeting must confirm the appointment of a [member OR class 1 member] to fill a casual vacancy on the board, or the [member's OR class 1 member's] board role ceases.

2.7.6 Board members' duties

Board members have duties:

- of care and diligence
- of good faith
- to disclose conflicts of interest
- not to improperly use their position or information
- to provide sound financial management of the corporation
- not to carry out duties while insolvent.

2.7.7 Conflicts of interest

A board member who has a material personal interest in a corporation matter must tell the other board members and provide information about their interest and its relation to the corporation.

Information about the conflict must be:

- given at a board meeting as soon as possible after the board member becomes aware of the conflict

- recorded in the minutes of the board meeting.

A board member who has a material personal interest must not, without the consent of the majority of the other board members:

- be present at a board meeting while it considers the matter in question
- vote on the matter.

2.7.8 Using corporation money and property

The board may use the corporation's money and property to carry out its business.

The corporation may pay board members' reasonable travelling and other expenses for attending board meetings or other corporation business.

The corporation's money cannot be used to pay board members a salary or sitting fee for their work as board members.

This does not preclude the corporation from:

- employing board members
- engaging a board member under a contract to provide goods or services to the corporation, so long as the board member has exercised their duty to disclose a conflict of interest.

The board cannot give, by loan or otherwise, the corporation's money and property to members of the corporation or any other person.

This rule does not stop the corporation from making reasonable payment to:

- a member or board member in their capacity as an employee
- a member or board member under a contract to provide goods or services to the corporation.

2.7.9 Ending board membership

A board member ceases being a board member if they:

- die⁴⁸
- resign⁴⁹
- are absent, without leave, from 3 consecutive meetings⁵⁰
- become bankrupt, apply to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the person's creditors or makes an assignment of the person's remuneration for their benefit⁵¹

⁴⁸ When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(a).

⁴⁹ When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(b).

⁵⁰ When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(c).

⁵¹ When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(d).

- become a mentally incapacitated person⁵²
- are convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or are convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable⁵³
- are convicted, in any jurisdiction, of an offence involving fraud⁵⁴
- are disqualified from managing a corporation under the *Corporations Act 2001* (Cth)
- are subject to resolution passed at a meeting removing them from the board.

Before a resolution at a meeting may remove a board member:

- the [secretary] must, as soon as possible, give the board member concerned a copy of the notice given to members under rule 2.6.2
- the board member concerned may give a written statement to members and speak at the meeting.

If the resolution is passed, removal takes effect immediately.

2.8 Board meetings and decisions

2.8.1 Board meetings

The board must meet at least [every six months].

Office bearers may attend board meetings.

2.8.2 Calling board meetings

A board member may call a meeting by giving [reasonable OR insert an amount of time] notice to all other board members and office bearers.

The notice must set out:

- the place, date, and time for the board meeting
- the business of the meeting.

2.8.3 Business of board meetings

The business of board meetings includes deciding the time and place of the next board meeting.

⁵² When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(e).

⁵³ When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(f).

⁵⁴ When the new laws start, *Water Management Act 2000* (NSW) s 144(5) and *Water Management (General) Regulation 2018* (NSW) cl 56(1)(g).

2.8.4 Using technology at board meetings

Board meetings may be held at more than one place using any technology that gives board members a way of taking part.

Board members taking part using technology are deemed to be present at the meeting, and if they vote at the meeting, are deemed to have voted in person.

2.8.5 Chairing board meetings

The board may elect a board member or office bearer to chair their meetings.

Chairing board meetings includes:

- directing overall business and behaviour
- controlling the timing of meetings
- controlling the order of speakers
- keeping discussions on track
- deciding when discussions should finish
- summarising frequently.

2.8.6 Quorum for board meetings

A quorum must be present during the whole board meeting.

If there is no quorum after 30 minutes or the quorum is lost during the board meeting, the board meeting is adjourned until **[a time decided by the board]**.

Notice of the reconvened board meeting is to be given according to rule 2.8.2.

If there is still no quorum at the reconvened meeting, the board meeting may proceed without a quorum.

2.8.7 Board members' decisions

Decisions of the board, including decisions to enter into irrigation, water supply, water distribution, or drainage agreements, must occur by resolution passed by a majority of votes.

Resolutions may be passed without a board meeting if all board members sign a statement attaching a copy of the resolution and saying they are in favour of it. Resolutions and statements made under this rule may be signed electronically.

2.8.8 Voting

Each board member has one vote.

If the votes are tied, the person chairing the meeting has a casting vote.

If the person chairing the meeting is a board member, the casting vote is an additional vote.

2.8.9 Administration

Documents may be executed if signed by 2 board members, or a board member and an office bearer.

An act performed by the board or a person acting as a board member is valid, even if the act was performed when:

- there was a defect in the appointment of the board member, or person acting as a board member
- the board member or person acting as a board member was disqualified from being a board member.

2.9 Office bearers

The board may appoint office bearers to assist in the day-to-day administration of the corporation and decide their pay and terms and conditions of employment, if any.

An appointment does not take effect until the person has consented to holding the role in writing.

Board members may fill casual office bearer vacancies.

2.9.1 Appointing office bearers

The board must appoint a secretary.

The secretary:

- must be at least 18 years old
- must ordinarily reside in Australia
- may be a member of the corporation or the board.

2.9.2 Role of the secretary

The secretary is the main administrative officer of the corporation.

The secretary must:

- maintain the corporation's administrative records
- receive the corporation's correspondence, including applications for membership, and pass it on to at least one board member within 7 days of receiving it
- send out notices required under the rules, including notices of meetings and rates notices
- make documents of the corporation available for inspection in accordance with the rules.

