



TASMANIAN IRRIGATION PTY LTD

ABN: 95 722 799 075

APPLICATION FOR DELEGATION OF POWERS

**Under Water Miscellaneous Amendments (Delegation
and Industrial Water Supply) Act 2023**

DRAFT

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1. Overview

Tasmanian Irrigation Pty Ltd is a State-owned Company that develops, owns and operates irrigation schemes in Tasmania, in accordance with sound commercial practice, for the purposes of facilitating the expansion of agricultural production in the State. Tasmanian Irrigation has two Shareholding Ministers: the Treasurer and the Minister for Primary Industries and Water.

Part of Tasmanian Irrigation's purpose is to manage irrigation scheme infrastructure appropriately and provide, on a commercial basis, administrative and management support to schemes owned by Tasmanian Irrigation and managed by local communities.

The Tasmanian State Parliament passed the *Water Miscellaneous Amendments (Delegation and Industrial Water Supply) Bill 2023* (WMA Act 2023) into law on December 11, 2023. The Act facilitates a process whereby a Responsible Water Entity, in this case Tasmanian Irrigation, can delegate specific functions and powers to an irrigator body that wishes to take on a greater role in local management of State-owned irrigation schemes.

Tasmanian Irrigation fully supports any arrangements that provide improved outcomes for irrigators in terms of cost-of-service provision or scheme performance. This is consistent with Tasmanian Irrigation's enabling legislation, Members' Statement of Expectation and organisational values.

The WMA Act 2023 amends specific sections of, and inserts new specific parts and sections to, the *Irrigation Company Act 2011*, the *Irrigation Clauses Act 1973* and the *Water Management Act 1999* to enable the Government's policy to facilitate community management of publicly owned irrigation schemes, where feasible and appropriate. The WMA Act 2023 requires robust procedures, measures and conditions for such delegations to ensure the interests of the Government, Tasmanian Irrigation, irrigation scheme participants, local communities and the environment are safeguarded.

There is no ability under this legislation to transfer ownership of assets or the Responsible Water Entity status, nor does the legislation permit delegation of the making of by-laws or delegation to a third party of any powers or functions delegated.

Tasmanian Irrigation has prepared Guidelines for Applicants to assist eligible bodies, as defined in the WMA Act 2023, to prepare their applications. The Guidelines should be read before completing the Application.

2. Application process

As outlined in the Guidelines for Applicants there is a three-phase process for considering, and giving effect to, a request for delegation.

The Application Form is designed to meet the information requirements to enable Tasmanian Irrigation to complete Phase 1 of the process "Receipt and Evaluation of Application". Refer to the Process Flow Chart in the Guidelines for more detail.

3. Document purpose

This Application Form is to be used by eligible bodies as defined by the WMA Act 2023 to make application to Tasmanian Irrigation for the delegation of powers and functions associated with the management of an irrigation scheme within a declared Irrigation District.

The Application Form is designed to capture detailed information regarding the scope of the application for delegation, and to obtain sufficient information for Tasmanian Irrigation to assess the capability and capacity of the Applicant to perform the functions and effectively exercise the powers requested in the application.

The application form must be fully completed by the Applicant.

The applicant may be required to submit supplementary information during the assessment process. If so, this information must directly address the information requested. Information such as marketing material is not relevant and will not be considered.

The completed application for delegation can be submitted by:

Post

CEO
Tasmanian Irrigation Pty Ltd
PO Box 84
Evandale, Tas, 7212

Email

enquiries@tasirrigation.com.au

4. Confidentiality

Information submitted in this document will be treated as commercial-in-confidence and will not be disclosed to any party outside Tasmanian Irrigation and its advisors, unless disclosure is:

- a) required by law;
- b) necessary to obtain legal, financial or other advice in respect of the application; or
- c) required for the purposes of appeals regarding application decisions.

5. Application Declaration

In submitting this application, the Applicant is deemed to have made the following declaration:

I/We hereby:

- a) Declare that the information provided in this application and any supporting documentation is true and correct.
- b) Acknowledge that Tasmanian Irrigation Pty Ltd will undertake credit and / or other financial checks as part of the assessment process.
- c) Undertake to comply with, and ensure all employees, subcontractors and agents comply with, the provisions of the *Work Health and Safety Act 2012* and *Work Health and Safety Regulations 2012* and all other Acts and regulations applicable including environmental, in performing the requested functions.
- d) Undertake to advise Tasmanian Irrigation Pty Ltd of any change in its circumstance affecting the information provided in this application, during the period of assessment of the application.
- e) Confirm that the Applicant has undertaken the required due diligence and gained the required 80% Irrigation District participant support for the application.
- e)f) Confirm that the Applicant has engaged with Tasmanian Irrigation in the preparation of this application and that costs of services / functions that will continue to be provided be retained by Tasmanian Irrigation have been accounted for in this application.
- f)g) Confirm that the Applicant is aware that an application fee (**to be determined**) is due and payable prior to an application being evaluated by Tasmanian Irrigation.