2.9.3 Records kept by the secretary

The secretary must keep the registers of members, board members, and the persons/landholdings (non-members) to whom the corporation provides services.

The secretary must keep a record of the office bearers of the corporation that includes:

- the names, residential addresses, and contact details such as postal addresses, telephone numbers, or email addresses of office bearers
- copies of written consents to act as office bearers
- the date on which a person became an office bearer
- the date on which a person stopped being an office bearer
- copies of any pay and terms and conditions of employment.

The secretary must keep a record of all meetings and board meetings, including:

- minutes of the meeting
- names of the members or board members in attendance, including proxies
- business considered at the meeting
- any resolution on which a vote was taken and the result of the vote
- any disclosure of material personal interests.

Records of meetings and board meetings may be in writing, or audio or video recording.

The secretary must keep:

- the rules of the corporation
- the works plan of the corporation.

3 Operational functions

3.1 Works plan

3.1.1 Works plan content

The corporation must have a works plan that complies with any requirements prescribed by the regulations and the rules.⁵⁵

The works plan must:

- identify the water management works or proposed works that are corporation works⁵⁶
- specify the location of the works, this may include works on land of former members who have transformed their member's water entitlements⁵⁷
- include a map or diagram of the works⁵⁸
- describe the works⁵⁹
- specify the land to which the works plan applies⁶⁰
- if the corporation holds an access licence, include the access licence number⁶¹
- if the corporation holds a water management work approval or an activity approval for the works, include the approval number⁶²
- include a statement of an address at which a copy of the works plan is kept, and from which a copy may be obtained by a corporation stakeholder.⁶³

The land to which the works plan applies includes the land to which the corporation provides or is able to provide services.

3.1.2 Accessing the works plan

A copy of the works plan must be kept at the address stated on the works plan.⁶⁴

Corporation stakeholders may request a hard copy or electronic copy of the works plan from [the secretary].

⁵⁵ When the new laws start, *Water Management Act 2000* (NSW) s 153(2).

⁵⁶ When the new laws start, *Water Management Act 2000* (NSW) s 153(1)(a)

⁵⁷ When the new laws start, *Water Management Act 2000* (NSW) s 153(1)(b) and (4).

⁵⁸ When the new laws start, *Water Management (General) Regulation 2018* cl 59(1)(a).

⁵⁹ When the new laws start, *Water Management Act 2000* (NSW) s 153(1)(b).

⁶⁰ When the new laws start, *Water Management Act 2000* (NSW) s 153(1)(c).

⁶¹ When the new laws start, *Water Management (General) Regulation 2018* cl 59(1)(b)(i).

⁶² When the new laws start, *Water Management (General) Regulation 2018* cl 59(1)(b)(ii).

⁶³ When the new laws start, *Water Management (General) Regulation 2018* cl 59(1)(c).

⁶⁴ When the new laws start, *Water Management (General) Regulation 2018* cl 59(2)(a).

Where a request is made, [the secretary] must provide the type of copy requested within 5 business days.⁶⁵

Electronic copies must be provided free of charge.

3.1.3 Requesting additional details about corporation works

Members and landholders to whom the corporation provides services may request a detailed plan of corporation works on their landholding from [the secretary] if they:

- consider the scale of the works plan is inadequate for their needs
- require corporation works on their property to be surveyed
- require more information about corporations works on their landholding.

Where a request is made, [the secretary] must provide the type of copy requested within 2 months.

If the detailed plan is inconsistent with the works plan, [the secretary] must, within 2 months of the inconsistency being identified, update the works plan to be consistent with the detailed plan.

3.1.4 Changing the works plan

The works plan may be amended or replaced if the amendment or replacement is consented to by any landholder on whose land an affected work is situated or is authorised by the rules.⁶⁶

Amendments authorised by the rules include updating the works plan to:

- reflect a decision made under rule 2.4.2 or 2.5.2
- be consistent with a detailed plan of corporation works under rule 3.1.3
- reflect the subdivision of land to which the works plan applies, for example, to update land boundaries and registered plan references
- reflect any changes to corporation works approved by the corporation.

3.2 Providing services

The corporation may:

- supply water under an access licence or approval held by the corporation⁶⁷
- supply water for the purpose of an access licence or approval held by a member whose member's water entitlement was transformed⁶⁸
- enter into an agreement with a person who is not a member to [supply water for the purpose of irrigating land or other purposes AND/OR drain water from land] by means of the [water

⁶⁵ When the new laws start, Water Management (General) Regulation 2018 cl 59(2)(b).

⁶⁶ When the new laws start, *Water Management Act 2000* (NSW) s 153(3).

⁶⁷ When the new laws start, *Water Management Act 2000* (NSW) s 143(2)(a).

⁶⁸ When the new laws start, *Water Management Act 2000* (NSW) s 143(2)(b).

supply system AND/OR water distribution system AND/OR drainage system] managed by the corporation⁶⁹

- enter into an arrangement with a landholder to provide services in relation to works that are not corporation works⁷⁰

The corporation must not supply water for domestic purposes if a supply of water is available to the person from a local water utility or major utility.⁷¹

3.3 Providing and maintaining distribution works

If it is necessary for the efficient or effective operation of corporation works or the carrying out of the corporation's functions,⁷² the corporation may, by notice in writing given by the corporation to the member or landholder, require members or landholders to whom it supplies water to do the following on their land:

- provide water delivery systems on a landholding to enable the supply of water to the land at the rate specified by the corporation⁷³
- provide water storage works in the locations, and of a kind, specified by the corporation for water supplied for stock or domestic purposes⁷⁴
- maintain any water delivery systems or water storage works to enable the corporation to properly exercise its functions in relation to the supply of water.⁷⁵

The notice given to the member or landholder must:

- describe the works required
- explain why the works are required
- propose a reasonable timeframe for completing the works.