Signed: _____

Name (Print): _____

Position: _____

Company: _____

Date _____

A person duly authorised to sign for and on behalf of the company must sign this statement.

6. Business Information

| | |
|--|--|
| Company Name | |
| Trading Name <i>(if different)</i> | |
| Type of entity <i>(Public or Private company, Individual, Partnership etc)</i> | |
| Australian Company Number (ACN) | |
| Australian Business Number (ABN) | |
| State of Registration <i>(if applicable)</i> | |
| Address of Registered Office | |
| Business Address <i>(if different)</i> | |
| Postal Address | |
| Preferred address <i>(please tick)</i> | <input type="checkbox"/> Registered office <input type="checkbox"/> Business address <input type="checkbox"/> Postal Address |

7. Contact Information

| | |
|-------------------------|----------------------|
| Contact Name | Position Held |
| <input type="text"/> | <input type="text"/> |
| Telephone Number | Mobile Number |
| <input type="text"/> | <input type="text"/> |
| Email Address | |
| <input type="text"/> | |

8. Scope of Application

Please nominate the Irrigation District and Scheme to which the application relates.

Please nominate the type of contract and the category(s) the Applicant is applying for. Refer to the Guidelines for Applicants to assist in this decision.

- Operations and Maintenance Asset Lease

Please nominate the scope of the powers and functions being applied for by checking the relevant boxes in the table below.

| Powers and functions currently exercised by Tasmanian Irrigation | Powers or functions being applied for |
|--|---------------------------------------|
| Operation and maintenance | |
| Non-dam operations and maintenance including calibration of operational meters | |
| Non-dam asset renewal planning, management and reporting | |
| Management of system for spare parts | |
| Approval and financing of new assets, asset augmentation / scheme extension or construction of asset adjacent to or using scheme assets, including mini hydro, delegation of power to enter land to undertake construction works | |
| Management of dam fill strategy | |
| Communication and SCADA and control systems maintenance and update | |
| Maintenance of scheme hydraulic model | |
| Dam Safety | |
| Dam operations and maintenance | |
| Dam asset renewal, safety compliance planning and management | |
| Environmental Management & Compliance | |
| Water Licence and Water Course Authority compliance and reporting information provision* | |
| Water quality sampling, analysis, data provision and <u>provision of information to TI for reporting</u> information provision * | |
| EPBC compliance requirements and <u>provision of information to TI for reporting</u> information provision * | |
| Farm Water Access Plan (Farm WAP) systems management, maintenance, compliance, auditing and <u>provision of information to TI for reporting</u> information provision * | |

| | |
|--|--|
| Administrative | |
| Declaration of season opening and closing dates | |
| Annual setting seasonal pricing <ul style="list-style-type: none"> • Operations and maintenance fixed charge • Asset replacement levy charge • Volumetric charge • General availability water supply • Stock and domestic (if applicable) | |
| Determining / declaring annual entitlement allocation percentage | |
| Offering general availability water | |
| Access to and management of the asset renewal levy reserve (bank account) | |
| Ability to collect and retain revenues from scheme operations, including meter reading, billing and collections and referral to debt collection | |
| Enforcement action under by-laws: <ul style="list-style-type: none"> • Reduction of supply • Levying excess water charges • Disconnection for nonpayment or breach of entitlement contract including Farm WAP <u>non-conformance</u> | |
| Water Entitlement Register maintenance including: <ul style="list-style-type: none"> • Recording water trades (temporary and permanent) • Maintaining connection point data • Maintaining register of Delegations of Authority • Maintaining a Register of Interests | |
| Approval of water entitlement and flow rate trades and updating the Water Entitlement Register | |
| Varying the terms and conditions of irrigation entitlement contracts | |
| Offering new entitlements | |
| Management of unsold water including sales and leasing | |
| Maintenance of scheme GIS and other mapping overlays | |
| Governance and external reporting | |
| Annual Water Entity Report, including Farm WAPs, AUSRIVAS, etc. information provision* | |
| Annual Dam Safety Report information provision* | |
| Annual Report data and information provision* | |

*Please note that these functions remain the responsibility of Tasmanian Irrigation and cannot be delegated in full. There will be ongoing costs associated with Tasmanian Irrigation undertaking these functions, that will have to

[be recovered from the scheme](#). The scope to be delegated is limited to provision of information or draft reports that Tasmanian Irrigation will be responsible for finalising and submitting.

9. Support of District Participants

The Applicant must provide evidence, in writing, of the support of a minimum of 80% of the Irrigation District participants in order to have an application considered. The process for determining such support is outlined ~~in Section 226E (4) of the WMA Act 2023~~ in [Regulations 15 and 16 of the Water Management \(Electoral and Polling\) Regulations 2019](#).

Provide the evidence of support of Irrigation District participants.

10. Corporate Structure Profile and Governance Structure

10.1 Corporate structure and history

Provide an outline of the corporate structure, including legal basis, ownership structure and a brief history of the company.

10.2 Organisational structure

Attach an organisational chart showing the relationship between the Applicant and parent and subsidiaries (where relevant), including the names of Principals, Directors and Partners.

10.3 Associated companies

List all associated, subsidiary and holding companies including trusts.

| Company / Business Name | Type of entity | Address |
|-------------------------|----------------|---------|
|-------------------------|----------------|---------|

| | | |
|--|--|--|
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10.4 Defaults and convictions

Has the Applicant, or its proprietors, directors, company secretaries, senior managers or any former businesses associated with the Applicant or its directors, been liquidated or entered receivership, administration or scheme of arrangement in accordance with the *Bankruptcy Act 1966* or the *Corporations Act 2001* in the last five (5) years? If yes, provide details below:

Has the Applicant, or its proprietors, directors, company secretaries, or senior managers, had any convictions recorded against it in the past six (6) years, or are there any current or pending proceedings, either in a Court of Law or in arbitration? If yes, provide details below:

11. Shareholders, Directors and Senior Management

Provide names, experience and qualifications of Directors and Senior Managers.

| Name | Position | Qualification |
|------|----------|---------------|
| | | |
| | | |
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Provide details of the ownership/ shareholder structure and beneficiaries of the Applicant entity including dividend policy.

| |
|--|
| |
| |

Have any of the proprietors, directors, company secretaries, senior managers or their spouses ever been bankrupt? If yes, provide details below:

12. Governance Model Details

The Applicant must provide details of the governance model to be applied to the delegation and how it supports operations of the entity. This should include, but not be limited to:

- Constitution or Articles of Association
- Board Structure
- Board and or Committee processes
- Charters
- Key governance policies including Management of Conflicts of Interest, Codes of Conduct etc.
- Legal and regulatory compliance
- Delegations of Authority
- Information and Data security
- Reporting

Please provide the details below or refer to an attachment.

| |
|--|
| |
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13. Financial Capacity and Key Processes

The Applicant must provide the following information to enable full and proper assessment of the Applicant's financial capacity and liquidity:

- 1) Audited or un-audited copies of financial statements for the past three (3) financial years (if available), including:

- a. Profit & Loss statement
- b. Balance sheet
- 2) Current year-to-date financial statements
- 3) Signed auditor's report (if applicable)
- 4) Signed director's report (if the Applicant is a corporation)
- 5) Key financial control processes (policies, procedures) including procurement, prevention of fraud and management of funds in trust
- 6) Full details of the Applicant's auditor/accountant

Please provide the details below or as an attachment

14. Information Requirements

The following items are to be provided and attached to the application.

| Item | Items to be Attached | Please tick |
|------|---|---|
| 1. | <p>Organisational capacity and capability to perform desired functions and exercise powers including (if applicable)</p> <ul style="list-style-type: none"> • Skills and capability statement for key staff • Asset and maintenance management and planning • Workplace Health and Safety and Environmental compliance and reporting capability, • Access to specialist skills such as dam safety engineer, environmental and water quality expertise, SCADA and Information Technology support • Details of supply contracts for key inputs, for example energy supply (if applicable) <p>This statement should include evidence of where and how these capabilities have been proven previously including any references.</p> | <p>Attached <input type="checkbox"/></p> <p>Not Attached <input type="checkbox"/></p> |
| 2. | <p>Process and management system documentation and evidence of implementation (If available)</p> <p>The Applicant must have, and demonstrate, established management systems, policies and procedures, management plans and manuals to support the functions being applied for including:</p> <ul style="list-style-type: none"> • Work Health and Safety including any third-party accreditation. • Non-dam asset management and maintenance planning and management. • Operational regulatory compliance including meter testing and calibration, licence compliance. • Customer services including Code of Conduct, billing and collections. • Complaints and dispute resolution. • Environmental data collection and reporting. • Emergency and crisis management. • Water trading rules. • Management of personal information and privacy. • Stakeholder management and communications. | <p>Attached <input type="checkbox"/></p> <p>Not Attached <input type="checkbox"/></p> |