3.4 Discontinuing water supplies

The corporation may at any time suspend or restrict the supply of, or refuse to supply, water to a member or landholder if the corporation is reasonably satisfied that any of the following circumstances exist:

- the water that is available to the corporation cannot meet the demand⁷⁶
- the water that is available to the corporation is not suitable for the required purpose⁷⁷

⁶⁹ When the new laws start, *Water Management Act 2000* (NSW) s 151(1).

⁷⁰ When the new laws start, *Water Management Act 2000* (NSW) s 148(2).

⁷¹ When the new laws start, *Water Management Act 2000* (NSW) s 151(2).

⁷² When the new laws start, *Water Management Act 2000* (NSW) s 149(3).

⁷³ When the new laws start, *Water Management Act 2000* (NSW) s 149(1)(a).

⁷⁴ When the new laws start, *Water Management Act 2000* (NSW) s 149(1)(b).

⁷⁵ When the new laws start, *Water Management Act 2000* (NSW) s 149(1)(c).

⁷⁶ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(a).

⁷⁷ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(b).

- the corporation is unable to provide sufficient conveyance water in connection with the operation of an irrigation system⁷⁸
- the corporation is not lawfully able to supply the quantity of water⁷⁹
- the member or landholder has failed to pay rates or charges for water or other services provided by the corporation⁸⁰
- the member or landholder has contravened or failed to comply with a condition on which water services are supplied by the corporation⁸¹
- the member or landholder has contravened or failed to comply with a requirement of the corporation relating to the provision, maintenance, or repair of distribution works or any other requirement made by the corporation in accordance with the Act, the regulations, or the rules⁸²
- the member or landholder has contravened or failed to comply with a requirement of the Act, the regulations, or the rules⁸³
- the corporation is unable to dispose of water draining into its drainage system because of the degraded quality of the water.⁸⁴

The corporation may reduce the amount of water available by different amounts or proportions according to such factors as the corporation thinks fit.⁸⁵

Before suspending or restricting the supply of water or refusing to supply water to a member or landholder, the corporation must give [28 days'] written notice to the member or landholder.

The notice must give the member or landholder an opportunity to make written submissions.

The corporation must consider and respond in writing to any submissions received within [28 days].

These requirements do not apply if it is not reasonably possible in the circumstances.

3.5 Entering land

Corporation employees and agents may enter onto land on which corporation works are situated, or any other land, to:

- carry out any of its functions in relation to corporation works⁸⁶
- read a meter that measures water supplied by the corporation or monitors drainage for quantity or quality or both⁸⁷

⁷⁸ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(c).

⁷⁹ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(d).

⁸⁰ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(e).

⁸¹ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(f).

⁸² When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(g).

⁸³ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(h).

⁸⁴ When the new laws start, *Water Management Act 2000* (NSW) s 150(1)(i).

⁸⁵ When the new laws start, *Water Management Act 2000* (NSW) s 150(2).

⁸⁶ When the new laws start, *Water Management Act 2000* (NSW) s 152(1)(a).

⁸⁷ When the new laws start, *Water Management Act 2000* (NSW) s 152(1)(b).

- carry out investigations or inspections, take levels, drill test bore-holes, dig trenches, make surveys and marks, and fix pegs and stakes, for the purposes of designing, constructing, or determining the site of a proposed corporation work⁸⁸
- remove samples of materials from the land for the purposes of carrying out the corporation's functions, but only if the landholder has been consulted and the views of the landholder have been considered⁸⁹
- exercise any other powers that are incidental to the corporation's functions or that are reasonably necessary for carrying out the corporation's functions.⁹⁰

Before entering onto land, the corporation must give [3 days'] notice to the landholder. This requirement does not apply if the entry is to read a meter that measures water supplied by the corporation or monitors drainage for quantity or quality or both only.⁹¹

The corporation must ensure as little damage as possible is caused when exercising these powers⁹² and must repair any damage caused or pay compensation for the damage.

⁸⁸ When the new laws start, *Water Management Act 2000* (NSW) s 152(1)(c).

⁸⁹ When the new laws start, *Water Management Act 2000* (NSW) s 152(1)(d).

⁹⁰ When the new laws start, *Water Management Act 2000* (NSW) s 152(1)(e).

⁹¹ When the new laws start, *Water Management Act 2000* (NSW) s 152(2).

⁹² When the new laws start, *Water Management Act 2000* (NSW) s 153(3).

4 Sale and transformation of water entitlements

4.1 Corporation's water access licence

The corporation must not enter into a dealing to sell or mortgage the whole or part of its water entitlement under its access licence unless the dealing is permitted under, and is in accordance with, the rules.⁹³

4.2 Member's water entitlements

4.2.1 Determining a member's water entitlement

A member may request the corporation determine their water entitlement. The request must be made in writing.⁹⁴

If the request is made:

- by a member who is supplied with water for irrigation, the corporation must determine the member's water entitlement⁹⁵
- by a member who is not supplied with water for irrigation, the corporation may determine the member's water entitlement.⁹⁶

The corporation must have regard to the following matters when determining the member's water entitlement:

- the nature of agricultural activities on the land to which water is supplied⁹⁷
- the amount of water currently supplied to the member⁹⁸
- any present or past water sharing arrangements applicable to the member⁹⁹
- previous determinations of member's water entitlements¹⁰⁰
- any other matter it considers relevant.¹⁰¹

⁹³ When the new laws start, *Water Management Act 2000* (NSW) s 155.

⁹⁴ When the new laws start, *Water Management Act 2000* (NSW) s 154(1).