| Item | Items to be Attached | Please tick | |
|------|--|-------------|--------------------------|
| 3. | <p>Application Impact Analysis</p> <p>A statement as to how Tasmanian Irrigation’s rights, responsibilities and viability as the Responsible Water Entity for the Irrigation District will be maintained and protected if the application is granted. The statement needs to address the issues outlined in section 226F of the WMA Act 2023.</p> | Attached | <input type="checkbox"/> |
| 4. | <p>Statement of Value Proposition</p> <p>The Applicant must provide a statement outlining the costs, <u>taking into account the ongoing cost of services and functions that will continue to be undertaken by Tasmanian Irrigation</u>, and benefits expected to be gained from granting a successful application, including to whom the benefits and costs would accrue.</p> | Attached | <input type="checkbox"/> |
| 5. | <p>Proof of Insurances</p> <p>The Applicant must hold the following insurance policies:</p> <ul style="list-style-type: none"> (a) Public and Product Liability insurance (min. \$20 million per occurrence). (b) Professional Indemnity insurance (<i>applicable for design services</i>); and (c) Workers Compensation. <p>In the case of an application for Asset Lease, the Applicant must prove capacity to access insurance over the assets relevant to the application.</p> | Attached | <input type="checkbox"/> |
| 6. | <p>List of any Proposed Departures from Tasmanian Irrigation Standard Contracts</p> <p>List of <u>departures from</u> any clauses, and provision of alternatives, in Tasmanian Irrigation’s Standard Operations and Maintenance or Asset Lease contracts.</p> | Attached | <input type="checkbox"/> |

15. Threshold Criteria

Under the requirements of the WMA Act, Tasmanian Irrigation must assess whether any of the following are likely outcomes of the delegation. If they are found to be likely, they constitute a legitimate reason under the WMA Act to deny an application.

The WMA Act 2023 requires Tasmanian Irrigation to assess whether the delegation could reasonably be expected to:

- Substantially reduce the viability of Tasmanian Irrigation
- Reduce the capacity of Tasmanian Irrigation to ensure the performance of its functions under the WMA Act 2023 or any other Act.
- Expose Tasmanian Irrigation or the Crown to significant liabilities.
- Result in a substantial increase in costs to Tasmanian Irrigation in relation to another Irrigation District/s it manages.
- Result in substantial increase in costs to:
 - Another irrigation entity
 - A Responsible Water Entity or the Undertakers within the meaning of the *Irrigation Clauses Act 1973* or the *Water Works Clauses Act 1952*
 - A regulated entity within the meaning of the *Water and Sewerage Industry Act 2008*

And / or if:

- The delegation would constitute a substantial risk to the interests of one or more of the participants in the relevant Irrigation District
- The delegation would constitute a substantial risk to
 - The safety of a person; or
 - Property; or
 - The environment.
- The delegation would contravene a matter of prescribed circumstance (this is not defined in the Act).

16. Evaluation Criteria

The following outlines the evaluation criteria and weighting of each criterion.

| Criteria | Reference Basis | Weighting |
|---|--|-----------|
| Corporate Capability including <ul style="list-style-type: none"> • Governance model • Financial capability • Governance skills and capability • Insurance • Complaint and dispute resolution processes | WMA Act 2023 226C (2) (c) WMA Act 2023 226C (3) (c) | 30% |
| Organisational capability including <ul style="list-style-type: none"> • Skills and experience • Management system documentation • Processes and systems (operations and maintenance, customer service) | WMA Act 2023 226C (3) (a) | 30% |
| Value Proposition The quality of the benefits versus the costs of granting the application | WMA Act 2023 226C (3) (b) | 30% |
| Contract Terms and Conditions Compliance with Tasmanian Irrigation standard contract terms and conditions | | 10% |