⁹⁵ When the new laws start, *Water Management Act 2000* (NSW) s 154(2).

⁹⁶ When the new laws start, *Water Management Act 2000* (NSW) s 154(1).

⁹⁷ When the new laws start, *Water Management Act 2000* (NSW) s 154(3)(a).

⁹⁸ When the new laws start, *Water Management Act 2000* (NSW) s 154(3)(b).

⁹⁹ When the new laws start, *Water Management Act 2000* (NSW) s 154(3)(c).

¹⁰⁰ When the new laws start, *Water Management Act 2000* (NSW) s 154(3)(e) and *Water Management (General) Regulation 2018* cl 60(1).

¹⁰¹ When the new laws start, *Water Management Act 2000* (NSW) s 154(3)(d).

A determination may specify the different parts of the member's water entitlement that are available to the member for different purposes.¹⁰²

A determination must be in writing¹⁰³ and specify:

- the matters the corporation considered when making the determination¹⁰⁴
- the proportion of the share component of an access licence held by or on behalf of the corporation that is available to the member¹⁰⁵
- the licence category of the member's proportion of the share component.¹⁰⁶

Notice of the determination must be given in writing by the corporation to the member.¹⁰⁷

A determination may be varied or redetermined only on a further application made by the member within 3 months of the determination.¹⁰⁸

A determination may be varied or redetermined to correct an error, but only on a further application made by a member within 2 years of the determination.¹⁰⁹ The member must be a person who, at the time of the further application, is a current member and not merely a former member.¹¹⁰

A person must not participate in a determination of a member's water entitlement if the person or a member of the person's immediate family has an interest in the entitlement.¹¹¹

The corporation's decisions about member's water entitlements may be appealed to the Land and Environment Court.¹¹²

4.2.2 Selling or transferring a member's water entitlement

A member may sell or transfer the whole or any part of their member's water entitlement to another member or to the corporation.¹¹³

A member must not sell or transfer the whole or part of their member's water entitlement under section 156 of the Act unless the sale or transfer has been approved by the corporation in accordance with the rules or the regulations.¹¹⁴

¹⁰² When the new laws start, *Water Management Act 2000* (NSW) s 154(4).

¹⁰³ When the new laws start, *Water Management Act 2000* (NSW) s 154(5).

¹⁰⁴ When the new laws start, *Water Management Act 2000* (NSW) s 154(5) and *Water Management (General) Regulation 2018* (NSW) cl 60(2)(a).

¹⁰⁵ When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 60(2)(b).

¹⁰⁶ When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 60(2)(c).

¹⁰⁷ When the new laws start, *Water Management Act 2000* (NSW) s 154(5).

¹⁰⁸ When the new laws start, *Water Management Act 2000* (NSW) s 154(6).

¹⁰⁹ When the new laws start, *Water Management Act 2000* (NSW) s 154(6) and *Water Management (General) Regulation 2018* (NSW) cl 60(3).

¹¹⁰ When the new laws start, *Water Management Act 2000* (NSW) s 154(6) and *Water Management (General) Regulation 2018* (NSW) cl 60(4).

¹¹¹ When the new laws start, *Water Management Act 2000* (NSW) s 154(7) and *Water Management (General) Regulation 2018* (NSW) cl 60(5).

¹¹² When the new laws start, *Water Management Act 2000* (NSW) s 368(1A)(b).

¹¹³ When the new laws start, *Water Management Act 2000* (NSW) s 156(1).

¹¹⁴ When the new laws start, *Water Management Act 2000* (NSW) s 156(2).

A sale or transfer by a member does not affect the member's membership of the corporation, except as provided by the Act or the rules.¹¹⁵

4.2.3 Transforming a member's water entitlement

The corporation may apply under Division 4 of Part 2 of Chapter 3 of the Act for the purpose of wholly or partly transforming a member's water entitlement into an access licence.¹¹⁶

On transformation of the whole or part of a member's water entitlement to an access licence:

- the member is not entitled to vote (as a board member) or as a member on any matter relating to the transformation of other members' water entitlements or the supply of water to members who have not transformed their water entitlements (see rule 2.6.8)¹¹⁷
- the corporation may continue to exercise functions in relation to any corporation works that are located on the landholding, whether or not the corporation is to deliver the member's water entitlement under the access licence, or the landholder is a member of the corporation.¹¹⁸

If the whole of a person's water entitlement is transformed and the person does not have a right to the delivery of that water by the corporation:

- the person ceases to be a member of the corporation (see rule 2.5.3)
- the corporation must not fix rates and charges in respect of the person's landholding for that water (other than termination charges).¹¹⁹

The corporation may require a member to provide security as a condition of consent to transformation of the whole or part of the member's water entitlement, subject to the regulations.¹²⁰

For example:

- a charge over a part of an irrigation right that is not transformed
- a charge over an access licence or other entitlement to water acquired by the person and resulting from the transformation
- a guarantee by an authorised deposit-taking institution
- a deposit lodged with the corporation.¹²¹

¹¹⁵ When the new laws start, *Water Management Act 2000* (NSW) s 156(3).

¹¹⁶ When the new laws start, *Water Management Act 2000* (NSW) s 157(1).

¹¹⁷ When the new laws start, *Water Management Act 2000* (NSW) s 157(2)(a).

¹¹⁸ When the new laws start, *Water Management Act 2000* (NSW) s 157(2)(b).

¹¹⁹ When the new laws start, *Water Management Act 2000* (NSW) s 157(3).

¹²⁰ When the new laws start, *Water Management Act 2000* (NSW) s 157(5).

¹²¹ When the new laws start, *Water Management Act 2000* (NSW) s 157(6).

5 Rates and charges

5.1 Fixing rates and charges

A corporation must, for each year commencing on 1 July, fix the rates and charges payable in respect of each landholding that is owned or occupied by its members and for which it exercises functions, or for which it provides services in that year.¹²²

5.1.1 Procedure for setting rates and charges

The rules must have procedures for setting rates and charges.¹²³

A resolution passed at the first meeting must approve the procedures for setting rates and charges.

Once approved, the [secretary] must amend this rule to specify the procedures for setting rates and charges.

5.1.2 Basis for fixing rates and charges

The corporation must fix rates and charges based on [insert basis for fixing rates and charges].

In determining the amount of rates and charges payable, the corporation must fix an amount that it considers is sufficient to meet the estimated costs of the following:

- the corporation's likely costs in providing services for that year¹²⁴
- the liabilities of the corporation¹²⁵
- the corporation's likely costs relating to corporation works, including (but not limited to) maintenance, improvement, and replacement of works and new works¹²⁶
- provision for a sinking fund (if necessary).¹²⁷

5.1.3 Giving notice of rates and charges

The corporation must give notice of its rates and charges for a year, including the basis on which they were calculated:

- in writing
- within 21 days of fixing the rates and charges
- if interest is payable on unpaid rates and charges, by specifying:

¹²² When the new laws start, *Water Management Act 2000* (NSW) s 163(1).

¹²³ When the new laws start, *Water Management Act 2000* (NSW) s 163(7).

¹²⁴ When the new laws start, *Water Management Act 2000* (NSW) s 163(2)(a).

¹²⁵ When the new laws start, *Water Management Act 2000* (NSW) s 163(2)(b).

¹²⁶ When the new laws start, *Water Management Act 2000* (NSW) s 163(2)(c).

¹²⁷ When the new laws start, *Water Management Act 2000* (NSW) s 163(2)(d).

- the basis on which interest is calculated. The interest calculated must not exceed the rate of interest payable on an unpaid judgment of the Supreme Court¹²⁸
- when the interest becomes payable.¹²⁹

5.1.4 Transformation charges

Members can transform their water entitlement into an individual water access licence under section 157 of the Act and rule 4.2.3.¹³⁰

The corporation may fix charges payable for the delivery of water to a member or former member after transformation of the whole or part of the member's water entitlement.¹³¹

5.1.5 Termination charges

The corporation may fix termination charges payable by a member or former member in connection with the corporation ceasing to supply water to the member or former members (whether because of the transformation of the member's water entitlement to an access licence or otherwise).¹³²

5.2 Paying rates and charges

The owner or occupier of a landholding for which rates or charges are levied must pay the rates and charges to the corporation.¹³³

[Members and landholders must pay rates and charges within 28 days of receiving the rates notice unless the corporation and the member or landholder have agreed to a payment plan.](#)

5.2.1 Liability where there are joint owners

If a landholding for which rates or charges are levied is owned or occupied by more than one person:

- the rates or charges may be levied on one or more of those persons and may be recovered by the corporation from any one or more of those persons¹³⁴
- the corporation is not entitled to recover more than the total amount of the rates and charges (and any interest payable).¹³⁵

If land is owned or jointly held by 2 or more persons, such persons are jointly and severally liable to the corporation for the rate, but as between themselves are liable only for such part of the rate as is

¹²⁸ *Water Management Act 2000* (NSW) s 356.

¹²⁹ When the new laws start, *Water Management Act 2000* (NSW) s 163(6) and *Water Management (General) Regulation 2018* (NSW) cl 62.

¹³⁰ When the new laws start, *Water Management Act 2000* (NSW) s 157.

¹³¹ When the new laws start, *Water Management Act 2000* (NSW) s 163(5)(b).

¹³² When the new laws start, *Water Management Act 2000* (NSW) s 163(5)(a).

¹³³ When the new laws start, *Water Management Act 2000* (NSW) s 164(1).

¹³⁴ When the new laws start, *Water Management Act 2000* (NSW) s 164(2)(a).

¹³⁵ When the new laws start, *Water Management Act 2000* (NSW) s 164(2)(b).

proportionate to their interest in the land.¹³⁶ If any of the persons pays more than their proportionate part, they may recover the excess from the others.¹³⁷

5.2.2 Liability when land is transferred

If any land in a holding reverts to the Crown during any year for which rates or charges are or are to be assessed, the person who immediately before the reversion was the landholder of the land is liable for payment of only that part of the rates or charges proportionate to the part of the year for which the land was held by the person, and any excess payment by the person must be refunded to the person.¹³⁸

A member or landholder who disposes of their estate or interest in any land in respect of which rates or charges have been or may be levied remains liable for the rates or charges to the same extent as if the person had not disposed of their estate or interest in the land if the rates or charges are levied either:

- before the person disposed of his or her estate or interest in the land¹³⁹
- before the person gave the corporation notice of disposal.¹⁴⁰

If any member or landholder who disposes of land to another person pays any amount to the corporation in respect of rates or charges levied after the land was disposed of but before the prescribed notice is given to the corporation, the person by whom the amount was paid may recover the amount from the person to whom the land was disposed.¹⁴¹

As between an owner of land and any other person from or to whom the owner derives or disposes of their estate or interest in the land, rates or charges under the Act are to be considered as accruing from day to day and are apportionable accordingly.¹⁴²

An owner of land is liable for all arrears of rates and charges owing by any previous owner of the land, despite acquiring the land after the rates or charges were levied.¹⁴³

If any person who becomes an owner of land pays to the corporation any rates or charges in respect of that land that were levied before the person became the owner, the person may recover from the previous owner the part of the rates or charges levied for the period when the previous owner was the owner of the land.¹⁴⁴

¹³⁶ *Water Management Act 2000* (NSW) s 358(1).

¹³⁷ *Water Management Act 2000* (NSW) s 358(2).

¹³⁸ When the new laws start, *Water Management Act 2000* (NSW) s 164(3).

¹³⁹ *Water Management Act 2000* (NSW) s 361(1)(a).

¹⁴⁰ *Water Management Act 2000* (NSW) s 361(1)(b).

¹⁴¹ When the new laws start, *Water Management Act 2000* (NSW) s 361(2).

¹⁴² *Water Management Act 2000* (NSW) s 361(3).

¹⁴³ *Water Management Act 2000* (NSW) s 362(1).

¹⁴⁴ *Water Management Act 2000* (NSW) s 362(2).

5.2.3 Security for overdue rates and charges

The corporation may require a corporation stakeholder to provide security for the payment of rates and charges to the corporation.¹⁴⁵ Security may be only:

- a charge over an access licence
- a guarantee by an authorised deposit-taking institution
- a deposit lodged with the corporation.¹⁴⁶

The security that may be required may be a value not more than 5 times the value of the rates and charged payable by the stakeholder in the immediately preceding water year.¹⁴⁷

5.3 Recovering unpaid rates and charges

A rate or charge imposed on an owner of land or for a service or thing supplied or provided in connection with a specific parcel of land is a charge on the land.¹⁴⁸

Any rate or charge due to the corporation under the Act may be recovered in any court of competent jurisdiction as if it were a debt due to the corporation.¹⁴⁹

The corporation may sell land for unpaid rates and charges in accordance with section 359 of the Act.

Security provided under rule 5.2.3 may be forfeited only if:

- the amount for which the security is provided is unpaid for at least 6 months from the date it becomes payable, and
- the corporation gives the corporation stakeholder written notice of, and reasons for, the intention to forfeit the security, and
- the corporation considers submissions made by or on behalf of the stakeholder within at least 21 days of giving the written notice, and
- the corporation gives the stakeholder the option of entering into a payment plan as an alternative to forfeiture, and
- the stakeholder declines the option of entering into, or does not comply with, the payment plan.¹⁵⁰

¹⁴⁵ When the new laws start, Water Management (General) Regulation 2018 (NSW) cl 57(1).

¹⁴⁶ When the new laws start, Water Management (General) Regulation 2018 (NSW) cl 57(2).

¹⁴⁷ When the new laws start, Water Management (General) Regulation 2018 (NSW) cl 57(3).

¹⁴⁸ *Water Management Act 2000* (NSW) s 355.

¹⁴⁹ *Water Management Act 2000* (NSW) s 357(1).

¹⁵⁰ When the new laws start, Water Management (General) Regulation 2018 (NSW) cl 57(4).

5.4 Waiving rates and charges

The corporation may waive rates, charges, and interest due if the auditor certifies the waiver is in accordance with the rules and the board approves.¹⁵¹

¹⁵¹ When the new laws start, *Water Management Act 2000* (NSW) s 165.

6 Finance

6.1 Keeping financial records

The corporation must cause proper accounts and records to be kept in relation to all its operations.¹⁵²

The corporation must keep financial accounts records at its head office or registered office.

The corporation must prepare financial statements for each financial year of the corporation.¹⁵³

Section 7.6 of the *Government Sector Finance Act 2018* applies to financial statements required to be prepared under section 166 of the Act in the same way that it applies to annual GSF financial statements required to be prepared under that Act.¹⁵⁴

6.2 Auditing financial statements

Within [10 business days] of the end of a financial year, the corporation must submit its financial statements to an auditor for verification and certification.¹⁵⁵

The auditor must be one of the following:

- a registered company auditor within the meaning of the *Corporations Act 2001* of the Commonwealth
- a Certified Practising Accountant member of CPA Australia, New South Wales Division
- a member of Chartered Accountants Australia and New Zealand who holds a Certificate of Public Practice issued by it
- a member of the Institute of Public Accountants who holds a Professional Practice Certificate issued by it.¹⁵⁶

A member or board member must not be appointed to audit the financial statements of the corporation.¹⁵⁷

The auditor may be appointed by [the board].

The auditor has a right of access at all reasonable times to the accounts and records of the corporation and a board member or employee of the corporation must comply with any reasonable

¹⁵² When the new laws start, *Water Management Act 2000* (NSW) s 166(1).

¹⁵³ When the new laws start, *Water Management Act 2000* (NSW) s 166(2).

¹⁵⁴ When the new laws start, *Water Management Act 2000* (NSW) s 166(3).

¹⁵⁵ When the new laws start, *Water Management Act 2000* (NSW) s 166(2) and (4).

¹⁵⁶ When the new laws start, *Water Management Act 2000* (NSW) s 166(5) and *Water Management (General) Regulation 2018* (NSW) cl 63.

¹⁵⁷ When the new laws start, *Water Management Act 2000* (NSW) s 166(6).

request by the auditor of the corporation to provide information or documents relating to the accounts or financial statements or related records of the corporation.¹⁵⁸

The audited financial statements must be laid before the AGM following their verification and certification by the auditor.¹⁵⁹

6.3 Financial transactions and accounts

The corporation must deposit all money it receives into its bank account at a financial institution as soon as practicable after receipt.

The corporation must give receipts for all money it receives.

Adequate documents explaining the nature and purpose must support all payments made from corporation money.

At least 2 board members, or a board member and an office bearer, must approve all cheques, withdrawal forms, electronic funds transfer (EFT) transactions, and other banking documents.

6.4 Borrowing and investment

The corporation may obtain borrowings and may invest the funds of the corporation in any manner it thinks fit.¹⁶⁰

For the purpose of obtaining borrowings, the corporation may:

- charge the whole or any part of any of its property (including any income arising from rates or charges) by debenture, mortgage, or in any other manner, and
- enter into arrangements to provide guarantees or indemnities.¹⁶¹

In this rule:

- **funds** includes any funds under the control of the corporation and real property, securities or other property comprising an investment.
- **borrowing** has the same meaning as in the *Government Sector Finance Act 2018*.

The obligations of the corporation are not guaranteed by the State of New South Wales.¹⁶²

¹⁵⁸ When the new laws start, *Water Management Act 2000* (NSW) s 167.

¹⁵⁹ When the new laws start, *Water Management Act 2000* (NSW) s 168(2).

¹⁶⁰ When the new laws start, *Water Management Act 2000* (NSW) s 169(1).

¹⁶¹ When the new laws start, *Water Management Act 2000* (NSW) s 169(2).

¹⁶² When the new laws start, *Water Management Act 2000* (NSW) s 169(5).

7 Investigations

7.1 Authorised officers

The corporation may appoint a person to act as an authorised officer of the corporation under section 171 of the Act. An appointment must be in writing and:

- specify the powers the officer may exercise
- state that the officer may only exercise the powers in relation to water management works shown on the corporation's works plan.¹⁶³

The corporation must provide every authorised officer with evidence of their authority as an authorised officer.¹⁶⁴

The corporation must keep records of all actions taken by authorised officers.

An authorised officer:

- must not be a member of the corporation
- cannot exercise powers in relation to works that take water from a water source.

7.2 Entering land for investigations

An authorised officer of the corporation may enter land at any reasonable time if the authorised officer is reasonably of the opinion that the landholder has contravened an irrigation, water supply, water distribution, or drainage agreement with the corporation and that it is necessary to enter the land for the purpose of investigating that contravention.¹⁶⁵

An authorised officer is not empowered to enter any part of premises used only for residential purposes.¹⁶⁶

Before entering land, the corporation must give the landholder [3 days'] notice. This requirement does not apply in an emergency.

An authorised officer, in the course of exercising their functions, must:

- if requested to do so by any person affected by the exercise of their functions, show the person evidence of their authority¹⁶⁷
- do as little damage as possible.¹⁶⁸

¹⁶³ When the new laws start, *Water Management Act 2000* (NSW) s 171(1) and *Water Management (General) Regulation 2018* (NSW) cl 66.

¹⁶⁴ When the new laws start, *Water Management Act 2000* (NSW) s 171(4) and 340(1).

¹⁶⁵ When the new laws start, *Water Management Act 2000* (NSW) s 171(2).

¹⁶⁶ When the new laws start, *Water Management Act 2000* (NSW) s 171(6).

¹⁶⁷ When the new laws start, *Water Management Act 2000* (NSW) s 171(4) and 340(2).

¹⁶⁸ When the new laws start, *Water Management Act 2000* (NSW) s 171(4) and 339F.

An authorised officer may:

- be accompanied by a person the authorised officer considers, in their opinion, can assist them in the exercise of their functions under the Act. A person accompanying an authorised officer may take all reasonable steps to assist the authorised officer in the exercise of their functions¹⁶⁹
- examine and inspect any works¹⁷⁰
- take and remove samples¹⁷¹
- make such examinations, inquiries, and tests as they consider necessary¹⁷²
- take such photographs, films, audio, video, and other recordings as they consider necessary¹⁷³
- require records to be produced for inspection¹⁷⁴
- examine and inspect any records¹⁷⁵
- copy any records.¹⁷⁶

The corporation must compensate all interested parties for any damage caused by a person exercising a power of entry on to land under section 171 of the Act on behalf of the corporation (but not any damage caused by the exercise of any other power), unless the occupier obstructed or hindered the person in the exercise of the power of entry.¹⁷⁷

¹⁶⁹ When the new laws start, *Water Management Act 2000* (NSW) s 171(4) and 339D.

¹⁷⁰ When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(a).

¹⁷¹ When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(b).

¹⁷² When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(c).

¹⁷³ When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(d).

¹⁷⁴ When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(e).

¹⁷⁵ When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(f).

¹⁷⁶ When the new laws start, *Water Management Act 2000* (NSW) s 171(3) and 339B(2)(g).

¹⁷⁷ When the new laws start, *Water Management Act 2000* (NSW) s 171(7).

8 Enforcement

8.1 Charges the corporation may impose

The corporation may impose the following charges on a person, including a former member,¹⁷⁸ under section 170 of the Act:

- charge for water taken if the corporation is satisfied on the balance of probabilities that the person has knowingly taken water from a water management work that is owned by, or is under the control and management of, the corporation in contravention of the Act, the regulations, the rules, or an agreement with the corporation (water illegally taken)¹⁷⁹
- charge for the repair or replacement of a work if the corporation is satisfied on the balance of probabilities that the person has destroyed, damaged, or interfered with a work that is owned by, or is under the control or management of, the corporation (damage to work).¹⁸⁰

The charge imposed by the corporation may include a penalty component.¹⁸¹

For the taking water, the corporation:

- may charge a maximum of 5 times the value of water so taken¹⁸²
- must determine the value of water so taken in accordance with clause 20 of the *Water Management (General) Regulation 2018* (NSW).¹⁸³ A reference in clause 20 to a water source is deemed to be a reference to a water source from which water is taken by a water management work owned by, or under the control and management of, the corporation.¹⁸⁴

For destroying, damaging or interfering with a work, the corporation may charge a maximum of 5 times the reasonable cost of repairing or replacing (as required) the work.¹⁸⁵

A decision by the corporation to impose a charge under section 170 of the Act may be appealed to the Land and Environment Court.¹⁸⁶

A charge imposed by the corporation under section 170 of the Act is recoverable in any court of competent jurisdiction as a debt due to the corporation.¹⁸⁷

¹⁷⁸ When the new laws start, *Water Management Act 2000* (NSW) s 170(8).

¹⁷⁹ When the new laws start, *Water Management Act 2000* (NSW) s 170(1).

¹⁸⁰ When the new laws start, *Water Management Act 2000* (NSW) s 170(2).

¹⁸¹ When the new laws start, *Water Management Act 2000* (NSW) s 170(3).

¹⁸² When the new laws start, *Water Management Act 2000* (NSW) s 170(4)(a).

¹⁸³ When the new laws start, *Water Management Act 2000* (NSW) s 170(4)(a) and *Water Management (General) Regulation* (NSW) 2018 cl 65(1).

¹⁸⁴ When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 65(2).

¹⁸⁵ When the new laws start, *Water Management Act 2000* (NSW) s 170(4)(b).

¹⁸⁶ When the new laws start, *Water Management Act 2000* (NSW) s 368(1A).

¹⁸⁷ When the new laws start, *Water Management Act 2000* (NSW) s 170(6).

8.2 Process for imposing charges

The corporation is not entitled to impose charges under section 170 of the Act unless the Minister has approved the application of section 170 to the corporation.¹⁸⁸

The corporation must not impose charges on a person under section 170 of the Act unless:

- the corporation has tabled evidence of the suspected breach at a [meeting or board meeting]¹⁸⁹
- the corporation is satisfied, on the balance of probabilities, and based on the evidence tabled at the [meeting or board meeting], that a person has knowingly taken water as referred to in the Act, section 170(1)¹⁹⁰
- the corporation has given the Minister at least 21 days' notice of the intention to exercise the power¹⁹¹
- the Minister has not imposed a charge on the person for the taking of the water under the Act, section 60G¹⁹²

The corporation must:

- apply to the Minister to impose charges under section 170 of the Act.
- give the person written notice that the corporation proposes to impose charges – take action under section 170 of the Act.¹⁹³ The notice must include evidence of the suspected breach and the proposed charge
- give the person at least [21 days] to respond to the notice¹⁹⁴
- consider any submissions the person makes.¹⁹⁵

¹⁸⁸ When the new laws start, *Water Management Act 2000* (NSW) s 170(7).

¹⁸⁹ When the new laws start, *Water Management Act 2000* (NSW) ss 170(1) and (2) and *Water Management (General) Regulation 2018* (NSW) cl 65(2)(a).

¹⁹⁰ When the new laws start, *Water Management Act 2000* (NSW) ss 170(1) and (2) and *Water Management (General) Regulation 2018* (NSW) cl 65(2)(a).

¹⁹¹ When the new laws start, *Water Management Act 2000* (NSW) ss 170(1) and (2) and *Water Management (General) Regulation 2018* (NSW) cl 65(3)(b).

¹⁹² When the new laws start, *Water Management (General) Regulation 2018* (NSW) cl 65(3)(d).

¹⁹³ When the new laws start, *Water Management Act 2000* (NSW) s 170(5)(a).

¹⁹⁴ When the new laws start, *Water Management Act 2000* (NSW) s 170(5)(b).

¹⁹⁵ When the new laws start, *Water Management Act 2000* (NSW) s 170(5)(c).

9 Changing the corporation

9.1 Amalgamating with other corporations

If at least [75% of members] vote at a meeting for a resolution to amalgamate the corporation with other corporations, the corporation may, jointly with the other corporations, apply to the Minister to amalgamate their corporations under section 159 of the Act.¹⁹⁶

9.2 Winding up

9.2.1 Winding up

If at least 75% of members vote at a meeting for a resolution winding up the corporation, the corporation can request the Minister to wind up the corporation.¹⁹⁷

If the corporation passes a resolution to wind up, the corporation must:

- determine a date for winding up
- apply to the Minister to wind up the corporation under section 177 of the Act
- pay all debts, liabilities and costs before distributing any assets
- pass a resolution on how the remaining assets are distributed.

¹⁹⁶ When the new laws start, *Water Management Act 2000* (NSW) s 159.

¹⁹⁷ When the new laws start, *Water Management Act 2000* (NSW) s 177(1).

10 Dispute resolution

If a dispute arises under these rules, the parties affected must first try to resolve it themselves.

If the parties do not resolve the dispute within [10 days], any party may give a dispute notice to the other parties.

The dispute notice must:

- be in writing
- say what the dispute is about
- be given to the board.

The board must help the parties resolve the dispute within [21 days] after it receives the notice.

If the board cannot resolve the dispute, it must put it to the members to resolve at a general meeting.

11 Miscellaneous

11.1 Liability

An act or omission of the following persons so acting personally does not subject them to any action, liability, claim, or demand if the act or omission was done, or omitted to be done, in good faith for the purpose of executing the Act:

- the corporation
- a member of the corporation
- an employee of the corporation
- a person acting under the direction of the corporation, a member, or an employee.¹⁹⁸

The corporation, any officer or employee of the corporation, or a person acting under the direction of the corporation, officer, or employee is not subject to any action, liability, claim, or demand arising:

- from the unavailability of water, or
- from the escape of water from a corporation work, or
- from a failure to supply, distribute, or drain water that is authorised by the rules, the Act or the regulations

as a consequence of anything done or omitted to be done in good faith by the corporation, officer, employee, or person for the purposes of executing the Act or of carrying out the functions of the corporation.¹⁹⁹

¹⁹⁸ When the new laws start, *Water Management Act 2000* (NSW) s 397.

¹⁹⁹ When the new laws start, *Water Management Act 2000* (NSW) s 178.